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May 6-7, 1960

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INDUSTRIAL RELATIONS
RESEARCH ASSOCIATION

Proceedings of the Spring Meeting

Edited by David B. Johnson

PREFACE

These papers were presented at the Spring Meeting of the Industrial Relations Research Association in Detroit, Michigan, on May 6 and 7, 1960. Instead of devoting the program to a single theme, as has been done previously, the program was designed to explore several topics of particular current interest.

The Association expresses its thanks to the members of the Program and Arrangements Committees for a successful Spring Meeting and to the participants for prompt submission of their manuscripts. Particular thanks are expressed to the LABOR LAW JOURNAL, which originally included these papers in its July, 1960 issue. Reprints were made available to IRRA members through the courtesy of Commerce Clearing House, Inc.

David B. Johnson
Editor

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The Impact of the Labor-Management Reporting and Disclosure Act of 1959 on Internal Union Affairs

By WALTER E. OBERER

The author is professor of law at the University of Texas Law School. Formerly he was executive director of the UAW Public Review Board.

THE TITLE assigned for my remarks is, to say the least, commodious. Under the dictates of time and psychology, I intend to deal with this title as with a Rorschach test—to find in it the reflection of my own interest and experience. Thus only may I be able to favor you with whatever of value I have to offer.

It seems to me that an appropriate starting point for any discussion of internal union affairs is this: What is the desirable relationship between the union members and the leadership of the union? This is a question which can be approached from several different premises. It is eternally true that you get no more out of a premise than you put into it. Accordingly, my premise is that the ideal condition of a union in a free society is that it be run in accordance with the principles of democracy.

I am quick to add two qualifying thoughts: first, that democracy is not an inflexible absolute with strait-jacketing imperatives; second, that in any effort at communication one is enjoined to define his terms. What content, then, do I give to the term "democracy"?

The democratic condition, I would contend, has four essentials: (1) It is premised upon the idea of self-government—the promulgation of the rules of governance by the governed. (2) It requires, to effectuate the principle of self-government, that the leaders—the executive—be themselves made subject to the rules promulgated by the membership, not merely as to election but also as to performance. (3) It involves, as a further, if more subtle, essential, the assurance of certain basic protections to potential dissenters within the group—this to assure the continuing ferment which is the very element of democracy. (4) As a kind of summarizing, permeating theme, the democratic condition entails a dedication to the concept of the dignity of man, of the supreme worth of each individual human being.

With that definition behind me, I turn to the one glaring lack within the typical internal union structure of the wherewithal for achievement of the democratic condition. The lack of which I speak is an independent judiciary. An independent judiciary is the only technique of which I know for the containment of executive power within the rules promulgated by the membership. It is the only technique of which I know for the protection of the life-giving, "watchdogging" (to use a phrase grown popular in some labor

circles) right of dissent. The want of an independent judiciary is, I submit, the most vital institutional lack in the internal organization of unions. It is a lack cast into stark light by the separation-of-powers principle which we deem so essential to the organization of our democratic society.

If the rights of the dissenting member of the union are to be protected from the arbitrary exercise of power by the union leadership and if the leadership is to be contained within the rules promulgated by the members for their own self-government and pursuant to which the leaders gain license to office, some agency independent of the executive power of the union must be made available to the members for the receipt of complaints as to alleged leadership transgressions.

In recognition of this need, two recent developments have lighted or blighted, as the case may be, the labor scene. The first in point of time is the genesis of *voluntary* independent review. This development is exemplified in the Public Review Board of the United Auto Workers, created in 1957 by amendment to the union constitution. Its forerunner was the Appeal Board of the Upholsterers' International Union, similarly created in 1953. The second development is the one which serves as a focal point of this morning's meeting—the statutory imposition of *involuntary* independent review through the jurisdictional mandate to the federal courts embodied in the Labor-Management Reporting and Disclosure Act of 1959.

You might ask why it was necessary to provide specially, by either of these two techniques, for what amounts to an independent judiciary for unions. Why were not the public courts adequate for this purpose, quite apart from special legislation? The answer lies, I think, in three facts of judicial and union life.

First, the courts have in the past tended to categorize unions with voluntary, private associations such as the Elks, the Moose and the Methodists. This tendency does not reflect judicial caprice so much as a nice awareness on the part of judges of the worldly limitations to which they, as other mortals, are subject. The internal disputes of unions, viewed from the bench, are much akin to the internal disputes of fraternal and church groups. All of these disputes are familial in nature. The relationships among the disputants tend to be both close and continuing. And, as Professor Zechariah Chafee has sagely observed, the heat of any controversy is likely to be inversely proportional to the size and closeness of constituency of the group in which it is engendered.[1] Judges have proved allergic to this heat. They have tended to shy away from it wherever possible. They have realized the difficulty of affording, judicially, an adequate remedy to familial disputants. They have realized, even more poignantly, the difficulty of policing the remedy once granted. They have further realized, with a nice concern for their dockets, the danger of inundation from these plagueful waters should the floodgates once be opened. I shall have occasion later to return to this judicially psychiatric theme in considering the likely response of the federal courts to the Congressional breaching of their dikes by the 1959 act.

A second reason for the historic inadequacy of the courts in filling the

[1] Zechariah Chafee, "The Internal Affairs of Associations Not for Profit," 43 *Harvard Law Review* 993 (1930).

role of an independent judiciary as to internal union disputes is the expense and delay typically encountered in such proceedings. Union members tend to be impecunious, and court actions costly. Moreover, internal union disputes tend to be too vital and volatile to brook of judicial delay.

A third reason for the traditional inadequacy of the courts in this area is the stigma that has long attached, and still attaches, within the ranks of labor, to the union member who dares to call his union or its officials to account at the public bar.

As a practical matter, then, the courts, operating under the common law, have not proved a particularly effective means for bringing what might be called the "rule of law" to bear upon internal union affairs. And, in the absence of other techniques for accomplishing such review, union leadership has been effectively insulated from control under law—even union law—in its running of union government. In such manner has the stage been set for the ferment of the McClellan Committee disclosures, the advent of voluntary impartial review as exemplified by the UAW Public Review Board and, finally, the so-called Labor Reform Act of 1959.

Basic Problem

Let us again survey the basic problem. It turns upon the leadership-membership power format within the union. The members formulate the union law; the officers execute it, carry it out. So far so good. But when the executive also interprets the union law, determines what meaning should be given to its general language as applied to specific cases, the full scope of the executive power is sharply revealed. This is nothing short of the power to rule. What it amounts to—even assuming the best of good faith on the part of the leadership—is, plainly stated, paternalism. The leadership is inexorably led to the shaping of the union law to its own ends — or, to put the process euphemistically, to the ends of the membership as the leadership perceives them.

Well, you might ask, what is so bad about paternalism, particularly a dynamic paternalism? Here, as I view it, is what is bad about it. First, it is antidemocratic. The father-child relationship assumes children. Second, it tends to negate one of the prime motives of unionization—the pursuit of dignity and self-rule in the employment environment. It tends to replace the authoritarianism of employer bosses with that of union bosses —however more benevolent the latter may be. Third, the logical premise of paternalism is that father knows best, that he is brighter, better informed as to the true interests of his constituents, and in all respects better situated than they to know what is good for them. But the same rationalization has been made, I trust, by autocrats down through history. Implicit in the idea of democracy is the right of the constituents to determine their own destinies, even to the point of being wrong, if you will, about their self-interests. Moreover, it is always possible for the benevolent leader to be blinded by his own light—a possibility perhaps augmented by the very brightness of that light. Fourth, where paternalism is the pattern, the "watchdogging" nipping and yapping of dissenters is apt to be stifled as a deterrent to the straying of the leadership from the path most desirable from the standpoint of the membership interest. Lastly, personal power, long enough held, harbors the seed of corruption.

The essential problem, then, is the containment of dynamic union leadership within the confines of self-

government—a problem made doubly vital by the need for both in the democratic context. The solution posed by the 1959 act is to make the leadership answerable before the judiciary, primarily the federal judiciary,[2] through a suit by a member of the union or by the Secretary of Labor, moved to action in the typical case by a membership complaint. Without getting lost in the minutiae of the act, let us consider the general outlines of the relief it most pertinently affords.

Relief Afforded by 1959 Act

Under Title I, the so-called "bill of rights," the union member is assured equal rights as to nominating candidates, voting in union elections and participating in the disposition of union business. He is further assured the right of freedom of speech and assembly with respect to such matters. He is, moreover, protected from union discipline in the event he should resort to the public courts, the administrative agencies or the legislatures for redress of alleged grievances. And, in the event that disciplinary proceedings are instituted against him within the union, he is assured of due process to the extent of written notice of the charges, reasonable opportunity to prepare his defense, and a full and fair hearing thereon.

Under Title III, the union member is afforded certain further rights with respect to the imposition of a trusteeship over his local union.

Under Title IV, he is afforded specific protections with respect to union elections, including rights as a candidate and as a voting member of the union.

In addition to the foregoing, he is assured of certain information as to the financial and administrative affairs of his union by the reporting and disclosure provisions of the act. He is also protected by the fiduciary responsibilities specifically imposed upon the officers of the union in the financial area.

These and related measures for the protection of union democracy are, quite frankly, difficult to find fault with on a theoretical basis, even by one most friendly to labor. This is not to say, however, that there are not potential dangers of a vital sort in the application of the act's provisions. The most vital danger, I submit, is that posed by judges perhaps unsophisticated as to the problems of organized labor—perhaps also unsympathetic, even hostile—being directed into the vitals of unions at the instance of union members basically antagonistic to the cause of labor. This concern is apt to be greatest in parts of the country where labor is still in the throes of organization and consolidation and is therefore most vulnerable.

How can this be protected against? It seems to me that a prime insulation available to any union is to create, voluntarily, an independent tribunal to which its members may have access in challenging leadership action and in vindicating membership rights. The advantages of such a voluntary review are these: (1) It assures a

[2] Concurrent jurisdiction is given to state courts, under Tit. II, in suits by members to enforce their right to examine union records in order to verify the financial and administrative-policy reports required to be filed by unions with the Secretary of Labor. (Sec. 201(c).) State courts are likewise accorded concurrent jurisdiction in suits by members against officers or other union agents for breach of the fiduciary obligations imposed under Tit. V. (Sec. 501(b).) Moreover, Secs. 103 and 403 preserve certain pre-act remedies of union members before the state courts; the latter may in some instances choose to rely upon pertinent provisions of the act in resolving the disputes presented.

tribunal both sympathetic and sophisticated as to organized labor. (2) The voluntary tribunal would provide a more flexible forum and procedure for these familial disputants. (3) The relatively private washing of dirty organizational linen in an atmosphere oriented to catharsis and rehabilitation of continuing relationships might serve the individual and group interest in a manner less available in the public courts. (4) The union could expect a uniformity of decision from such a tribunal. (5) The federal and state courts, in which further review could, in any event, be sought, might reasonably be expected to defer more readily to the decisions of such a tribunal than to the decisions of international executive boards or union conventions—rooted as the latter are in the leadership-dominated politics of the union.

Possible Effect of Act on Voluntary Review

This leads to a question of considerable interest to me—namely, what effect may the 1959 act be expected to have on the concept of voluntary independent review? I advance the thought, with little trepidation, that the act will have one of two effects upon voluntary review—it will either *encourage* it, or it will *discourage* it. Unions which have established, or entertain the thought of establishing, a voluntary independent review board may be led by the act to conclude that Congress has "occupied the field," that the public courts, aided by the Secretary of Labor, have now in effect been constituted as *the* reviewing authority, and so be it.

As I have already suggested, this reaction would, in my judgment, be a superficial one. The question posed by the 1959 act for unions as to review of their internal affairs might well be put as follows: Do they prefer that the *initial* independent review be performed by presently unascertained judges or, instead, by a tribunal which the union has selected voluntarily as being sufficiently cognizant of union problems, basically sympathetic to the cause of organized labor and, withal, entirely independent of control or influence by the leadership of the union? Review of the decisions of such a voluntarily constituted supreme court for the union would, of course, still be available under the act in the appropriate public court. But, if my instincts are sound, most judges will appreciate the insulation afforded by such intermediate voluntary review. They would thus be protected from the potentially inundating riptides of the intraorganizational disputes so long astutely avoided under the following judicially developed doctrines: (1) The equation of unions with voluntary associations such as fraternal and church groups; (2) the requirement of a showing of the invasion of property rights as a condition precedent to resort to the courts; and (3) the requirement of the exhaustion of internal remedies before resort to the courts may be had.

A further potential value of the development of a system of intermediate voluntary review demands to be mentioned. The free society as we know it at mid-twentieth century is premised upon pluralism, upon the idea of offsetting, countervailing power. From the standpoint of the public interest, organized labor is, I submit, a crucial center of power in this pluralistic scheme. While it is essential to the public interest that this center of power be responsive to the needs and interests of its membership as democratically perceived, it is likewise essential that it continue to be a center of *power*. This requires, I believe, a meticulous regard for the maximum degree of union autonomy

consistent with a democratic orientation of internal union affairs. While the old maxim "that government is best which governs the least" has doubtlessly been obsoleted by the complex relationships of current society, it is equally true, I fear, that the paternalism of government can be at least as vitiating as any other variety.

Accordingly, my hope—even expectation—is that the courts will pay an appropriate deference to the decisions of the independent review boards voluntarily constituted by organized labor to sit in judgment of its internal disputes.

Such judicial deference would not penalize the union membership with respect to the democratic thrust. Quite the contrary, intermediate voluntary review would, in my judgment, enhance the democratic process within unions beyond that achievable through governmental review alone in the following respects: (1) It is less expensive and, therefore, more available to the members; (2) it is a creature of the union, created by the membership itself, and, therefore, resort to it by disgruntled members would not entail the stigma attaching to outside resort for relief; and (3) a sense of organizational pride, *esprit de corps*—a sense of self-dedication to the principles of democracy—may reasonably be expected to flow from the function of such a voluntary body in a degree not similarly attainable through the review involuntarily imposed under the 1959 act.

Conservative Approach

Although it is still too early to draw any firm conclusions from the first trickle of judicial decision under the act, the tendency seems to be in the direction of a conservative approach to the Congressionally enlarged jurisdiction. A few cases may serve to illustrate.

In *Flaherty v. McDonald et al.*,[3] members of a Steelworkers local, self-styled as members of a "dues protest" committee, brought action in the federal district court, challenging the validity of a trusteeship imposed by the international union approximately a year prior to the effective date of the act. This suit was dismissed for want of jurisdiction, on the ground that the Title III provisions of the act, pertaining to "trusteeships," were not to be applied retroactively. The plaintiffs thereupon filed an amended complaint, alleging that the international had, *since* the effective date of the act, administered the local under the trusteeship in a manner violative of the provisions of Title III. *Held,* action on the amended complaint dismissed. Section 304(a), under which the action was brought, was interpreted by the court as requiring precedent resort to the Secretary of Labor for a finding of the fact of violation. The plaintiffs had, the court held, failed to exhaust this administrative remedy.

In *Bennett v. Hoisting and Portable Engineers, Local 701,*[4] the plaintiff brought suit against his local union for damages for wrongful discharge from his employment as a field representative of the union. His claim was that his discharge had been for disciplinary reasons and that, in connection therewith, he had been denied a full and fair hearing, in violation of Section 101(a) of the "bill of rights" of the act. *Held,* dismissed for want of jurisdiction. "The legislative history of the Act clearly shows," the court said, "that it was intended to safeguard the members of the Union against certain discriminatory actions of the Union itself. The Act was

[3] 40 LABOR CASES ¶ 66,514 (DC Calif., 1960).

[4] 39 LABOR CASES ¶ 66,183 (DC Ore., 1960).

never intended to cover the relationship of employer and employee. The fact that the plaintiff may have been a member of the defendant Union is incidental." [5]

In *Smith v. Teamsters, Local 467, General Truck Drivers,*[6] the plaintiff sought an injunction and damages against a Teamsters local, claiming that the local had issued him a voluntary withdrawal card in November of 1958, without his request and without any hearing. He further alleged that in October of 1959, after passage of the act, he had requested reinstatement and had been refused. His complaint further asserted that appeal within the union would be futile because of the bias against him on the part of the executive board and because of the absence of any right to counsel in the union proceedings. The jurisdiction of the federal district court was invoked under the "bill of rights" provisions. *Held,* dismissed for want of jurisdiction. In so deciding, the court made the following specific rulings: (1) The act does not require that a union member be afforded the right of counsel in union hearings. (2) The act should not be given retroactive effect so as to apply to the prior, allegedly wrongful issuance of the withdrawal card. (3) The postact refusal to reinstate the plaintiff did not give the district court jurisdiction, because such refusal is not made an actionable wrong under the act and because, in any event, the plaintiff had failed to exhaust his remedies within the union. In connection with the last, the following comment of the court is most pertinent: ". . . as the parent union is now governed by a Board of Monitors appointed by the United States District Court for the District of Columbia, . . . it may well be assumed that should the Executive Board fail to protect Plaintiff in his rights, the Board of Monitors would, in the performance of its duties, see that his rights are secured."

"Aggressive" Decision

The foregoing decisions are representative of the early reticence of the federal district courts in implementing the act. There have been several other decisions of a similar order. As a matter of fact, at the time of preparation of this paper, only one decision of a fairly aggressive sort had come to my attention. This decision, coincidentally, was out of the Eastern District of Michigan. In *Johnson et al. v. Local 58, International Brotherhood of Electrical Workers et al.,*[7] the complaint alleged that the plaintiffs had been assembling for the purpose of petitioning the international for a local charter, and that the defendants, the local union and its agents, had disturbed such meetings and had been "intimidating and threatening the plaintiffs in their job and personal security." The plaintiffs sought an injunction to restrain the defendants from attending any of the plaintiffs' meetings, loitering in or near the vicinity of the plaintiffs' meetings, discriminating against any of the plaintiffs with respect to their job rights pursuant to the constitution and by-laws of the local, or threatening or intimidating any of the plaintiffs. The defendants filed a motion to dismiss, challenging, among other things, the constitutionality of Section 101(a)(2), assuring the right of free assembly to union members, on the ground that that section attempts to regulate the internal affairs of unions and is therefore outside the scope of the com-

[5] Accord, *Jackson v. Martin Company et al.,* 40 LABOR CASES ¶ 66,434 (DC Md., 1960).

[6] 40 LABOR CASES ¶ 66,488 (DC Calif., 1960).

[7] 39 Labor Cases ¶ 66,260 (DC Mich., 1960).

merce clause of the federal Constitution. The court refused to dismiss the complaint as to those plaintiffs who were members of the union (dismissing as to those who were not). In so deciding, the court specifically held that the challenged section was constitutional and that the plaintiffs were not required to exhaust internal union remedies—including appeal to the international president, to the international executive board, and to the international convention—in view "of the multiple appellate agencies, their infrequent meetings, and also in view of the fact that the constitution does not provide time limits for decision by such trial and appellate agencies." The court further noted that the union constitution apparently expressly prohibited such meetings as were here involved on the part of the plaintiffs and that, as a consequence, the union procedures were unreasonable within the meaning of the proviso of Section 101(a)(4) as entailing fruitless delay in the circumstances of the present case, and that they need not, therefore, be complied with.

The cases I have just cited certainly do not resolve the many doubts which the act poses with respect to its impact on internal union affairs. They may, however, tend to support two guesses I have previously advanced—first, that the courts may be expected to respond kindly to any insulation offered them by unions in the form of voluntary independent review; second, that there is something to be insulated against.

In closing, I should like to make one last point clear. There is need for the type of generic review imposed in the 1959 act. Unions which most require outside review can be least expected to assume it voluntarily. It is quixotic to hope for a corrupt leadership to invite or even permit bona fide review of its actions by outsiders not supported by the sanctions of government. Moreover, even honest union leadership may be expected to gag somewhat at the idea of voluntarily ingesting a reviewing authority whose very function is to circumscribe leadership power. In both types of unions, therefore, federal sanctions in reserve may have a salutary effect. There are, in short, both strengths and weaknesses in either voluntary or involuntary review.

But, I submit—and this is the one thought I am most anxious to leave with you—the strengths and weaknesses of the voluntary and the imposed are complementary. Wise administration of the 1959 act and enlightened response by unions may be hoped to maximize this reciprocal potential. A prime achievement of the act might thus prove to be the stimulation of a system of voluntary intermediate and independent review of internal union grievances.

Self-discipline, however engendered, is still the highest hope of the free society. **[The End]**

AFL-CIO RECOMMENDATIONS TO THE PLATFORM COMMITTEE OF THE DEMOCRATIC PARTY

"Appropriations for the Department of Labor should be substantially increased in order to safeguard minimum standards of wages, hours and working conditions established by statute."

"The Department of Labor must be accorded its full status as the only government department devoted to improving the welfare of the nation's workers."

The Impact of the Labor-Management Reporting and Disclosure Act of 1959 on Collective Bargaining

By BOAZ SIEGEL

The author is professor of law at Wayne State University Law School.

CONSIDERATION of the subject of this paper must begin with an indication of what the term "collective bargaining" is taken to mean. In a narrow sense, it would refer to no more than the actual bargaining process. It is fairly obvious that the impact of the 1959 labor law should be considered against a larger objective. On the other hand, to take the term "collective bargaining" to mean the entire range of labor relations would give much wider scope to the paper than undoubtedly was contemplated by the program committee. Accordingly, certain stages in the collective bargaining process have been taken in the order in which they usually occur, and the writer will attempt concisely to review the impact of the new labor law on them.

These stages, in the order in which they will be taken, are as follows:

(1) *Precollective bargaining*—organizing activities, including picketing and strikes.

(2) *Representation elections and certifications.*

(3) *Actual collective bargaining*—subjects and tactics growing out of the bargaining, including strikes and picketing.

(4) *Enforceability of the labor agreement and damage suits.*

In addition, because of limitations of space, and because of the large amount of attention which has been given to the new labor law of 1959, the writer will deal briefly with the more obvious and frequently discussed effects of the law and will discuss more extensively the less apparent, but perhaps equally important, consequences. Relevant recent court and National Labor Relations Board decisions will also be included.

Precollective Bargaining

Perhaps the first item which should be examined under this heading is recognitional and organizational picketing. Space does not permit historical treatment of this subject in this paper.[1] We must pick up the threads of the story as of September, 1959.

During the two years preceding this date, the NLRB had formulated a position on such picketing. Naturally, the Board's formula applied only to those industries and labor disputes which were subject to its jurisdiction,

[1] "Organization and Recognition Picketing," *Proceedings of New York University Eighth Annual Conference on Labor* (1955).

although some state courts followed the Board's lead. The Board had worked out the following distinction between recognitional and organizational picketing. Recognitional picketing was a situation where a union established a picket line to induce an employer to recognize the union as the exclusive bargaining agent for the employees, although the union did not represent a majority of the employees. Such picketing might take place before or after a representation election. In the latter case, of course, the union would not have won the election. By contrast, organizational picketing was picketing carried on by a union for the purpose of persuading the employees to join the union, with a view to demanding recognition in the future should a majority of the employees become members.

Whether there is any validity to this distinction has been challenged.[2] But, based upon this distinction, the NLRB, in the case of *Curtis Brothers, Inc.*,[3] had decided that recognitional picketing was an unfair labor practice under Section 8(b)(1)(A) of the Taft-Hartley Act. The theory of the Board was that the economic pressure exerted by the picket line, even though peaceful, was for the purpose of forcing the employer to recognize the union as the agent of his employees without regard to their wishes, and this amounted to coercion within the meaning of Section 8(b)(1)(A).

The Board's decision in the *Curtis Brothers* case had been carried to the Court of Appeals of the District of Columbia which, in a divided opinion, set aside the Board's order.[4] The Ninth Circuit took the same position in another case,[5] although the Fourth Circuit agreed with the Board.[6]

The new labor law of 1959 also deals with this same problem. Section 704(c) adds a new subsection to the union unfair labor practices portion of the National Labor Relations Act, numbered 8(b)(7), dealing with picketing of this nature. The law creates this new unfair labor practice where a union pickets or threatens to picket any employer where an object of the picketing is to force or require an employer to recognize or bargain with the union as a representative of his employees, or to force or require the employees of an employer to accept the picketing union as their collective bargaining agent, and, in addition, three specified circumstances prevail. These three situations are (1) where the employer has lawfully recognized another labor organization and the recognition bars a question of representation from being raised; or (2) where a valid representation election has been conducted within the preceding 12 months; or (3) where the picketing union has not filed a representation petition with the NLRB within a reasonable period of time from the beginning of the picketing, not to exceed 30 days.

The immediate question, then, is to what extent do Section 8(b)(1)(A) of Taft-Hartley and Section 8(b)(7), added by the 1959 law, overlap, parallel each other or conflict? The answer to this question will be important in telling us to what extent recognitional or organizational picketing may continue to be a tactic available and used by unions during the organizational stage of collective bargaining.

[2] See Cox, "Some Current Problems in Labor Law: An Appraisal"; Bornstein, "Organizational Picketing in American Law," 46 *Kentucky Law Journal* 25; Isaacson, "Organizational Picketing: What Is the Law?—Ought the Law to Be Changed?" 8 *Buffalo Law Review* 345.

[3] 119 NLRB 232 (1957).

[4] 36 LABOR CASES ¶ 65,030, 274 F. 2d 551 (CA of D. C., 1958).

[5] *NLRB v. IAM, Lodge 942*, 36 LABOR CASES ¶ 65,214, 263 F. 2d 796 (CA-9, 1959).

[6] *NLRB v. Rubber Workers*, 37 LABOR CASES ¶ 65,627, 269 F. 2d 694 (CA-4, 1959).

Part of the answer has already been furnished us by the United States Supreme Court. In *NLRB v. Drivers, Chauffeurs, Helpers, Local No. 639, et al.*,[7] decided on March 28, 1960, six justices of the United States Supreme Court indicated that they did not accept the position of the NLRB concerning the application of Section 8(b)(1)(A) to recognitional or organizational picketing. They pointed out that the legislative history of the Taft-Hartley Act, the wording of Sections 8(b)(4)(B) and 8(b)(4)(C), and the historical position of the Board itself on this subject precluded acceptance of the Board's position as set forth in the Board's decision. They further indicated that the action of Congress in adopting Section 704(c) of the new labor law confirmed their view that Congress desired to have organizational and recognitional picketing dealt with under the provisions of the new labor law, rather than under Section 8(b)(1)(A). The three remaining justices were of the opinion that the Court should have remanded the case to the NLRB for further proceedings in the light of Section 704(c) of the new law.

While this decision somewhat clears the air, in the sense that it indicates the precise sections of the NLRA, as amended, which will be the basis for rules dealing with recognitional and organizational picketing, the United States Supreme Court has not yet had an opportunity to say precisely how Section 704(c), or 8(b)(7), is to be applied. Are there problems in the application of Section 8(b)(7)? In the opinion of the writer, there are. First, there is reason to believe that the United States Supreme Court will not accept the delineation in definition made by the Board between recognitional and organizational picketing. In the *Local No. 639* case referred to above, the Court made the following statement:

"We are confirmed in our view by the action of Congress in passing the Labor-Management Reporting and Disclosure Act of 1959. That Act goes beyond the Taft-Hartley Act to legislate a comprehensive code governing organizational strikes and picketing *and draws no distinction between 'organizational' and 'recognitional' picketing.*" (Italics supplied.)

Second, then, if the Supreme Court deals with Section 8(b)(7) as regulating both organizational and recognitional picketing, it appears quite certain that the argument will be made to the Court that Section 8(b)(7) conflicts with the "free speech" amendment to the Constitution of the United States. Assuming that the power of Congress to regulate labor relations affecting interstate commerce extends to enable Congress to prohibit, as an unfair labor practice, peaceful picketing aimed at securing recognition of a union in violation of the three fact situations enumerated in Section 8(b)(7), what about peaceful picketing designed to persuade nonunion workers to join the union? If the Court should state that peaceful picketing, even if outwardly addressed only to induce workers to join a union, is still something different than persuasion by speech, then Section 8(b)(7) will pass the Constitutional test. On the other hand, if the Court should hold that the cloak of the First Amendment shields peaceful picketing addressed to the workers, then Section 8(b)(7) will be struck down. Despite the apparent abandonment of the "picketing as free speech" doctrine by the Supreme Court over the past 20 years, it is not inconceivable to the writer that this doctrine has more life in it

[7] 39 LABOR CASES ¶ 66,351, 80 S. Ct. 706 (1960).

than is generally assumed,[8] although at least one district court has already rejected this argument.[9]

It has already become evident that the customary period allowed a union to picket without filing a representation petition may not be the 30-day period indicated in the statute as the maximum. In two cases since the enactment of the new law, the NLRB has requested a district court to issue an injunction after a shorter period of picketing—based upon the claim that the shorter period, rather than the 30 days, was the reasonable amount of time.[10] In both instances, the injunction was granted.

Another union organizing practice treated by the new labor law of 1959 is the technique of organizing through the use of "hot cargo" clauses. By the inclusion of hot-cargo clauses in collective bargaining agreements with employers with whom the union had already established bargaining rights, the union enabled itself to use economic pressure upon an unorganized employer by preventing the employees of the organized employers from performing any work in connection with the unorganized employer. The typical hot-cargo clause generally provides that the employees covered by the collective bargaining agreement cannot be required to handle goods shipped from, or bound to, the employer who is in controversy with a union. In addition, a number of unions have also included—as part of, or in connection with, the hot-cargo clause—a second clause by which the employer agrees that he will not in any way discharge or otherwise penalize any of his workers who refuse to cross a bona fide picket line. The union then selects the target of its organizing campaign and, by establishing a picket line or spreading the word about the organizing campaign, puts the pressure on the unorganized employer through the organized workers.

Although the NLRB for a number of years had taken the position that hot-cargo clauses did not violate the secondary boycott provisions of the Taft-Hartley Act,[11] in 1947 and early 1948 the Board began to change its position. It decided that the inclusion of a hot-cargo clause in a labor agreement would not violate the law, but efforts to enforce it by appeals to employees would.[12] In substance, this position was upheld by the United States Supreme Court.[13]

The 1959 labor law has precluded any further judicial questioning of whether or not hot-cargo clauses violate the secondary boycott provisions of the Taft-Hartley Act, by adding an amendment specifically dealing with such clauses. This amendment is found in Section 704(b), wherein it is provided that it shall be an unfair labor practice, numbered 8(e), for any labor organization and any employer to enter into such an agreement, and wherein it is further provided that any such agreement is both unenforceable and void.

Two exceptions were written into this new unfair labor practice—one dealing with the construction industry and the other dealing with the apparel and clothing industry. These two

[8] *Chauffeurs, Teamsters and Helpers Local Union 795 v. Newell,* 34 LABOR CASES ¶ 71,468, 356 U. S. 341, 78 S. Ct. 779 (1958).

[9] *Greene v. Typographical Union,* 39 LABOR CASES ¶ 66,109 (DC Conn., 1960).

[10] *Phillips v. Garment Workers Union,* 38 LABOR CASES ¶ 66,051 (DC Tenn., 1959). *Elliott v. Sapulpa Typographical Union,* 38 LABOR CASES ¶ 66,020 (DC Okla., 1959).

[11] *NLRB v. Conways Express,* 87 NLRB 972 (1949), aff'd 21 LABOR CASES ¶ 66,836, 195 F. 2d 906 (CA-2, 1952).

[12] *NLRB v. Carpenters Union Local 1976,* 113 NLRB 1210 (1955), aff'd 35 LABOR CASES ¶ 71,599, 357 U. S. 93, 78 S. Ct. 1011 (1958).

[13] *Goldblatt Brothers, Inc. v. Kosley,* 357 U. S. 904, 78 S. Ct. 1148 (1958).

exceptions seem to legalize the inclusion of hot-cargo clauses in the job site construction industry and in the integrated apparel and clothing industry. However, to what extent these clauses may be enforced will be treated in another section of this paper.

It should be noted in passing that a form of picketing, entitled "extortionate picketing," is made a crime by Section 602 of the new law. Extortionate picketing is defined as picketing for the purpose of personal profit or enrichment of any individual, as contrasted with organizational picketing or picketing for the purpose of achieving bona fide employee benefits. Since unions which engage in organizational or other picketing are sometimes charged with attempting to extort money from the picketed employer, it appears that any union engaged in any picketing will need to be most careful that nothing is said or done which might justify a charge of extortionate picketing. The penalty for this crime is a fine of not more than $10,000, or imprisonment of not more than 20 years, or both.

Because organizational activities of unions are frequently intertwined with attempts by employers to obtain injunctions against organizational picketing, a few words must be said concerning the clearing up of the "no-man's land." This unhappy area came into our collective bargaining law by reason of the pre-emption doctrine, developed through a number of United States Supreme Court decisions culminating in *Guss v. Utah.*[14] Section 701 of the new law was enacted with the express intent of terminating this problem. In the writer's opinion, it will probably succeed in doing so. By this amendment to the NLRA, the Board may decline to assert jurisdiction of any labor dispute involving any class or category of employers where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction. The Board, however, may not shrink its jurisdiction below the standards prevailing on August 1, 1959. The statute authorizes any agency or court of any state to act in any labor dispute to which the Board declines to assert jurisdiction.

Quite obviously, this change will give back to the state courts and agencies considerable business of which the pre-emption doctrine deprived them. It is not entirely clear, however, how much authority this may be. The reason for the doubt, as the writer sees it, is that the last United States Supreme Court decision on pre-emption found all nine justices agreed on the disposition of that case, but divided five to four on the reach of the pre-emption doctrine. In *San Diego Building Trades Council, et al. v. Garmon,*[15] decided April 20, 1959, the opinion written for the majority by Justice Frankfurter suggests that perhaps every case in which it is possible that the NLRB may say that the NLRA in some way deals with the issue must first be brought to the NLRB for disposition before it may be taken to a state court or agency. The four concurring justices hold that only where the NLRA clearly protects or prohibits the activities complained of are the state courts or agencies ousted of jurisdiction. This close division in the Supreme Court on an issue which is so crucial to the reach of state jurisdiction under the new law almost makes it a certainty that the question will be brought to the Court again for further explication, particularly since the *Garmon* case was decided prior to the enactment of the new law.

[14] 32 LABOR CASES ¶ 70,563, 353 U. S. 1, 87 S. Ct. 598 (1957).

[15] 37 LABOR CASES ¶ 65,367, 359 U. S. 236, 79 S. Ct. 773 (1959).

It might be noted parenthetically that another recent decision of the United States Supreme Court emphasizes the fact that private parties will continue to find it difficult to obtain injunctions against threatened or actual strikes from United States district courts. In *Order of Railroad Telegraphers, et al. v. Chicago and Northwestern R. Company*,[16] decided April 18, 1960, a majority of the Court rejected the proposition that a district court may look into the alleged unlawful nature of a threatened strike and issue an injunction if the court decides that the strike will violate some nonlabor law. The general impact of the case is to indicate that the United States Supreme Court still adheres to a rather rigid application of the Norris-LaGuardia Act. This decision is especially meaningful in view of the fact that it has been argued that the decision of the Supreme Court in the *Lincoln Mills* case[17] opened the door to injunctions emanating from the district courts at the behest of private parties. While the Court was divided five to four in the *Telegraphers* case, the decision indicates that judicial relief against strikes or picketing sought by private parties is likely to continue to be most successful in state courts.

Representation Elections and Certifications

The second stage from which we should examine the impact of the new labor law on collective bargaining is that of representation elections and certifications. Several provisions in the new labor law have an impact on this subject. First, the Congress clearly desired to speed up the process of representation elections. In Section 701(b), the NLRA was amended to authorize the Board to delegate to its regional directors its powers, under Section 9 of the act, to determine the appropriate bargaining unit, to investigate and provide for hearings, to determine whether a question of representations exists and to direct an election. Although the Board itself may review any action of a regional director under a delegation of authority to him, the review will not operate as a stay of his action.

Next, the new law provides under Section 704(c), already partly discussed, that where picketing is carried on for the purpose of forcing an employer to recognize a union or of forcing the employees to accept a union as the collective bargaining agent and the union files a representation petition, the Board shall forthwith, and without requiring the union to show that any of the employees have joined the union, direct an election in a unit the Board finds to be appropriate.

This then sets up a procedure by which a union can secure a representation election quickly, without a hearing and without proof of interest on the part of the employees. Whether unions will use this procedure as an organizational device, where they clearly do not represent a substantial number of employees, is doubtful in this writer's mind, for the penalty of losing such an election is that another representation election is barred for a 12-month period, and perhaps even organizational picketing will be barred. However, it is entirely possible that unions will use this device to circumvent the delay that very frequently occurs when a petition for an election is filed, followed by a hearing, and so forth. It is also entirely possible that this device will be used by unions seeking to prevent competing unions

[16] 39 LABOR CASES ¶ 66,415, 362 U. S. 330 (1960).

[17] *Textile Workers Union v. Lincoln Mills*, 32 LABOR CASES ¶ 70,733, 353 U. S. 448, 77 S. Ct. 923 (1957).

from winning a plant—by the forcing of a premature election.

Actual Collective Bargaining

The next collective bargaining stage from which to view the impact of the new labor law is that of the actual bargaining itself. Attention has already been directed to the fact that the new law, in Section 704(b), bars the inclusion of a hot-cargo clause in the labor agreement and makes it void and unenforceable if included. The job site construction industry and the integrated apparel and clothing industry are excepted from this prohibition.

In the building and construction industry, the new law permits a union security clause to be included in the collective bargaining agreement by which employees are required to become members after the seventh day following the beginning of their employment or the date of the agreement, whichever is later.[18] Such a clause may be included despite the fact that the employer, at the time of the making of the agreement, has no employees on his payroll, or, if he has employees, the union has not been certified as the collective bargaining agent of the employees. In addition, the collective bargaining agreement in the building and construction industry may include the requirement that the employer notify the labor organization of opportunities for employment with the employer; it may give the labor organization an opportunity to refer qualified applicants for employment; it may specify minimum training or experience qualifications for employment; and it may provide for priority in employment, based upon length of service with the employer or in the industry or in the particular geographical area.

It can readily be seen that these special terms which may be included in construction industry collective bargaining agreements go a long way toward restoring the strong control which construction industry unions maintained over employment opportunities in the past—control which was both threatened and weakened by the Taft-Hartley Law and judicial decisions under that law. It should be pointed out, however, that these special provisions for the building and construction industry found in Section 705 of the new law are subject to several specific exceptions. First, the union must be one which is not established, maintained or assisted in violation of Section 8(a) of the NLRA, as amended. Second, nothing in Section 705 is to be interpreted as setting aside the requirement of Section 8(a)(3) that an employer shall not discriminate against an employee for nonmembership in a labor organization if he has reason to believe that the employee was denied an opportunity to become or remain a member of the union for any reason other than the failure to tender the periodic dues or uniform initiation fee. The legislative history of this section supports the conclusion that nothing contained in it sets aside or invalidates any of the conditions which the NLRB set out in its *Mountain Pacific* decision as being required conditions for the operation of a union hiring hall. Third, such a union security clause will not bar a representation petition or a union security deauthorization petition. And finally, in those states which have statutes prohibiting compulsory union membership, the union security provision in the building and construction industry section of the new law does not apply.

As a consequence of the actual bargaining itself, it is entirely possible

[18] Labor-Management Reporting and Disclosure Act of 1959, Sec. 705.

that a strike should ensue. In this connection, certain other provisions contained in the new law become operative. One of the weapons which has been used by unions in economic conflict with an employer is that of an attempt to put pressure on the employer with whom the union has its primary conflict through some other employer. Effort was made in the Taft-Hartley Law to illegalize attempts to use such secondary pressures. The provisions in the Taft-Hartley Law dealing with these pressures are found in Section 8(b)(4). After 1947, it was discovered that, in certain situations, unions were able to continue to make secondary pressures effective and still stay within the law. These situations were frequently referred to as loopholes in the secondary boycott provisions, and Congress—in the new 1959 law—attempted to close these loopholes. Accordingly, it made the following changes. Where the former Taft-Hartley Law made it unlawful for a union to induce an employee to cease handling the product of the employer with whom the union was in conflict, it did not at the same time make it unlawful for the union to induce an employer or supervisor to order his employees not to handle the products of another employer.[19] The new law has removed the word "employee" and replaced it with the word "individual." In this way, it now becomes an unfair labor practice for the union to induce an employer to assist it in pressuring another employer. This section will, however, raise some nice questions. The language itself says:

"(b) It shall be an unfair labor practice for a labor organization or its agents—. . . (4)(i) to engage in, or to induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services; or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is—. . . ."

It will be noted that the new law makes it an unfair labor practice to threaten, coerce or restrain any person. Does this mean that a union representative who approaches an employer and attempts to persuade him to assist the union by ordering his employees to cease handling the products of a struck employer will thereby be committing an unfair labor practice? It is the writer's impression that the Board and the courts will need the ability to exercise clairvoyance, if not deep insight, to determine at what point free speech and legal communication cease and at what point threats, coercion or restaint begin.

The second loophole at which the new law was addressed was the provision in the Taft-Hartley Law which made it an unfair labor practice for the union to induce employees "in concert" to refuse to handle, etc., the goods of the struck employer. In the *Rice Milling* case,[20] the Supreme Court held that inducing an individual employee did not violate the Taft-Hartley Act, because the law used the words "in concert." Again, this loophole was closed by the use of the words "any individual" and the removal of the word "concerted."

[19] *In re Teamsters Local 47 and Texas Industries, Inc.*, 112 NLRB 923 (1955), aff'd 30 LABOR CASES ¶ 70,008, 234 F. 2d 296 (CA-5, 1956); *In re Electrical Workers, AFL and Samuel Langer*, 82 NLRB 1028 (1949), aff'd 19 LABOR CASES ¶ 66,348, 341 U. S. 694, 71 S. Ct. 954 (1951).

[20] *NLRB v. International Rice Milling Company*, 19 LABOR CASES ¶ 66,346, 341 U. S. 665, 71 S. Ct. 961 (1951).

Finally, the Taft-Hartley Act excluded from its definition of "employee" certain employees of government agencies, municipalities and railroads who sometimes are called upon by a union which is on strike to lend assistance to it. The use of the word "person," instead of the word "employer" which was used in the Taft-Hartley Act, now brings employees of units of government, municipalities and railroads within the reach of the secondary boycott unfair labor practice.[21]

One of the provisos of Section 704 (a) of the new law dealing with secondary boycotts, in the writer's opinion, raises some serious Constitutional questions. The Congress, in enacting this new language, apparently intended to reinforce the bars which have been written into the new law against picketing, even though peaceful, if the picketing has secondary consequences. In the apparent desire to bar such picketing, but at the same time to permit the use of "unfair" or "we do not patronize" lists, the Congress may indeed have reached into an area from which it is Constitutionally forbidden. The proviso reads as follows:

"Provided further, That for the purposes of this paragraph (4) only, nothing contained in such paragraph shall be construed to prohibit publicity, other than picketing, for the purpose of truthfully advising the public, including consumers and members of a labor organization, that a product or products are produced by an employer with whom the labor organization has a primary dispute and are distributed by another employer, as long as such publicity does not have an effect of inducing any individual employed by any person other than the primary employer in the course of his employment to refuse to pick up, deliver, or transport any goods, or not to perform any services, at the establishment of the employer engaged in such distribution."

It is to be noted that the new language is written so as to insulate from judicial restraint the publicizing by some means other than picketing that some employer is distributing products made by another employer with whom a labor organization has a primary dispute. However, it conditions this insulation on the absence of the inducement of any individual other than a person employed by the primary employer to refuse to render services at the establishment of the employer engaged in the distribution. As the writer sees it, this leaves the inference that if, because of such publicity, some employee of an employer other than the primary employer refuses to perform services at the establishment of the employer engaged in such distribution, the publicity would no longer be insulated and would be the basis of an unfair labor practice charge. This means that the Board would be required to seek a district court injunction prohibiting publicity in the nature of leaflets, newspaper advertisements, radio or television advertisements. If the writer correctly interprets the meaning of the quoted language, it seems to him that this statutory section goes beyond anything that the Supreme Court has yet approved. It is one thing to ban picketing which has a secondary effect on the theory that picketing is something more than speech; however, if truthful information communicated to the public by the usual and normal modes is to be the basis for an unfair labor practice charge because some member of the community acts upon the information, then the writer believes this provision of the law unconstitu-

[21] *Teamsters, Local 390,* 119 NLRB 852 (1957).

tionally invades the First Amendment. Whether this is the case will depend upon what interpretation the Board will make of this proviso and what the courts will do thereafter.

As has been indicated, Section 704 (b) of the new labor law, which is the new Section 8(e) of the NLRA, bars a hot-cargo clause—except as to the job site construction industry and the integrated apparel and clothing industry. Further problems remain, however, even as to these two industries. It seems that in both these industries the unions may demand hot-cargo clauses, and perhaps may legally strike to compel the granting of such clauses. However, if picketing is carried on as part of a strike to compel the granting of a hot-cargo clause, there appears to be a difference in result depending upon whether we are considering the construction industry or the integrated clothing industry. In the case of the construction industry, the unions will be required to take care that they do not violate the secondary boycott provisions of Section 8(b)(4) of the amended NLRA. The clothing industry, however, seems to be specifically protected by the statute in this situation.

Two additional items must be mentioned under this heading. The new law in Section 702 has amended Section 9(c)(3) of the NLRA to read as follows: "Employees engaged in an economic strike who are not entitled to reinstatement shall be eligible to vote under such regulations as the Board shall find are consistent with the purposes and provisions of this Act in any election conducted within twelve months after the commencement of the strike."

This new section was obviously added to meet the complaints of the labor unions that under the Taft-Hartley Act economic strikers were discriminated against in elections which followed the calling of a strike, and that employers were being encouraged to provoke economic strikes as a means of getting rid of unions. Since the enactment of the law, the Board has been issuing election orders entitling economic strikers to vote, subject to challenge. The Congress also made a necessary and noncontroversial change in Section 302 of the Labor Management Relations Act, 1947. This section of the law deals with restrictions on payments to employee representatives. In addition to changes which tighten up the language by which payments are prohibited, the Congress added a provision legalizing payments to trust funds established by unions and employers for the purposes of pooled vacation, holiday severance or similar benefits, and for defraying costs of apprenticeship or other training programs.

Enforceability of Labor Agreement and Damage Suits

The construction industry exception in Section 8(e) of the NLRA, as amended, gives rise to special problems with respect to the enforceability of a hot-cargo clause to which the employer may have agreed in the labor agreement. If the employer fails to keep his agreement, the union would be free to bring suit for damages against him under Section 301 of the Labor Management Relations Act, 1947, or for damages or specific performance under appropriate state laws. Customarily, however, the union would prefer to take some direct action based upon the breach of contract. The direct action might well be a strike or picketing. Insofar as this affects the employer with whom the union is in this primary dispute, there appear to be no problems. However, in the construction industry, it will commonly be the case that employees in other construction crafts and employed by

other employers will be on the job site. Where a union is striking to enforce the hot-cargo clause agreed to by the employer, the picketing will likely have secondary consequences, because the other construction workers may very well refuse to cross the picket line. The picketing union will then be subject to a secondary boycott unfair labor practice charge.

Recognizing that construction unions will only rarely satisfy the Board that common situs picketing should be freed of secondary boycott taint,[22] Congressional leaders promised the construction trade unions that, early in the 1960 Congress, bills would be introduced to legalize common situs picketing in the construction industry. Bills to this effect have been introduced in both the House and the Senate. The House bill, introduced by Representative Thompson, has been approved by the House Labor Committee. Senators Kennedy and Morse have also introduced a similar bill in the Senate. The bills are opposed by a number of employer associations and certain legislators, and it is probably too early to say with certainty whether they will become law. The arguments advanced against them not only include the claims that the construction industry has already been given fairly exceptional treatment by the 1959 law and is not entitled to any further such treatment, but, in addition, that the construction unions will be able to use legalized common situs picketing in their conflict with industrial unions over construction, remodelling and maintenance work and that employers will find themselves beset by picketing which will constantly interfere with their operations.[23]

Finally, the new law has changed the language of Section 303 of the LMRA, 1947. This is the section of the 1947 law which permits suits for damages to be brought by whoever is injured in his business or property by reason of acts which amount to secondary boycott unfair labor practices. The change in the statute eliminated the repetition of the language of Section 8(b)(4) and substituted for it a simple sentence which, by reference, includes all of Section 8(b)(4) of the NLRA, as amended.

In summary, then, what will be the impact of the Labor-Management Reporting and Disclosure Act of 1959 on collective bargaining? In the writer's opinion:

(1) The revitalization of the state courts will increase all problems for unions in the Southern states and in the nonindustrialized states. In industrialized states, which do not have little Taft-Hartley laws, unions may be helped.

(2) The unions will manage to live with the closed secondary boycott loopholes, as they have since 1947. The First Amendment attacks on the law will be sharpened and may succeed in some instances.

(3) The employer who wants the union with which he deals to do something about his nonunion competitors will likely find that the new law has all but eliminated the union's ability to organize by building a fence around the nonunion operator.

(4) Employers who desire to resist unionization will find that they have more help from the law in opposing the frequently used union organizing activities.

(5) The construction industry unions have been given advantages, but the hot-cargo clauses' advantages are not as valuable as they may appear be-

[22] *Jersey City Welding & Machine Works, Inc.*, 92 NLRB 510 (1950); *Penn-Dixie Cement Corporation*, 107 NLRB 251 (1953).

[23] 106 *Congressional Record* 6660 (1960) (Remarks of Senator Barry Goldwater).

cause of the continuing impact of Section 8(b)(4).

(6) As is usually the case, much remains unpredictable until the National Labor Relations Board and the courts decide a sufficient number of cases growing out of the law.

[The End]

Comments on the Oberer Paper

By THOMAS E. HARRIS

The author is associate general counsel for the AFL-CIO.

PROFESSOR OBERER asserts that the failure of most unions to provide an independent judiciary as part of their international machinery precludes the achievement of union democracy, since an independent judiciary is the only technique of which he knows "for the containment of executive power within the rules promulgated by the membership." His solution is the creation by unions of independent public review boards, such as that of the UAW. These boards will also, Professor Oberer hopes, serve as the prime shield for unions against the adjudication of hostile and unsophisticated judges, which is the chief danger he sees to unions arising from the Landrum-Griffin Act (laying aside, I assume, the Taft-Hartley title).

I tend to think that Professor Oberer is over sanguine.

Some of us hoped two or three years ago that government regulation of internal affairs might be forestalled or confined in scope by adequate union self-policing. The adoption by the AFL-CIO of ethical practices codes binding on its affiliates—a radical step in light of the AFL-CIO's "autonomy" tradition—was surely facilitated by this hope. Thought was likewise given to a federal statute which would legislate standards for union elections, trusteeships, and so forth—but with a provision for the exemption of unions found by the Secretary of Labor to provide adequate safeguards as a part of their own internal machinery. One of the safeguards considered in this context was an independent public review board.

Alas, these rosy dreams faded in the gray dawn of Congressional reality. The last surviving vestige of this approach was Title IV of the bill which passed the Senate, S. 3974. This title recited that "the Congress declares that it is in the national interest that" unions and employers voluntarily adopt codes of ethical practices. The union codes were, among other things, to "contain provisions to safeguard the democratic rights and privileges of members." The title directed the Secretary of Labor to report to Congress within three years on the progress achieved by unions and employers in the elimination of improper activities through self-policing, and to make appropriate recommendations in the light thereof. However, Title IV of the Senate bill,

with the hope it held out that adequate self-policing might someday result in the withdrawal of government regulation, was eliminated in the House.

Further, certain specific provisions of the law, as enacted, are likely to hamper the use of public review boards.

Surely an independent judiciary is not, as Professor Oberer suggests, the sole technique for the containment of executive power. A much more fundamental technique is the holding of fair elections at not too widely spaced intervals. Thus, to my mind, the act's most important safeguards of union democracy are those found in the elections title. However, a union member who wishes to avail himself of the new rights and remedies created by the elections title must first invoke the internal remedies available under the union constitution for a maximum of three months, and must then file a complaint with the Secretary of Labor within one calendar month thereafter. In other words, the member must make his complaint to the Secretary of Labor during the fourth month after the first invoking an internal remedy.

This time schedule does not seem to me to contemplate or normally to permit resort to a review board—assuming, as I do, that unions will wish to preserve some opportunity for the rectification of mistakes by local unions of international executive boards.

The trusteeship title does not put any procedural barrier in the way of review boards; but neither does it hold out any inducement for their use. Under Section 304(c), a trusteeship is presumed valid for 18 months and invalid thereafter. A determination by an independent review board stands on no higher plane than does one by the union's own executive board.

There remains the "bill of rights" title, Title I, which purports to safeguard the exercise within unions of freedom of speech, assembly, and so forth, and to insure fair procedures in union disciplinary proceedings. I am afraid, however, that I do not share Professor Oberer's expectation that the courts generally will pay "an appropriate deference" to the decisions of independent review boards in this field. I expect, rather, that unenlightened, and therefore antiunion, judges will accord not the slightest deference to the decisions of review boards, and that the only judges to accord deference will be those whose own decisions would be enlightened. Such an outcome seems to me to be indicated by past experiences with the "exhaustion of remedies" doctrine and with judicial review of the decisions of administrative bodies.

In concluding, I would like to describe a recent occurrence which, to my mind, illustrates what is really the major problem confronting the labor movement in this country—and that is neither corruption nor lack of democracy, nor even the Landrum-Griffin Act, which is the purported Congressional reaction to these deficiencies.

Several weeks ago I received a phone call from one of our federal locals in New England—a local union with around 1,050 members. The officers of this union found it necessary to increase the dues, because the AFL-CIO had increased the per capita payable to it by federal unions.

The officers were, of course, anxious to comply with the Landrum-Griffin Act, which sets forth in Section 101 (a)(3) certain procedures which unions must follow in increasing dues. We accordingly decided, in line with the act, that the union would conduct a secret ballot vote on the proposed dues increase at a special membership meeting.

The act also prescribes that reasonable notice be given in advance of the meeting that the dues increase issue will be voted upon. Announcements to that effect were, accordingly, made at the last preceding regular meeting, were posted on plant bulletin boards and were published in the local newspaper. Finally—and in doing this they went beyond the act's requirements—the officers scheduled the meeting for a Saturday morning, so that employees on all three shifts could be present. They did that because everyone knows that a proposal for a dues increase is one thing that arouses really intense membership interest.

The vote on the dues increase was very close: 11-11.

In a recent column, Msgr. Higgins said: "The fact is that in far too many good, bad and indifferent unions the rank-and-file are perfectly willing to 'let George do it.' This, it seems to me, is the most serious problem confronting the labor movement at the present time." In view of Msgr. Higgins' ecclesiastical status, perhaps it would be permissible for me to add: Amen. **[The End]**

Comments on the Oberer and Siegel Papers

By JOHN VAN AKEN

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IN LISTENING to the very fine talks delivered by Professors Oberer and Siegel, I find little to quarrel with from the standpoint of the theories which they have espoused. In fact, both gentlemen have been very cautious in *not* giving me anything to quarrel with, since they have carefully surrounded all of their predictions with cautionary statements to the effect that no one really knows what the courts are going to do with this legislation.

I would like to carry this whole matter a step further and give you my evaluation of the trends which I believe you and I are going to witness in this dynamic field of industrial relations as a result of the enactment of the Landrum-Griffin bill. The trends which I would like to explore will be almost completely divorced from the technical niceties of the legislation, so I guarantee you I will be less cautious than the learned professors who preceded me.

Let me preface all of my remarks by first pointing out that the provisions of the Landrum-Griffin Act relating to the regulation of internal union affairs are, in my opinion, merely the culmination of a trend which was already well under way. For this reason, it is going to be difficult for anyone in the future to point back to September 14, 1959, and state that this was the date that unions were forced to commence respecting the

rights of union members. Great reforms such as this are not accomplished overnight. In fact, reform legislation is seldom enacted until the reform *movement* is already well under way. The civil rights legislation recently enacted (which will undoubtedly be improved upon in later years) is a good example, in another field of law, of a similar sequence of events.

Background for Evaluation

As a background for my evaluation, let us first note that, while many unions and their officials today are sincerely dedicated to the purpose of improving the wages and working conditions of their members, there are still many unions which appear to be dedicated to the more selfish aggrandizement of the officials of these unions; and that there are still other unions which, while not actually corrupt, display obvious tendencies toward complacency and, at times, downright laziness in protecting the rights of their members. Generally speaking, employers who bargain with the latter type of corrupt or complacent union have had a far easier time of it than their counterparts who have had to deal with the dedicated, militant unions. It should be further noted that all of the various types of unions have been capable, over the years, of riding roughshod over the rights of minority groups or of individuals.

Not too many years ago, dissident individuals and minority groups had an outlet for their dissatisfaction within the union movement itself. They could shop around for another union. Then came the AFL-CIO merger and the no-raiding pacts. This sealed off the principal outlet for dissident energy. Important as this may have seemed to a labor movement determined to put an end to expensive interunion raids, nothing was done about replacing the safety valve for dissident members.

All of the factors outlined by Professor Oberer seemed to militate against a successful stand by an individual union member against his union. But then came the bright light of publicity. The welfare fund investigation by the Douglas Committee and the corruption investigations of the McClellan Committee did two very significant things:

(1) They prodded union members into various court and administrative actions against their union leaders. The lifting of the veil of ignorance apparently alone was responsible for a great avalanche of dissident litigation. Individual employees began filing unfair labor practice cases in unprecedented numbers. Thirteen Teamster members had the audacity to institute a court action to rid themselves of a powerful union president whom they felt had been unfairly elected. In Chicago, union members sued their president for mishandling of health and welfare funds. Many other similar actions took place—all *before* the Landrum-Griffin bill was enacted.

(2) The AFL-CIO adopted an ethical practices code and began expelling, and threatening to expel, corrupt international unions. It was obvious then and now that this action was taken in order to forestall tough legislation. Although some unions, such as the Teamsters, accepted expulsion rather than submit to the AFL-CIO program, there is little doubt that the program had tremendous effect. Many union officials retired to a more tranquil, if less rewarding, civilian life.

In the middle of all this the Landrum-Griffin bill was enacted. The act, as described previously here, provides vehicles for (1) continued public revelation of the financial affairs of unions and their officials; (2) guaranteeing

a semblance of democracy in union elections and in the conduct of union affairs; and (3) enforcing a fiduciary responsibility upon union officials.

This virtually guarantees, for the foreseeable future, a continuation of the turmoil which unions have been witnessing within their ranks for the last few years—possibly even at an accelerated pace.

Now, what does this mean insofar as labor relations generally are concerned? What is this likely to create at the bargaining table?

Observations

Professor Oberer is obviously encouraged by the prospect of democracy in the conduct of union affairs. I am not sufficiently foolhardy to denounce this lofty goal. But, if we want to evaluate the *real impact* of this law, I believe we have to look one step further. We have to look at the likely psychological reaction of union officials to the pressures which have been and are being unleashed. I don't profess to be a psychologist, but my profession has taken me into the stream of industrial relations where I have had opportunity to observe the tugging and hauling of the labor relation struggle. Here is what I have observed:

(1) The complacent and corrupt unions are becoming less complacent in their bargaining. Suddenly, unions which formerly cared little for the will of the membership are submitting contract settlements for membership ratification. Many of these unions are still not what I would call "militant," but they are definitely moving in that direction.

(2) Union officials are appealing grievances to the arbitration step of their grievance procedure, even though they may not be convinced of the correctness of their position. This appears to be true in all types of unions. Unions which have never arbitrated before are suddenly finding the usefulness of this procedure. Why? Well, obviously, at least the union official can in this way blame the arbitrator for any adverse decision which may result.

(3) Rump organizations are being formed in various unions to pressure the union officials into pressing for bargaining objectives which the union has failed to seek or to achieve. As many of you may be aware, this has even happened within unions, such as the UAW, which are already considered to be the more militant unions. The prospect, therefore, seems to be one of more radical and excitable collective bargaining.

The natural impact of union democracy is going to be the forcing of union leaders to become politicians within their organizations. Where they are already politicians, they may be forced to become more political and less statesmenlike. The result of all this is going to be the gradual, and sometimes sudden, ending of many "mature" or "cozy" relationships and an increase of industrial strife. When I refer to strife, I of course refer to all types of industrial relations struggles, including strikes and arbitration.

The birth of democracy in the political structure of nations is frequently a turbulent thing. Based on what I have seen, the same is going to be true of the imposition of democracy upon unions.

As I stated at the outset, this is not going to be an overnight renaissance. Many union officials will continue to protect themselves against dissident minorities, and even majorities, by various subterfuges. Officials of one union in Chicago recently assured themselves of re-election by posting a confusing notice as to the date of an election. In their notice, the date of the month and the day of the week

specified did not coincide. Only the officials appeared at the time intended, and they then voted to re-elect themselves. Other unions are suspected of using less subtle (and amusing) methods. Gradually though, the new law seems destined to bring greater democracy and to release a good bit of energy which thus far has been rather closely compressed and contained.

Will this mean more national emergency and essential industry strikes? Only time will tell. If so, perhaps we will have some more federal legislation to cope with this problem.

[The End]

Mutual Strike Aid in the Airlines

By MARK L. KAHN

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WHEN AN AIRLINE is grounded by a strike, much of its regular traffic is diverted to other airlines. This fact provided the financial basis for a novel mutual aid pact, adopted on October 20, 1958, by six major airlines that carry about two thirds of United States traffic: American, Capital, Eastern, Pan American, Trans World and United. The pact applied to any strike resulting in a shutdown of flight operations (a) called to enforce demands "in excess of or opposed to" the recommendations of a Presidential emergency board or (b) called before the strikers "have exhausted the procedures of the Railway Labor Act or which is otherwise unlawful." Under any of these circumstances, each party to the pact must pay an amount equal to its net income from strike-diverted traffic to the struck carrier. The original pact also required the struck carrier to direct to other members of the pact "as much of the traffic normally carried by the party suffering such a strike as possible," but this clause was later deleted by order of the Civil Aeronautics Board (CAB).[1]

The pact was adopted during a strike called by the International Association of Machinists (IAM) at Capital Airlines, and it went into immediate effect. Since then, gross benefits totaling more than $9 million have been paid to Capital, Trans World, Eastern and American.[2] A dispute between American Airlines and the other pact members, concerning whether or not American was entitled to payments under the pact, was settled—in American's favor—by arbitration.[3] On May 20, 1959, over vigorous union protests, the Civil Aeronautics Board approved

[1] The text of the mutual aid pact is reprinted in the Appendix. All papers relating to the pact are filed in CAB Dkt. No. 9977. The pact is cited by the CAB as Agreement CAB No. 12633.

[2] National Mediation Board, *Twelfth Annual Report* (1959), pp. 10-12, gives a brief description of the strikes against these four carriers.

[3] Bruce Bromley, Arbitrator, New York, New York, opinion and award dated January 20, 1960.

the pact (subject to the one modification already noted) as not adverse to the public interest or in violation of the Federal Aviation Act. On March 7, 1960, the pact was extended to strikes called in the absence of the establishment of a Presidential emergency board where the struck carrier has been in compliance with the Railway Labor Act. As thus amended, four additional airlines promptly entered the pact: National, Braniff, Northwest and Continental. Unless the amendment of March 7, 1960, should be disapproved by the CAB, the pact may now be regarded as virtually industry-wide in scope and applicable to any strike—except one in which the carrier has violated the RLA or refuses to settle on the basis of emergency board recommendations that the striking union is willing to accept.

This approach to "strike insurance" for airline employers promises to have a significant impact on collective bargaining power and structure in this vital industry. Some of its features may prove attractive to employers in other industries. Before I turn to an examination of the pact and its implications, some brief remarks about the airline industry are in order.

Scheduled air transportation has always been the object of paternal federal concern and, in fact, originated as a public enterprise under Post Office sponsorship from 1918 to 1925. The Civil Aeronautics Act of 1938, which created the CAB, established the present pattern of economic regulation and support. The CAB was authorized to determine airline route structure, to establish fares, to subsidize carriers by setting air-mail rates based on individual carrier need rather than service, to control interairline working agreements and mergers, and to promote air safety by issuing civil air regulations. Under the resulting industry structure, about 90 per cent of total scheduled air traffic is carried by the 12 domestic trunk lines, plus Pan American.

About ten years ago, I examined in detail the role of the CAB in terms of its impact on airline industrial relations; I found that it had materially influenced every major aspect:

"On safety grounds, this agency prescribes employee qualifications complements for skilled personnel, and many working conditions; it has acted to protect employees against the adverse effects of mergers and acquisitions, route sales, and the joint use or interchange of equipment and personnel, and to accomplish this has even prescribed a formula for integrating seniority lists; it has substantially affected union bargaining power by evolving a subsidy policy under which the strike losses of carriers are not offset; and it has induced employer compliance with the Railway Labor Act by the actual or threatened exercise of its economic powers. To effectuate its labor role, the agency has employed dispute settlement techniques which run the gamut from voluntary mediation to the equivalent of compulsory arbitration." [4]

The Federal Aviation Act of 1958 transferred many of the CAB's safety functions to the new Federal Aviation Agency. Otherwise, the above findings are equally applicable today.

The airline environment is a difficult one for healthy industrial relations. Demand for air transportation in the United States has kept ahead of the growth in man-hour output, and the employment trend has therefore been upward; but rapid and drastic technological changes—such as the current transition to jet propulsion—have been

[4] M. L. Kahn, "Regulatory Agencies and Industrial Relations: the Airlines Case," 42 *American Economic Review* 697 (May, 1952).

a continuous source of serious disturbance. The number of jobs has fallen in some years (1946-1949, and 1957-1958), the job content of many occupations has been substantially altered, new occupations have appeared (notably, the flight engineer), and some occupations have been virtually eliminated (the flight radio officer and the flight navigator). The product market is highly competitive from the vantage point of any particular carrier. Unlike the regional monopoly granted to the typical public utility, active nonprice competition is encouraged among airlines by the CAB practice of certifying two, three or four carriers on major intercity routes. Other forms of transportation are meaningful alternatives for many types of traffic—particularly air cargo and shorter haul passenger travel. Severe competition from foreign carriers is encountered on overseas routes, and the share of United States flag airlines has been shrinking. Economic uncertainties are compounded by the rapid obsolescence of flight equipment and the high cost of outlays for new types (Capital is facing foreclosure of its Viscount jet-prop fleet as I write these lines).[5]

The industry's labor force of 150,000 is widely dispersed, both occupationally and geographically. The pilots (now about 9 per cent of the total), who were the first to organize, established the Air Line Pilots Association in 1931. Effective lobbying by ALPA brought air transportation under the Railway Labor Act in 1936 and obtained the inclusion of Section 401 in the Civil Aeronautics Act of 1938.[6] Section 401 requires carrier compliance with the Railway Labor Act as a condition of holding a route certificate. Under this act, representation of employees is by "craft or class" in carrier-wide units. Unionism did not emerge in nonpilot groups until the 1940's, but then made rapid progress. Today, 21 different unions, eight of which are relatively important in the industry, hold bargaining agreements with airlines. The typical carrier negotiates with seven or eight different unions, and considerable interunion rivalry persists.

With minor exceptions, airline collective bargaining has been on a single-carrier and single-union basis. This is partly because each carrier has unique operating problems resulting from differences in routes, schedules and equipment, and partly because mobility between "crafts or classes" is insignificant and each occupational group has unique labor problems. A major constraint on the area of bargaining, however, is that the Railway Labor Act has been interpreted to permit multicarrier or industry-wide bargaining only by consent of all parties concerned. In any particular instance, one party or another usually considers it tactically advantageous to oppose broadening the bargaining unit.

In connection with the making and revising of agreements, the Railway Labor Act provides that whenever private bargaining does not resolve a dispute (1) either party may invoke the mediatory services of the National Mediation Board, or mediation may be proffered by the NMB; (2) if the dispute is not resolved in mediation, the NMB must endeavor to persuade the parties to accept voluntary (binding) arbitration; (3) if arbitration is rejected, there must be no change for 30 days (except by mutual agreement) "in the rates of pay, rules or working conditions or established practices in

[5] See, for example, "Too Many Seats in the Sky," *Business Week*, April 23, 1960, pp. 78-86. A convenient summary of airline operating and financial data appears in *Facts and Figures About Air Transportation* (21st Ed., 1960, Air Transport Association of America, Washington, D. C.).

[6] M. L. Kahn, "Wage Determination for Airline Pilots," 6 *Industrial and Labor Relations Review* 320-321 (April, 1953).

effect prior to the time the dispute arose;" and (4) if a still unsettled dispute threatens "to deprive any part of the country of essential transportation service," the President of the United States may, in his discretion, appoint an emergency board to investigate and make nonbinding recommendations concerning the dispute. After the creation of such a board, and for 30 days after it reports to the President, "no change, except by agreement, shall be made . . . in the conditions out of which the dispute arose." The act thus relies on a variety of procedures for inducing settlement and on the maintenance of the status quo while the procedures are applied. Compulsory arbitration is clearly avoided and the eventual right to strike is preserved.

It has been common, since World War II, for major union-management disputes in the airlines to exhaust these Railway Labor Act procedures. Airline experience suggests that the willingness to arbitrate important contract issues is weakened by the relative availability of emergency boards, since the nonbinding recommendations of such a board are "safer" than the binding award of an arbitrator. Moreover, it has not been unusual for strikes to occur after the 30-day status quo that follows an emergency board report and for the ultimate settlement to be more favorable to the union than the settlement advocated by the emergency board. A new benefit or standard, once achieved at a particular carrier, has tended to establish an industry pattern—a process referred to by the carriers as "whipsawing."

The carriers, at the close of World War II, made a determined effort to institute multiemployer bargaining with the pilots on basic economic issues. After some preliminary maneuvers, 18 carriers formed a "permanent" Airlines Negotiating Conference (ANC) on August 1, 1946, and authorized the ANC to serve as the exclusive representative of each member airline in all pilot negotiations. The ALPA adamantly refused to meet with the "monopolistic airlines trust," however; and, after it became clear that the ANC was not going to achieve its primary goal, the airlines dissolved it in December, 1948. The Airlines Personnel Relations Conference, which succeeded the ANC, serves chiefly as a clearing house for industrial relations information and is not a bargaining instrument.[7]

This is the background against which, on December 4, 1958, the CAB set a date for oral hearing on the pact and particularly invited comment on the following questions:

(1) Does the agreement violate any applicable provisions of the RLA?

(2) Will the operation of the agreement improve or impair labor-management relations in the industry?

(3) Will the agreement discriminate in restraint of trade against other air carriers not parties to it?

(4) What effect, if any, will the agreement have upon administration of the mail-pay (subsidy) program?

(5) What effect, if any, will the agreement have upon the extent of government participation in labor-management disputes?

Employers' Position [8]

The carriers, in urging CAB approval, termed the basic problem "one

[7] The APRC is now a department of the Air Transport Association of America. A detailed examination of earlier attitudes toward, and efforts at, multiemployer bargaining appears in my *Industrial Relations in the Airlines* (unpublished doctoral dissertation, Harvard University, 1950), Ch. 5, Sec. D.

[8] Based on "Brief to the CAB . . ." dated January 5, 1959, prepared by the six airlines originally party to the pact.

of imbalance in labor-management relations" and asserted that "the airlines have steadily been losing the economic capacity to deal with the unions on terms approaching equality:

"Historically, most airlines have not had the economic strength to withstand the pressure of a long and costly strike. This is even more true today, as the Board is aware. The unions, through cooperative arrangements with other unions and large strike funds of their own, are in a position to subsidize employees over extended strike periods, during which there is a complete loss of revenues to the carrier. Moreover, air transportation is a perishable commodity. It cannot be stockpiled during a strike for sale afterwards. The customer who cannot buy an air carrier's service when he wants it will take his business elsewhere. While the union employees continue to receive income during a strike, and often have wage increases awarded retroactively, the revenues lost by a carrier during a strike are lost forever."

The carriers agreed that by mitigating the economic injury caused by strikes covered by the pact, each carrier will be able "to bargain more effectively;" but they emphasized the limited scope of the benefits under the pact, which cannot completely offset the losses caused by a strike.

With respect to the five questions posed by the CAB, the carriers commented as follows:

(1) The pact will advance the purposes of the Railway Labor Act and the public interest by tending to uphold the integrity of the Presidential emergency board procedure and to deter unlawful union conduct. Even if the pact were a concerted effort by carriers to force union acceptance of emergency board recommendations, there would be no violation of the Railway Labor Act. Although such recommendations are not legally mandatory, neither is an employer or a union prohibited from attempting to induce the other party to accept such recommendations. Similarly, the fact that resort to the courts is one manner of dealing with unlawful strikes surely does not preclude mutual action by carriers to deter illegal conduct. The pact does not operate if a carrier refuses to accept emergency board recommendations; pressure on both parties, not just the union, is exerted in behalf of the aims of the Railway Labor Act.

(2) The pact will deter strikes by encouraging bona fide bargaining.

(3) The commitments in the pact are limited in purpose and effect, are limited in duration, affect only a segment of the airline market, do not limit the customer's freedom of choice, are designed to prevent rather than hasten the extinction of a competitor, and thus "satisfy the most severe standards that the courts have applied in determining the legality of business arrangements under the federal anti-trust laws."

(4) The relationship of the pact to the mail-pay program is "extremely limited" because subsidy has "virtually disappeared among the domestic trunk carriers and is now a distinctly minor factor among international carriers;" because subsidies already fixed cannot be redetermined retroactively; and because where a subsidy case is pending, although payments made by non-struck carriers will tend to increase their subsidy, payments received by a struck carrier under the pact will correspondingly tend to reduce its subsidy.

(5) Administration of the pact itself involves no government intervention. If the pact induces greater respect for emergency board recommendations, it will "give the intended effect to Government participation in airline labor disputes," but it will not increase or decrease government participation

in airline labor disputes. The union contention that the pact will expand the area of labor disputes and encourage industry-wide strikes is really a threat that the CAB should not countenance:

"If the Board were moved by this union argument to disapprove this Agreement, the result would be to deny to employers in the airline industry any degree of mutual cooperation, and the Board would thus be giving positive encouragement to the whipsaw tactics, which the unions have followed to date, of picking off employers individually."

Unions' Position [9]

The unions urged the CAB to disapprove the pact on a variety of grounds that I will summarize in relation to the same five questions posed by the CAB:

(1) The Railway Labor Act precludes compulsory arbitration or the enforcement of emergency board recommendations, and the federal courts have supported the voluntary nature of such proceedings:

"A combine among the air carriers to enforce their will upon an organized group, or to require the latter to accept a Presidential Emergency Board decision, is outside the intent of the Railway Labor Act and the Civil Aeronautics Act, and not within the bounds of legality."

Moreover, the pact violates the duties of air carriers under the Railway Labor Act by bringing into a dispute, against the will of the union, carriers that are not parties to the dispute.

(2) The pact's assumption that the union demands have been, and will continue to be, "extreme and unreasonable" [see Appendix, third paragraph of text of pact] can only be harmful to labor relations, and this combination of carriers will lead to strikes "involving many carriers and threatening operation of the whole industry. Such a result will also tend to encourage the Federal government's seizure of airlines to keep them in operation. . . ." Such an agreement should therefore be permitted only on a clear showing of its necessity, and the historical record of airline collective bargaining fails to show the need for this pact. As for unlawful strikes, the courts are available to the carriers and the pact is clearly unnecessary.

(3) The provision requiring struck carriers to direct as much traffic as possible to the other parties can operate to force other air carriers into the pact, and it smacks of unfair practices or methods of competition (prohibited by Section 411 of the Civil Aeronautics Act); nor is it in the public interest for travellers to be directed only to the services of parties to the pact when other services might be preferable.

(4) Should a carrier party to the pact be on a "closed" subsidy mail rate, and be obligated to make payments to a struck carrier, "[t]his will give rise to a situation in which Federal subsidy funds are used to try and break a lawful strike under the Railway Labor Act, in disputes to which the carrier receiving the subsidy is not even a party." If the rate were still "open," and the CAB has approved the pact as in the public interest, it would then be difficult for the CAB to disallow such expenditures for subsidy determination purposes.

(5) Finally, the unions suggest that the pact would place the CAB squarely in the middle of major labor disputes, since it would have to determine

[9] Based on "Statement of the International Association of Machinists and the Brotherhood of Railway and Steamship Clerks in Opposition to Agreement," January 2, 1959; and "The Position of the Air Line Pilots Association, International, in Opposition to Board Approval of Agreement 9977," November 18, 1958.

whether or not the carriers are keeping strictly within the limits of the grant of permission from the CAB.

CAB Decision [10]

Four members of the five-man Civil Aeronautics Board concurred in its decision on May 20, 1959, to approve the mutual aid pact. The CAB majority reached the following findings and conclusions:

(1) *The pact does not violate the Railway Labor Act.*—"The agreement, although increasing management's abilities to withstand the economic impact of strikes in the same manner that union strike benefits cushion the economic effect on employees, does not purport to affect the carriers' duties under the Railway Labor Act to bargain in earnest."

The CAB found no basis for concluding that the pact will impede bona fide collective bargaining, interfere with the prompt settlement of disputes or render carriers complacent about the prospect of strikes.[11] It rejected a union complaint that the pact will bring into a dispute carriers not party thereto, since a struck carrier "is entitled to financial aid without regard to the popularity of its bargaining posture among the other parties." Finally, the CAB held that the Railway Labor Act is silent concerning private efforts to compel acceptance of emergency board recommendations, and that "The Board will not usurp the Congressional prerogative by embroidering additional prohibitions on the fabric of the Railway Labor Act."

(2) *There is no basis for a conclusion that the pact will destroy workable labor relations in the industry.*—The CAB cautioned that its mandate under the Federal Aviation Act does not entitle it to consider matters of general policy as to labor disputes—a function which belongs to Congress—"unless the asserted imbalance in labor-management relations poses a threat to the development of a stable and efficient air transportation system." Within this constraint, the CAB found no basis for disapproval of the pact.

(3) *The clause obligating a struck carrier to divert traffic to other parties to the pact is adverse to the public interest.*—Approval of the pact would be conditioned upon deletion of the objectionable clause. Otherwise, the CAB found that the pact "springs from business requirements and not any intent to monopolize" and that its operation during the limited period of a strike will not substantially lessen competition within air transportation.

(4) *There is no basis for finding that the pact will adversely affect the mail-pay program.*—The CAB noted that no subsidized carrier was currently a party to the pact, and that it is neither necessary nor desirable to prejudge the precise treatment for mail-pay purposes of payments made under the pact.

(5) The CAB opinion did not comment specifically on the area covered by its fifth question—the effect of the pact on government participation in labor disputes—but it is clear that the CAB did not consider this a significant criterion. One may infer this from its closing remarks:

"After painstaking review of this matter, we have concluded that the agreement must be approved. Our

[10] CAB, Opinion and Order E-13899, May 20, 1959, including dissenting opinion of Member Minetti (mimeo.).

[11] Capital Airline's 1958 strike caused an estimated loss in net operating revenue of $3,635,951 for the affected calendar months of October and November, 1958. Mutual aid pact payments to Capital were $2,247,972. The CAB said: "We are satisfied that the prospect of major losses of revenue and continuing fixed expenses, with possibly permanent diversion of traffic to competing carriers, will serve as a genuine carrier incentive to avoid strikes by bargaining in good faith." Work cited at foonote 10, p. 6.

decision is predicated upon the standards contained in the Federal Aviation Act, and does not attempt to prescribe the most desirable method of adjusting labor-management problems. . . . Section 412(b) peremptorily commands that 'The Board . . . shall by order approve any . . . agreement . . . that it does not find to be adverse to the public interest, or in violation of this Act . . . .' . . . Within this framework, the Board's order follows from the lack of any affirmative showing that the agreement is adverse to the objectives specified by the Congress."

Member Minetti's dissenting opinion spelled out, in strongly couched terms and at length, his bitter disagreement with the majority view. Limits of space prevent more than a mere citation of his major objections. Mr. Minetti held that the pact tends to make the collective bargaining process of the Railway Labor Act impotent; that it imposes compulsory multi-employer bargaining without employee consent, whereby "the change in relative bargaining strength, as well as the hardened attitudes which compulsion produces, can entirely frustrate not only the machinery but the very purposes of the Railway Labor Act;" that it "substitutes reliance on economic force for the good-faith bargaining required by the Railway Labor Act;" that "any aggravation of the present (carrier) tendency to defer genuine collective bargaining until a work stoppage is imminent will seriously impair the collective bargaining process" and that this pact "can only reduce the incentive to bargain;" that the pact "has from an employer viewpoint all of the advantages of compulsory arbitration with none of its disadvantages;" that the carriers "have been certificated to compete with, not subsidize each other" and that the pact is therefore adverse to the public interest. Mr. Minetti also took serious issue with the view "that we must immediately approve agreements between carriers in the absence of affirmative facts clearly establishing illegality. . . ."

On October 19, 1959, the CAB, on reconsideration, affirmed its May 20, 1959, decision, member Minetti again dissenting.[12] The CAB observed, in this opinion, that the legislative history of the Railway Labor Act (as cited by two unions in a joint petition) "only confirms our original view that, in the Railway Labor Act, Congress restricted the ambit of its proscription against compulsion to governmental action, and left the parties free to engage in reciprocal tests of economic strength within the framework of collective bargaining."

As noted earlier, the pact was expanded on March 7, 1960, to apply to strike situations in which no Presidential emergency board is appointed (and where the struck carrier has complied with the Railway Labor Act); and four additional domestic trunk lines have joined the pact, subject to favorable CAB action on this amendment.

One other item completes this chronicle. In September, 1959, at the San Francisco AFL-CIO convention, six airline unions announced plans for their own mutual aid pact and an intention to work for common contract expiration dates so as to make simultaneous strikes feasible. On April 12, 1960, these six unions, under the banner of a new Association of Air Transport Unions, filed a joint petition before the CAB asking disapproval of the amended mutual aid pact.[13] The unions that have formed the new AATU are:

[12] CAB, Supplemental Opinion and Order E-14563 (mimeo.).

[13] "Objection of Association of Air Transport Unions to Amended Mutual Aid Pact and Request for Hearing," April 12, 1960. IAM President Al Hayes is serving as AATU president.

the ALPA, the Transport Workers Union, the Air Line Dispatchers Association, the Brotherhood of Railway Clerks, the Flight Engineers International Association and the International Association of Machinists. Some of these unions—particularly the IAM and TWU, and the ALPA and FEIA—have been bitter rivals for jurisdiction and members, and it is therefore significant that these organizations regard the pact as so great a common threat as to warrant even this limited united action. In their words, it is an "open declaration of warfare . . . by the larger carriers." [14]

Discussion

I want to appraise the airlines' mutual aid pact from two points of view: first, its significance in relation to the evolution of labor relations in air transportation; and, second, the applicability of such employer strike-benefit plans to other industries.

The most casual investigation of the airline industry should reveal that to talk about "free" collective bargaining in such a context is highly unrealistic. This is primarily because airline labor relations cannot escape from the inhibitions imposed by the public's natural concern for the availability and sound development of air transportation. The special procedural constraints of the Railway Labor Act are really but a minor part of the total picture. Of major import is the complex dose of economic and safety regulation, combined with subsidization as required, under which the industry has developed. Unions and managements alike have devoted much effort and large resources to lobbying and representation before the CAB and Congress, as they inevitably must. The relative bargaining strength of these unions and employers, even in their ostensibly "private" negotiations, is shaped to a major degree by the impact of governmental economic and safety decisions, so that the government cannot be neutral with respect to union-management relations even if it would. This fact becomes particularly apparent in relation to economic decisions affecting strike costs. An earlier CAB decision not to offset airline strike losses by subsidy adjustments markedly reinforced union strength;[15] the CAB's decision to approve the mutual aid pact had at least an equally substantial opposite effect.

The ingenuity of the pact, from the carriers' viewpoint, is that it provides a substantial amount of financial assistance to a struck airline on a basis that (in the CAB's opinion) does not violate the Railway Labor Act and that the CAB has been willing to approve. Although the pact is consistent with the practice of single-carrier bargaining, it appears to shift bargaining strength toward the employers even more than would result from industry-wide bargaining arrangements.

Administration of the pact's terms—contrary to some union predictions—has caused little difficulty or discord among the carriers. Although the airlines differ considerably in the quality and sophistication of their labor relations policies and practices, the terms of the pact are highly acceptable to all of them because no carrier can lose more than its net windfall gain from another carrier's strike. It is doubtful that the airline unions can now persuade the CAB to reverse its reiterated approval of the basic terms of the pact. Unless Congress should legislate the pact away, which does not seem likely in the foreseeable future, it will probably be a permanent fixture on the airline industrial relations scene.

[14] Work cited at footnote 13, at p. 3.

[15] Kahn, work cited at footnote 4, at pp. 693-695; Stephen Mann, "Reimbursing Airline Strike Losses with Federal Subsidy: the Railway Labor Act Aloft," 68 *Yale Law Journal* 77-97 (November, 1958).

The airline unions have been angered and perturbed by this development, which so evidently diminishes their relative bargaining strength. Their response is most likely to include a new receptivity to industry-wide bargaining, since there can be no diversion of "struck work" if all parties to the pact are grounded. Industry-wide bargaining is far less favorable to the unions than the previous practice of single-carrier bargaining in the absence of the pact, and the unions certainly do not relish the additional government intervention that is certain to accompany any industry-wide stoppage. But industry-wide bargaining is so much more favorable to union bargaining power than single-carrier bargaining under the pact that I believe the unions will not be able to resist its temptations.[16]

Another development among the unions, especially if industry-wide bargaining (or its near equivalent) materializes, is likely to be a degree of cooperation on bargaining tactics. An industry-wide strike by one union will idle many members of the other unions. The other unions might resent the strike, unless they could take advantage of the same hiatus in operations to make some gains for their own members. Although the new Association of Air Transport Unions appears thus far to be little more than a loose alliance designed to permit a unified appearance before the Civil Aeronautics Board, closer working relations can be anticipated. If a trend toward multiemployer bargaining is complemented by a trend toward multiunion bargaining, the airlines will have adopted the type of bargaining structure that already prevails on the railroads.

Will nonairline employers be tempted to adopt strike-benefit plans? I believe the practice will spread, unless restricted by law. Other industries must naturally design financing arrangements and benefit criteria that suit their own respective conditions and objectives. I can conceive of benefits paid for strikes that have been called to enforce demands in excess of a pattern settlement or in excess of the recommendations of a public fact-finding board, or for strikes that take place after a refusal of the union to arbitrate remaining issues (when the employer was willing to arbitrate). I can also conceive of benefits being paid just to break a pattern-setting strike. Such employer arrangements will tend to raise the locus of management decision-making in collective bargaining to the level at which the strike benefits plan is administered—since participants will be anxious to qualify for benefits—just as national union strike funds have tended to increase the voice of the national union in local union bargaining policies. Organized labor, in turn, may be expected to insist on conducting bargaining at the level where decisions on the application of these employer funds are made, in addition to placing more emphasis on the development of its own "war chests." Thus, if the airlines' mutual aid pact in fact sets an attractive example for employers in other industries, the other forces in our society that have been encouraging larger-scale collective bargaining will have been greatly reinforced.

[16] A perceptive airline union official makes a different prediction—that when future airline strikes do occur they will tend to be much longer and more costly than in the past, but that single-carrier bargaining will continue because of the unions' desire to avoid precipitating something like compulsory arbitration. He may be right, particularly with respect to the immediate future. My contrary judgment is partly predicated on the view that the airline unions do not fear government intervention that much because of their historical success in utilizing such intervention in behalf of union objectives.

From the vantage point of public policy, this development presages even more public regulation of labor relations—either to limit the scale of collective bargaining and of strike benefit plans, or to deal with the consequences of no limitation. We shall most probably have some of both types. As an observer who still cherishes the ideal of collective bargaining as a means of self-determination—in which unions and managements negotiate across the private bargaining table in good faith the terms and conditions of employment, and in which decisions are made by those best equipped to do so—I do not relish the trend toward even more large-scale bargaining that I anticipate.

The issue of relative bargaining power in union-management relations, broadly conceived, is one that has been, and will continue to be, resolved by our society and its governmental institutions. The Wagner Act of 1935 was an explicit effort to improve the bargaining position of workers. The Taft-Hartley Act of 1947 reflected, in part, a public judgment that the relative bargaining position of employers needed to be strengthened. In the airlines case, it is my personal view that CAB approval of the mutual aid pact represented, in good part, the judgment of the CAB majority that the resulting bargaining power shift was not undesirable. The broad criteria of the Federal Aviation Act would certainly have permitted the CAB to disapprove the pact if its members had felt otherwise about the consequences of this ingenious strike-benefit program. **[The End]**

APPENDIX

Airlines' Mutual Aid Pact, as Amended Through March 7, 1960

"AGREEMENT dated as of October 20, 1958 between AMERICAN AIRLINES, INC., CAPITAL AIRLINES, INC., EASTERN AIR LINES, INC., PAN AMERICAN WORLD AIRWAYS, INC., TRANS WORLD AIRLINES, INC., and UNITED AIR LINES, INC.

Witnesseth:

"WHEREAS, the parties are common carriers holding certificates of public convenience and necessity issued by the Civil Aeronautics Board (hereinafter called CAB) providing for the transportation by air of persons, property and mail; and

"WHEREAS, the mutual interests of the parties call for the taking of all proper and lawful measures to bring about sound and reasonable economic conditions that will be of benefit to the air transport industry and to the public; and

"WHEREAS, the parties and other airlines are facing or faced with the threat of extreme and unreasonable demands made by representatives of certain of the classes and crafts of their employees, as exemplified by the current dispute between certain of the parties and their maintenance and related employees, represented for the purpose of collective bargaining by the International Association of Machinists, AFL/CIO (hereinafter called IAM), a controversy in which IAM has rejected and shown an utter disregard for the recommendations of the Emergency Board 122 appointed by the President of the United States to investigate said dispute and has struck Capital Airlines and threatened to strike other carriers for their insistence upon substantial compliance with the terms of said recommendations, which action of the IAM tends to undermine the influence, position and integrity of such Board and is destructive of the collective bargaining process; and

"WHEREAS, it is in the public interest and the interest of the parties hereto that the recommendations of such Presidential Emergency Board created under the provisions of the Railway Labor Act be respected by the employers and employees whose dispute was heard by the Board;

"NOW, THEREFORE, the parties hereby agree:

"1. In the event any party suffers a strike, resulting in the shutdown of its flight operations, which has been called for reasons which include the enforcement of demands in excess of or opposed to the recommendations of a board established by the President of the United States under section 10 of the Railway Labor Act and applicable to such party; [or which has been called in the absence of the establishment of such a board and the struck party has in all respects acted in compliance with the Railway Labor Act;*] or which has been called before the employees on strike shall have exhausted the procedures of the Railway Labor Act or which is otherwise unlawful; then, in such event, each party will pay over to the party suffering the strike an amount equal to its increased revenues attributable to the strike during the term thereof, less applicable added direct expenses. Payments shall be made monthly within 10 days after the close of each calendar month or at such more frequent intervals as may be agreed to by the parties.

"2. Any other air carrier holding a certificate of public convenience and necessity issued by the CAB may become a party to this agreement by signing counterpart copies thereof, forwarding copies to each of the other parties and to the CAB for filing.

"3. This agreement shall become effective immediately and shall be filed with the CAB. If this agreement shall be disapproved by the CAB, it shall terminate forthwith to the extent disapproved, and payments made hereunder, to the extent that they are affected by the terms of such disapproval, shall become and be treated as an obligation to and owing from the party suffering the strike to the paying party. This agreement shall continue in effect for a period of two years from October 20, 1958.

"IN WITNESS WHEREOF, the parties have signed this agreement as of the date first above written."

[*Note*: The pact *as originally adopted* also contained the following paragraph:

"2. The party suffering such a strike will make every reasonable effort, with its employees still on duty, to provide the public with information concerning all air services rendered by the other parties, and to direct to them as much of the traffic normally carried by the party suffering such a strike as possible, all as the best interests of the members of the public may require."

This paragraph was deleted as a condition of CAB approval under its decision and order of May 20, 1959.]

STEEL SHIPMENTS

An unfavorable balance of United States foreign trade in steel mill products was reversed in May. Exports rose to 320,000 net tons. Imports dropped to 272,000 tons. Until May, imports had exceeded exports in every month since May, 1958.

* The bracketed clause was added to the pact by agreement of the parties on March 7, 1960.

Cooperation Among Auto Managements in Collective Bargaining

By WILLIAM H. McPHERSON

The author is professor of economics at the Institute of Labor and Industrial Relations, University of Illinois. This paper was prepared with the bibliographical assistance of John Brewster, who is a research assistant at the ILIR, University of Illinois.

COOPERATION among companies in their negotiations with unions may take a vast variety of forms. In setting the framework for this study, our attention will be confined to those intercompany relationships that envisage a separate labor agreement for each company. Within this area the major forms of cooperation may be grouped into three main types which may be considered spaces on a continuum.

At the minimal end is the type that may be designated "exchange of information." Actual instances of this type will vary in their location on the continuum according to the nature and significance of the information exchanged. The information might relate only to wages paid, or it might extend to the supplying of basic data relative to various other sections of the labor agreement. It could go beyond this to a statement by each company of the bargaining goals that it has set for itself, and even of its "limits of acceptability"—the points beyond which it does not intend to go in making concessions to avoid a strike. The exchange of information may carry over into the negotiation period with reports on what took place at the last bargaining session or what proposals will be presented by management at the next one. These illustrations should make clear why "exchange of information" is described as a space rather than a point on the continuum representing the degree of cooperation.

The middle space on the continuum has been designated "parallel bargaining." This involves the establishing and maintaining of a united front by the companies. It means that the bargaining goals and limits of acceptability are the object not merely of information but of joint determination. Under these circumstances the separate negotiations of the companies will develop along similar lines with the companies making identical, or at least comparable, proposals and concessions. It may be noted that this can occur only when the bargaining of the companies takes place during approximately the same period.

The final space on our continuum may be labeled "joint bargaining." In this situation there is similar joint decision-making, but the bargaining on certain major issues is conducted by a single group, although the results will be embodied in a separate labor agreement for each company. This type is best illustrated by the 1959 steel negotiations.

Negotiating Environment

The development of postwar bargaining practices in the automobile

industry has been conditioned by certain aspects of the negotiating environment.

One aspect is the strong competition that has characterized the auto industry as many companies have been forced out of business over the years and others have merged to gain strength in the struggle for survival. One result has been frequent mutual distrust among the companies—especially the larger ones—that has provided a very barren soil for any seeds of bargaining cooperation. This competitive aspect has usually resulted in the great reluctance of a company to take a strike from which the others might profit. The resulting surrenders, made from time to time by one company or another, have occasioned intense bitterness that has added to the frictions resulting from the competitive situation and has been carried, at times, to the point of social ostracism. Thus the strike threat, when applied to a single company, has generally been a stronger union weapon in the automobile industry than in some others. An exception, of course, was the General Motors strike of 1945-1946, when there was still such a shortage of materials that the competitors could not profit significantly from the shutdown, and when the backlog of consumer demand was so great that GM could have no serious concern about any problem of winning back its customers.

Another factor that has impeded cooperation is what I view as the oversensitivity of the companies—especially GM—to possible union charges of collusion. I see nothing blameworthy in cooperative bargaining action, but I think that the companies were at first deterred from such action by concern over possible adverse public and governmental reaction.

Another aspect of the environment that conditions the bargaining practices of the companies is the policy and strategy of the United Auto Workers. Like most other unions, the UAW initially was strongly in favor of industry-wide bargaining. In its earlier days, when it was not strong in some of the shops, broader negotiations might well have been beneficial to it. However, after it had gained strength during the war, its officials realized that the conditions in this industry dictated a policy of "divide and conquer." They were quick to sacrifice doctrine for practical results. In recent years, UAW officials have been entirely forthright in stating that they are unalterably opposed to industry-wide bargaining. In sharp contrast to the Steelworkers, the UAW has never allowed itself to get involved in a major strike with more than one auto producer at a time during the postwar period.

Whereas many unions have sought to obtain similar termination dates in their agreements in order to make it easier to move into multiemployer bargaining, the UAW has similarly sought uniform termination for the different purposes of enabling it to play one management against another and of giving itself latitude in selecting the weakest point in the defense as its focus of attack. Unless expiration dates are fairly close together, a union cannot gain a choice of strike-threat focus by juggling contract extensions.

Prelude to Cooperation

In order to better understand the forces leading inevitably toward intercompany cooperation, it will be helpful to hastily survey the early postwar development of bargaining.

During most of that period, cooperation was impossible because of the dissimilarity of expiration dates. In 1947 the Ford and General Motors dates were only a day apart, but

General Motors signed up ahead of time for one year, and Ford subsequently signed for two years.

The first case of nearly simultaneous bargaining came in 1953 when General Motors agreed to a limited reopening of its famous five-year agreement upon the plea of the union that the contract be kept "a living document," and Ford and Chrysler reluctantly followed suit. Negotiations were first completed at GM. Ford was then forced to a higher settlement in order to end a serious strike at its Canton plant. Chrysler could not resist the Ford pattern. Within five days the union was back at the GM table and forced the corporation to match the ante. This was the first real lesson of the danger to the companies in simultaneous bargaining in the absence of cooperation.

First Steps Toward Cooperation

In 1955 the expiration dates were May 29 for General Motors, June 1 for Ford and August 31 for Chrysler. Thus it was the first two that were in danger of whipsaw bargaining by the UAW, as the five-year agreements neared their end with the UAW focusing its demands on its novel concept of a guaranteed annual wage.

There is reason to believe that negotiations were preceded by a Ford effort to interest General Motors in the establishment of a united front. It is thought that GM was not willing to move as far in this direction as Ford desired. Rumors of the Ford overture had made the union apprehensive, but after the introductory sessions between the union and each company had been held, *Business Week* reported (April 16, 1955) that the UAW had reached the tentative conclusion that there was no present co-ordination.

During the preceding winter, Ford made an intensive study of the feasibility and cost of numerous variations of the guaranteed annual wage idea. It decided early that the UAW proposal in its full form would provide too little work incentive, but a serious effort was made to develop some variation of the proposal that might be acceptable to the company. The study involved a considerable investigation beyond the confines of the Ford offices, and word of it reached the union. A rumor was circulated that Ford had decided to grant the GAW demand, but apparently Drew Pearson was the only journalist who was willing to publish it. This story probably was not credited by anyone in Detroit, for it would obviously be unreasonable to suppose that such a definitive decision had been made so far in advance of negotiations. The report may, however, have led General Motors to give more thought to means of strengthening Ford resistance to the union demand.

General Motors appears to have reached an early decision that no modification of the GAW demand would be acceptable. Its chief efforts were directed to the shaping of an entirely different offer, which it hoped would be too attractive to the rank and file to permit union rejection. The result was labeled the "Partnership in Prosperity Package." It included a number of attractive concessions, but its most striking features were separation pay and a plan for employee savings and stock purchase.

Near the end of April, three weeks after the start of negotiations, the UAW extended the General Motors termination date from May 29 to June 7. Since the Ford agreement was to expire on June 1, it was now clear that the union had decided to make Ford its target. At the same time it also became clear that the

setting of proximate termination dates gave the union a chance it would not miss to focus its attack for maximum strategic advantage.

General Motors did not wait until its deadline to make its major move. In an apparent effort to head off any possible Ford concessions on GAW, it offered its "Partnership" plan to the union on May 17. The union withheld any decision on the offer, waiting to see what Ford would propose. General Motors and the union were negotiating under an agreement that neither would release any information to the press without 48-hour notice to the other. Thus, no word regarding the details of the proposal became public.

In a dramatic session nine days later, on Thursday, May 26, Ford made its offer. While the proposal contained many provisions that were peculiar to the Ford situation, it was immediately clear that on most major points it was identical with the General Motors offer of May 17. For the first time in the history of auto negotiations it was obvious that there had been cooperation between the companies at least to the extent of exchange of information. It is not surprising that some UAW officials refer to this day as "Blue Thursday."

It was imperative for the union to make every effort to sever the new alliance. Reuther rejected the Ford offer on the spot and in violent language. Negotiations were broken off only six days before the deadline.

Five days later Ford yielded by withdrawing the previous offer and substituting its version of the GAW, which marked the beginning of supplemental unemployment benefits.

The first step of General Motors toward cooperation, in an effort to stiffen the Ford position, had backfired seriously by killing any chance for union acceptance of the GM "Partnership" plan. The corporation then reluctantly followed the Ford lead, but made it plain that it would have taken a strike rather than have conceded on the issue, had not the pattern already been set by Ford. There were rumors that General Motors thought that it had an implied understanding that Ford would not yield, but there were no indications that GM was prepared to offer any strike aid to Ford in case the latter had stood firm.

The outcome in 1955 seems to be a clear instance of the environmental influence of the competitive struggle. When it came right down to the wire, Ford was unwilling to take a strike alone at a time when auto sales were at a peak. The union, by focusing its strike threat, had shattered the first major cooperative effort. When Ford moved from its first to its second offer, cooperation was dead. It appears that General Motors was informed in advance that the offer would be changed, but I believe that it was neither informed nor consulted regarding the nature of the final proposal. The demise of cooperation was signaled by the attendance of General Motors representatives at the Ford press conference where the second offer was announced.

The union, in killing cooperation, engendered such animosity between executives of the two companies that it then seemed that no alliance could ever be rekindled. The extent of the union's success, however, alerted auto producers to the untenability of their previous strategy under the new condition of similar expiration dates. About three weeks after the end of negotiations, Henry Ford II declared in an interview with the Detroit *News* that he was very much in favor of industry-wide bargaining for his industry—a view that was later reiter-

ated by John Bugas. It is not clear, however, that they were using the term in its technical sense of leading to a multiemployer labor agreement. It was clear only that Ford would welcome cooperation in 1958.

In summary it may be said that, disregarding the ten-day period around the first Ford offer, negotiations in the auto industry from the start of collective bargaining through 1955 were of the pattern-setting and pattern-following type, with an alternating identity of the leader. The General Motors agreement was the innovator with the cost-of-living adjustment and the annual improvement factor in 1948 and the five-year duration in 1950, while the Ford agreement broke ground on pensions in 1949 and on supplemental unemployment benefits in 1955.

During this period the smaller auto companies might be considered as pattern-followers, but it must be noted that in some respects aside from the key issues they were forced beyond the pattern, in spite of—and perhaps as a result of—their competitive weakness.

Flowering of Cooperation

The 1955 agreements carried a three-year duration. General Motors and Ford retained their previous expiration dates of May 29 and June 1, but the Chrysler date was shifted from August 31 to the end of May. The primary purpose of the shift related to the timing of the annual-improvement-factor increase rather than to strategy regarding the next negotiations, but it is likely that Chrysler welcomed the similarity of termination dates for its possible influence on company cooperation.

When it came to the 1958 negotiations, intercompany cooperation moved from stage one to stage two of our continuum—from exchange of information to parallel bargaining—and Chrysler was now involved equally with General Motors and Ford.

Indications of a change of tactics were seen well before the start of bargaining, or it might be more accurate to say that exploratory bargaining began in the public press long before negotiations got under way. A year in advance Walter Reuther asked the companies to meet jointly with the union to discuss the implications of a shorter workweek. All declined with public counterstatements. When Reuther later suggested that a $100 price cut on autos would moderate UAW wage demands, the replies again were much more detailed than a mere "No." They even included the counterproposal from General Motors that the union agree to a two-year extension of its existing contract—a proposal that remained the cornerstone of the position of the companies until one week before the conclusion of the negotiations. It may be noted that, because of the escalator and annual improvement factor, this proposal was more attractive than it sounded.

This time there was no mere exchange of information. It became increasingly clear that the Big Three had formed a common front and that a joint determination—or at least acceptance—of goals and strategy was taking place. Parallel bargaining in the auto industry had become a reality. It was only a question of whether it could be maintained to the end.

In 1955 a focused strike threat had disrupted cooperation. There was an initial possibility that it might do so again. The Ford and Chrysler agreements provided for automatic termination 60 days after a request for negotiation, but the General Motors agreement would continue unless specifically terminated by one of the

parties. The union made no move to terminate it. Uncertainty on this score was ended when the company announced termination. This move might have been interpreted as an indication that General Motors, in case one of its competitors should be struck, wanted to be free to join in some concerted action, such as the adoption for itself of a frequently proclaimed union policy of "no contract, no work." However, under the peculiar circumstances of the time, the step was primarily a gesture of psychological significance. The reason for this interpretation is that there was little likelihood that the threat of a focused strike would shatter cooperation in the spring of 1958 as it had in 1955. If a company were struck, it would not suffer a serious competitive disadvantage, because the shutdown would come near the end of a poor sales season with dealer inventories at a high level.

Expiration came, with no separate concessions gained from any company. Union pleas for short contract extensions were rejected by each company. The union announced that it would not allow the companies to provoke it into a strike.

Plant operation and desultory negotiations continued throughout the summer. Many observers anticipated that operation without a contract would produce a chaotic labor-management relationship, but such was not the case. Management seemed to bend over backward to avoid provocative decisions, perhaps in an effort to indicate to the employees that fair treatment was not dependent on union activity. The union, too, seemed determined to avoid provocation, and invoked its discipline to bring to a quick end the occasional local work stoppages. Some observers thought that labor relations in the plants had never been so calm and mutually satisfactory as during this strange period of no-contract operation.

Finally in September, with work on the new models now well under way, the union set a strike deadline for Ford. Two days before the deadline, within the same quarter-hour, the companies presented to the unions proposals that were identical on the key issues. Bargaining could not be more parallel. The parallelism appeared to crumble on the evening of the following day, when Ford-UAW negotiations continued while the other two were in recess. The company improved its previous offer in several minor respects, and an agreement was reached on this basis. It is reported, however, that the second offer had the complete prior approval of the other companies. The united front of management had been held to the very end. The 1958 negotiations ushered in a new era in auto bargaining and witnessed the development of a bargaining structure that has not been widely used in American labor relations.

A Look Ahead

I think it likely at this point that the Big Three will again attempt parallel bargaining in 1961. There are several reasons for this conclusion.

In the first place, we should look at the causes for the development of cooperation and see if there is any likelihood that they will be less influential in 1961 than they were in 1958. One factor has been the changing nature of the competitive position of the industry as a whole. The inroads of the foreign product are obvious. It seems likely that the "compacts" will lessen the impact of the imports, but I assume that the foreign car will still be a significant factor in the domestic market a year from now. The auto industry is also facing growing competition from other

consumer goods industries. These competitive developments give management a greater interest in avoiding cost increases. Management can no longer look with equanimity on bargaining concessions that will raise costs, with confidence that pattern-following will lead to similar cost changes for its competitors. The scope of effective competition is now much broader than the industry. It therefore seems certain that auto management will be as eager to maximize its bargaining power in 1961 as in 1958.

Negotiation dates are a second factor that will make cooperation both possible and necessary. For the first time in history the agreements of the Big Three expire at the same moment —midnight of August 31. Thus the negotiations will be simultaneous, giving the opportunity for cooperation. The union will again be able to focus its strike threat. This will make cooperation a necessity; otherwise the companies will find themselves pretty much at the mercy of the union.

A third reason to forecast the continued use of parallel bargaining is the relative unattractiveness of the alternatives of individual bargaining, exchange of information and joint bargaining. A return to individual bargaining and the abandonment of any type of cooperation would, in view of the Auto Workers' outstanding strength and strategy, put the companies at a serious disadvantage.

Exchange of information is scarcely a more attractive possibility. Use of that method briefly in 1955 proved it to be inadequate, at least under conditions of high business activity and the absence of a strike-aid plan.

Joint bargaining is a somewhat more attractive alternative. It could be achieved in spite of of union opposition if each company were to name the same three persons as its negotiators. It might give the companies a stronger legal foundation for the eventual resort to lockout as a form of strike aid, but in other respects it seems to offer management little more than can be obtained under parallel bargaining. It might have the disadvantage of being rather cumbersome, since each company has certain problems that are peculiar to it. Finally, management can hardly regard the use of this method in the 1959 steel negotiations as a success.

A final reason for anticipating a continuation of parallel bargaining in 1961 is management's success with it in 1958. One could argue that its success depended on conditions that might not be present in 1961. Certainly the recession of 1957-1958 and the 25-30 per cent layoffs in the auto industry greatly weakened the effectiveness of the strike threat and the bargaining power of the union. If production and employment should be high next year, the focused strike threat may be so effective that the companies will be unable to maintain parallel bargaining to the very end without resort to some form of strike aid to prevent the capitulation of the threatened company.

The strongest form of such aid would be an understanding that a strike at one company would be followed by a lockout at the others. The lockout, however, is not attractive to the companies. Its legality is much more doubtful in this country than it is, for example, in the Scandinavian countries. Moreover, there is the possibility that a lockout would have an adverse effect both on public opinion and on employee relations. Thus, it seems at this point unlikely that strike aid will take this form.

Another possibility is direct financial assistance, but the differences in the financial condition of the companies presents difficulties in the use of this method.

There may be a number of ways of assuring that the operating companies do not gain a competitive advantage over the one that is shut down, but one problem here is that control over production does not give much control over dealer sales. This problem should not be serious in September, with dealer inventories at their lowest ebb.

I think that we can safely forecast that the auto companies will not enter their next negotiations without some definite plans for strike assistance. Two predictions seem to be justified at this time. I think the companies probably will have not one plan but several, and that the final selection will depend on which company is struck. The company with the latest new-model introduction date might be vulnerable. A second probability is that the companies will not make any prior announcement of their plan, as has been done by the airlines and the railroads. They may prefer to keep the union guessing as to the nature of the counterattack.

In conclusion, I trust that this article clearly reveals my great admiration for the strategy and bargaining ability of the auto companies and the UAW and my confidence that they are well able to work out their problems in a most effective manner.

[The End]

Company Cooperation in Collective Bargaining in the Basic Steel Industry

By JACK STIEBER

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COOPERATION among steel companies in collective bargaining goes back to the late nineteenth and early twentieth centuries, when the Sons of Vulcan and later the Amalgamated Association of Iron, Steel, and Tin Workers (AFL) fixed uniform wage scales with a committee of manufacturers.[1] Even when steel companies have not had to contend with unions, there has been a growing tendency toward uniform wage movements. Thus John T. Dunlop, in his study of common labor rates in basic steel, found that "a high degree of uniformity in timing and amounts of wage changes is apparent as early as 1904, is more firmly established by 1910, and is virtually invariant since 1915."[2] In 1942, the War Labor

[1] John Fitch, *The Steel Workers* (New York, Charities Publishing Company, 1911), pp. 78-79, 87.

[2] "Allocation of the Labor Force," *Proceedings of the Conference on Industry-Wide Collective Bargaining* (Philadelphia, University of Pennsylvania Press, 1949), p. 39.

Board noted that for the preceding 20-year period the same general wage adjustments in the steel industry had been made retroactive to substantially the same dates by all basic steel companies.[3] This evidence led Robert Tilove, writing in 1948, to conclude that "uniformity of behavior on wages and working conditions is not an invention of the Steelworkers' union nor, for that matter, of U. S. Steel. It has a logic that is grounded on the nature and the history of the industry." [4]

A combination of factors has influenced the tendency toward wage uniformity in steel: a highly standardized product sold in a national market; price leadership and the virtual absence of price competition; high labor cost as a percentage of total cost—about 35 per cent; limitations on entry imposed by the technology of the industry; a high degree of concentration of steel capacity in a few steel centers; and, more recently, the advent on the scene of a powerful, highly centralized union.[5]

The post-World War II period has seen a continuation and intensification of the trend noted in previous years. In addition, during the last 20 years, collective bargaining in the steel industry has evolved from a follow-the-leader pattern, with United States Steel generally setting the pace, to group bargaining through a committee representing companies with over 80 per cent of national steel ingot capacity.

Despite the tendency for changes in wages and other benefits to evidence a high degree of uniformity, the union and the steel companies have almost invariably disagreed on the question of industry bargaining. Up to 1955, the positions of the parties were clear: The union favored industry bargaining and the industry opposed it, preferring to negotiate on a company-by-company basis. Then, in 1955, the major companies went along with a union proposal to conduct negotiations in Pittsburgh rather than at individual company locations; in 1956, the industry showed an even greater inclination to bargain on a joint basis; and, in 1959, the positions of the parties appeared to have been reversed—with the companies insisting that negotiations be carried on only through a four-man committee representing first the "Big Twelve" and then the "Big Eleven," and the union demanding a return to individual company bargaining.

The argument over company versus industry bargaining in steel is one over strategy and tactics, as distinguished from a disagreement which is likely to affect the industry-wide nature of the final settlement. Whether agreement is reached first with United States Steel or with a committee representing the industry, the results on major issues have been more or less identical for almost all basic steel companies.[6] This is likely to be just as true in the future as in the past. However, there are apparently other considerations which have caused the parties to take opposing positions on the subject of industry bargaining. An attempt to rationalize these positions will be made in the following sections of this paper.

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[3] United States National War Labor Board, *In re Carnegie-Illinois Steel Corporation et al. and United Steelworkers of America,* Case No. 364, August 26, 1942.

[4] Robert Tilove, *Collective Bargaining in the Steel Industry* (Philadelphia, University of Pennsylvania Press, 1948), p. 21.

[5] For an elaboration of how these factors have operated to promote uniformity in steel wages, see my book: *The Steel Industry Wage Structure* (Cambridge, Harvard University Press, 1959), pp. 143-146, 319-322.

[6] It is recognized that contractual provisions often differ among companies, and that variations on economic issues may occasionally be found among smaller basic steel producers.

From the time that United States Steel recognized the union in 1937 until the beginning of negotiations in 1955, the companies rejected every union proposal that bargaining be conducted on an industry basis. In steel dispute hearings during World War II, 1949 and 1952, the companies resisted requests by government boards that they present their case as an industry. These requests were dictated by practical considerations and did not arise out of any desire to change the nature of bargaining in the industry. The War Labor Board, the 1949 Steel Industry Board and the 1952 Wage Stabilization Board all felt that the hearings would be drawn out interminably and unnecessarily if each company insisted on making its own case on all issues. As it was, each of the hearings took over a month—with the companies making a joint presentation through a co-ordinating committee, and individual companies making their own statements if they were so inclined. The union, of course, made one presentation for all companies, but paid special attention to United States Steel.

The basis for the companies' opposition to industry bargaining during the period 1937-1954 can best be examined for each of three separate periods—1937-1941, 1942-1946 and 1947-1954.

1937-1941

The explanation for the five years after United States Steel signed its first contract with the Steel Workers Organizing Committee (SWOC) in 1937 is relatively simple. Until the summer of 1941, when "little steel" (Bethlehem, Republic, National, American Rolling Mills, Inland and Youngstown Sheet and Tube) granted recognition to the union, the question of industry bargaining was irrelevant. Even with the bulk of the industry under contract, there were many non-union steelworkers and no major company had either a union shop or a checkoff provision. The SWOC was not accepted as a permanent force in the industry and, until 1942, was an "organizing committee" which had not yet attained status as a full-fledged international union. Under these circumstances, the union was hardly in a position to demand, nor the companies inclined seriously to consider, bargaining on any but a company basis.

1942-1946

The next five years, 1942-1946, saw the union, now the United Steelworkers of America (CIO), pressing hard for industry bargaining—primarily as a means for achieving its major objective of "equal pay for similar work throughout the industry." While steel wage movements and, to a somewhat lesser degree, common labor rates had had a long history of uniformity, there were wide variations in rates of pay and earnings for similar jobs among companies, among plants of the same company and even within the same plant. The prevalence of wage rate "inequalities," to use the industry term, or "inequities," as the union referred to them, had been instrumental in getting workers to join the Steelworkers union. Now the union leaders were under pressure from the rank and file to make good on their promises to eliminate these wage differentials.

The battle over this issue was fought before the War Labor Board in the 1944 steel dispute. The union argued that the War Labor Board should accept the principle of "equal pay for similar work throughout the industry" for the following reasons:[7]

[7] Work cited at footnote 5, pp. 16-17.

(1) Wage-rate inequities were the cause of over 90 per cent of all grievances in the companies, causing industrial instability, poor morale and unauthorized work stoppages—all of which hindered the war effort.

(2) The industry approach to wage determination in steel was necessary and practicable because of the substantial similarity of operations and jobs among companies.

(3) A number of companies had already recognized the impracticability of setting rates on a plant basis without regard for rates in other plants and companies. This principle should be formalized and extended to the entire industry.

(4) Individual companies should not compete with one another by exploiting workers through payment of below-standard wage rates, but rather on the basis of efficiency, engineering skills and technology.

The companies contended that the setting of rates on an industry basis was impractical and undesirable for the following reasons:

(1) Companies differed widely as to nature and extent of operations, size, degree of integration, and labor market pressures in their particular locations.

(2) "Equal pay for similar work throughout the industry" was an ambiguous phrase not possible of practical application in the steel industry. Steel companies differed as to methods of compensating employees, particularly in the proportion of workers paid on an incentive basis; occupational titles were not reliable indicators of job content; and the "steel industry" had not been clearly defined for purposes of equalizing wages.

(3) Wage differences in the steel industry had a sound basis in economic and historical conditions and in job content. Such wage differences were part of the "warp and woof" of the industry and did not represent a "scrambled, crazy quilt situation" as the union claimed.

The War Labor Board rejected the union's demand for "equal pay for similar work throughout the industry," but suggested guideposts for collective bargaining which ultimately resulted in the accomplishment of this objective by the parties themselves.

1947-1954

The third period, 1947-1954, was ushered in by the consummation of a series of union-management agreements on a job evaluation program which was, and continues to be, virtually industry-wide. The conception and negotiation of the program represented a cooperative endeavor of most of the large steel companies and the union. Never before had there been this much open cooperation in industrial relations by the companies. It would not have been surprising if, as a result of this joint effort among the companies, as well as between the companies and the union, there had developed genuine industry bargaining.

But apparently it was too soon for any such radical departure from past practice. There were still many geographical and other wage differentials, as well as significant differences in contractual clauses, which individual companies wanted to maintain; the union had not yet demonstrated any ability to play individual companies off against each other; and, perhaps most important, the unquestioned recognition of United States Steel as the pattern setter in collective bargaining provided no incentive either for that company or for the rest of the industry to seriously consider formal cooperation.

During the period 1947-1954, there were seven contract terminations or reopenings in the steel industry. Two of them, in 1949 and 1952, resulted in strikes preceded by hearings and recommendations of government boards. On both occasions, the industry asserted that each company must be allowed to plead its own case in order to develop the special problems peculiar to its operations. Despite these protestations, the basic terms of settlement, especially among the larger companies, were more or less identical during each year. In addition, the union succeeded in whittling away geographical and company wage differentials and achieving greater uniformity in contractual provisions.

1955

The first break in the established procedure, whereby the companies met separately with different union negotiating committees at different locations, came in 1955. At the start of negotiations in that year, the union broke precedent by announcing that meetings with the top six companies would be held in Pittsburgh, concurrently, and that President David J. McDonald and Secretary-Treasurer I. W. Abel would serve as chairman and secretary of each negotiating committee. In addition to its public relations value, this move was seen by some as an attempt by McDonald, who had succeeded to the presidency after the death of Philip Murray in 1952, to consolidate his position by removing a few powerful district directors from their positions as chairmen of company negotiating committees where they might be tempted to settle before McDonald was able to gain a satisfactory contract with United States Steel.

Centralizing negotiations in one location also had other advantages for the union. Under Philip Murray, the Steelworkers had concentrated their attention in negotiations on United States Steel, leaving individual negotiating committees to bring the other companies into line as quickly as possible after "Big Steel" settled. This procedure often resulted in contractual deviations among companies, even though the basic settlements were patterned after the United States Steel agreement. Under the new arrangement, the union leadership was able to maintain close supervision and bring to bear its top bargaining "brains" in all major negotiations. United States Steel may also have welcomed the change in negotiating procedure because, more often than not, deviations from the pattern turned out to be advantageous to its competitors. The 1955 negotiations represented a small step toward industry bargaining and was concurred in by the participating companies.

1956

The second step toward industry bargaining was taken by the companies—at the union's invitation—in 1956. Twelve major companies authorized a four-man committee to bargain for them on major issues, but not on all contractual provisions. Negotiations were conducted by an industry committee, composed of two United States Steel representatives and one man each from Bethlehem and Republic, and a union committee, consisting of the three international officers and the general counsel of the Steelworkers. Other companies were kept informed and were consulted by the industry committee. This was the first time in the 19 years of collective bargaining between the parties that the companies voluntarily participated in joint negotiating sessions. John Stephens, top negotiator for United States Steel and chairman of the industry committee, denied that this arrangement brought the companies

closer to industry bargaining, saying that each company would be bargaining for itself in the same room.[8] Nonetheless, the memorandum of agreement, signed after a 36-day strike, covered the 12 major companies.

1959

The third step toward industry bargaining occurred in 1959, when the four-man industry committee—drawn from the same three companies—represented the "Big Twelve" on all issues, with authority to negotiate a complete contract. This was a little too much "togetherness" for the union, which insisted that only major issues be negotiated jointly, and that other contractual provisions be left to individual bargaining between each company and its union committee. That the companies were serious about cooperating, in the fullest sense of the term, was demonstrated first by talk of an industry mutual aid pact and strike insurance to guard against any "divide and conquer" strategy by the union, and later by industry resistance to the union's request for individual bargaining when the joint committees seemed to be getting nowhere. In 1956, the industry had not objected to individual company meetings as a supplement to the joint negotiations.

Steel management spokesmen asserted, during the 1959 negotiations, that as long as the union bargained for all steelworkers and centralized control resided in the international, the companies could not negotiate effectively on an individual basis. Since the present union structure had existed for some 20 years without calling forth the formal cooperation established in 1959, one is tempted to ask why it took so long for the "moment of truth" to dawn upon the companies. There must have been other factors which prompted the industry to act as it did when it did. Without knowing what these other influences were in fact, the following are suggested as worthy of consideration:

(1) Almost every negotiation during the postwar period saw the diminution or elimination of remaining differences in wages, benefits and other contractual provisions between companies. As individual companies found that they had fewer and fewer "more favorable" conditions or clauses to protect, they were more disposed toward joining together in formal alliance.

(2) The industry may have thought that the union, fearing a Taft-Hartley emergency injunction by a Republican Administration, might depart from its traditional strategy of shutting down the entire industry and strike only one, or only a few, companies. Such a "divide and conquer" strategy would present greater difficulties to the union under joint negotiations than with individual company bargaining.

(3) Other large steel companies may have insisted upon a greater voice in determining the final settlement which, regardless of the way in which it was reached, would be applicable to all of them. Competitive pressures almost preclude any major company from resisting the union and courting a strike or a continuation of an existing shutdown, once United States Steel has settled.

(4) United States Steel, under the leadership of Benjamin Fairless, had been jealous of its freedom of action in order to pursue a policy of "accommodation" toward the union which was not always in keeping with the views of more "conservative" companies in the industry. Under Roger Blough, who succeeded Fairless as chairman of the board in 1955, United States Steel has had a greater com-

[8] *The New York Times*, May 30, 1956, p. 1.

munity of interest with the rest of the industry, and, therefore, has been quite willing to share responsibility in collective bargaining.

(5) By 1959, it must have been evident to United States Steel that its leadership on industrial relations matters was no longer assured. In 1949, Bethlehem had broken the United States Steel monopoly as pattern setter by settling with the union on pensions and insurance. Again in 1952, Bethlehem and the Steelworkers reached an understanding on the union shop, which was later rescinded when United States Steel refused to go along with it. However, the Bethlehem "formula" did influence the final settlement. Without assurance that it would set the pattern for future settlements, and with a fair degree of certainty that it would be singled out for strike action if the union adopted a new approach, United States Steel might well have seen little advantage in maintaining its staunch advocacy of individual company bargaining.

The Future

What of the future? Management certainly appears to have made up its mind in favor of formal company cooperation, at least among the large producers. It is significant that the joint union-management "Local Working Conditions" and "Human Relations Research" committees, provided for in the 1959 Memorandum of Agreement, are to be representative of the 11 companies signing the memorandum, rather than established separately for each company.

The union, on the other hand, seems to have had some second thoughts on the subject of industry bargaining. It apparently would like to bargain on an industry basis, but, at the same time, maintain the option of engaging in individual company negotiations when that promises better results. In 1959, the union was successful in getting Kaiser Steel to defect from the "Big Twelve," thus starting a series of settlements in can, aluminum and copper which could not be ignored in any final agreement with the rest of the steel industry. The companies do not like this double-barreled union approach to bargaining. But, given the existence of individual company agreements, it is difficult to see how they can refuse to bargain on a company basis when the union requests it.

There has been speculation that the union might scrap its traditional practice of striking the entire industry in favor of a "divide and conquer" strategy. David McDonald intimated, during the 1959 steel dispute, that the union was considering a selective rather than an industry strike after the expiration of the Taft-Hartley injunction. Such an important revision in basic union strategy in future negotiations would not be taken lightly. For one thing, the Steelworkers have done very well in the past by shutting down the entire industry when a strike was necessary, thus bringing on government intervention, recommendations by a government board or by cabinet officials, as in 1956 and 1959, and eventual settlement on terms favorable to the union. If there is any truth at all to the adage "nothing succeeds like success," the Steelworkers certainly have no reason to look for a new approach to collective bargaining.

Furthermore, the strategy of the selective strike would pose some very difficult questions for the union: Which company or companies should be shut down, and which permitted to continue operations? Should strike benefits be paid to strikers, and, if so, how much? Is the union prepared to engage in a power struggle with "Big Steel," or several other major producers, without the prospect of government intervention and with the

possibility that the companies will cooperate through some kind of mutual assistance pact?

These problems are not insurmountable. Other unions have followed a "divide and conquer" strategy with considerable success. However, change is always difficult—especially when the "old" approach has tradition and success on its side while the "new" poses difficult problems for a leadership less than completely secure in its position.

It will be about two years before we learn what course collective bargaining in the steel industry will take. As of now, the evidence points to greater company cooperation and further steps along the road to industry bargaining. **[The End]**

Cooperation Among Managements in Collective Bargaining

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TO PUT THE DISCUSSIONS of employer cooperation among airline, automobile and steel companies in a larger setting is my assignment. I shall do this by seeking answers to two questions: What do prior experience and present practice tell about future prospects for employer collaborative action in these and other industries? What general direction *should* such action take in the future?

Employer Cooperation v. Pattern Following

Efforts to co-ordinate the labor relations policies of American firms have had a sporadic and almost furtive existence in this country.[1] The struggle to prevent or undermine unionism which brought employers together in an earlier day has long since gone underground, and, in many industries, has disappeared almost completely. The need for employers to band together to prevent competitive wage cutting still exists in some fields, but pressure to co-ordinate policies from this quarter is much reduced from the time of the early thirties. The need for greater cooperation to prevent individual firms from pirating labor is typical of wartime and so is of more recent memory; but this, too, has largely faded from the scene. If we stretched the term "cooperation" to include the battle over right-to-work laws, the Landrum-Griffin Act and other legislative developments, the picture would be somewhat different; but this would carry the discussion

[1] For authoritative accounts of organized employer activities in earlier periods, see Hollander and George E. Barnett (eds.), *Studies in American Trade Unionism* (New York, 1906), Ch. 7 by F. W. Hilbert; and Selig Perlman and Philip Taft, *History of Labor in the U. S., 1896-1932* (New York, The Macmillan Company, 1935), Chs. 13 and 37.

outside the area of direct dealings between employers and employees. In this latter area, the number of dramatic issues which might weld together employers within particular industries and localities are, at present, conspicuous by their absence.[2]

The approach of most firms to this issue is curiously ambivalent. Companies seem ready enough to follow a leader-firm in their dealings with unions, but they generally boggle at any formal synchronization of their labor policies. In some instances, resistance to interfirm collaboration represents an effort by management to keep bargaining—or some part of bargaining — on a single-company basis; but this hardly covers situations where companies virtually accept the terms of key settlements *in toto*. Nor do any doubts engendered by antitrust or other legal limitations account for this attitude.[3] Are employers who take this position, then, merely striving to make a distinction without a difference, or are they seeking to preserve something real?

The thesis I shall defend is that follower-companies will accept another firm's lead in labor policy, even where differences in circumstances exist, if the power relationships within a given industry *compel* pattern following and other institutional or economic circumstances *permit* it; contrariwise, I shall argue that formal employer cooperation arises wherever these other institutional and economic circumstances *compel* interfirm cooperation and power relationships within an industry *permit* it.

In this context, the term "power" refers to the capacity of one decision-making body to impose a settlement on another body in the face of important counterpressures. Pattern following where such pressures do not exist is readily explainable without introducing power considerations; but where pressures of this sort are present, as a result of changes or differences in product market structures, technology and the like, the leader-follower pattern can only be understood in a power-relation context.

Before attention is turned to these pattern-following industries, consider first the industries in which cooperation among managements is widely prevalent. Generalizing from the experience of these latter fields, three circumstances appear to be more important than any others in driving employers together: (1) intense competition among many small firms in product markets; (2) cost structures in which direct labor costs are a relatively high percentage of total costs; and (3) the presence of large, aggressive unions covering most of the competing firms' workers. Any one of these circumstances, standing alone, can force employers to join together; but when all three are present, employer collaboration becomes a virtual

[2] If employer cooperation is defined narrowly to mean multiemployer bargaining, it has been estimated that this type of bargaining accounted in 1951 for one fifth of all bargaining units and one third of all workers under collective agreements. United States Bureau of Labor Statistics, *Collective Bargaining Structures: The Employer Bargaining Unit,* Report 1, 1953.

[3] The specific form of an employer group's action may, of course, be deemed illegal, but, judging from recent NLRB and court decisions, managements have ample scope in pursuing cooperative strategies. For example, an employer association lockout, which was prompted by a strike against one of its members, was held by the United States Supreme Court not to constitute discrimination or interfere with union activities within the meaning of Sec. 8(a)(1) and (3) of the Taft-Hartley Act. *Buffalo Linen Supply Company, et al. and Truck Drivers Local Union No. 449, International Brotherhood of Teamsters,* 109 NLRB 447, rev'd, 32 LABOR CASES ¶ 70,593, 353 U. S. 87 (1957). Harry Douty of the United States Bureau of Labor Statistics brought this important case to my attention.

certainty. Under these conditions, cooperation is aimed quite as much at fellow employers who might break ranks as it is at the overbearing union which seeks to divide and rule. These three factors are present in almost all instances where employer cooperation rests on relatively secure, long-established foundations—for example, nationally in coal mining, regionally in clothing manufacture and locally in building construction.[4]

The important influences forcing employers together in these industries stem from the kind of product markets, the kind of cost structures and the kind of unions which they confront. On the other hand, the power relationships among firms and between employers and unions in these industries permit collaborative behavior, or are at least neutral with respect to such behavior. No single firm, or even a small group of firms, dominates any of these industries. As a consequence, no single employer or small employer group can serve as a natural leader, much less compel adherence to a pattern. Typically, companies in these industries face a choice between encouraging close cooperation or permitting a veritable jungle of working conditions to develop. Sometimes it would seem that they have chosen the latter path, but the pressures from product markets, from cost structures and from unions referred to above have largely foreclosed this possibility—leaving employer cooperation as the only realistic alternative.

Stated negatively, the advantages accruing from cooperation to individual managements in these kinds of industries seem clear enough. Stated positively, the benefits are hardly less marked. Issues involving unions which affect the entire employer group can often be dealt with much more effectively on a group-wide rather than a company-by-company basis. Problems of labor recruitment, interarea wage competition, technological adjustments and the like are apt to call for market-wide treatment. These are industries in which return on invested capital is typically low and the barriers to greater sales and improved working conditions typically high. Both the unions and employers in these fields have come to realize that their only hope lies in tackling problems on a broad front. Organized employer action under these conditions becomes but one aspect of the struggle for survival.[5]

The logic of cooperation among managements in collective bargaining under these conditions is as clear as it is compelling. Next, consider industries in which these conditions are met only in part, but in which one or very few decision-making units possess a great deal of power. This power may center in some one company, as in basic steel before the thirties; or in some union, as in certain branches of the trucking industry today.[6] Under these circumstances, the great majority of firms find themselves tied more or less inexorably to

[4] Using multiemployer bargaining as a rough measure of employer cooperation, this type of bargaining in 1951 covered 80 to 100 per cent of workers under union agreements in the following industries: clothing, coal mining, construction, hotels, longshoring, maritime, personal services, services allied to transportation, trucking and warehousing. Work cited at footnote 2, p. 8.

[5] Pressures on firms in highly competitive, low-profit industries can push employers apart, too, as has occurred in the flint glass industry. Gerald G. Somers, "Pressures on an Employers' Association in Collective Bargaining," 6 *Industrial and Labor Relations Review* 557-569 (July, 1953).

[6] As firms have become larger and employer associations better organized in trucking, more of the bargaining has come to be based on area-wide agreements; but pattern following is still important in many parts of the industry. Robert D. Leiter, *The Teamsters Union* (New York, Bookman Associates, 1957), Ch. 7.

settlements reached by other parties. The institutional and economic environment of these industries does not provide a solid foundation for cooperative action among employers, nor does it permit company-by-company bargaining in any meaningful sense. The upshot is that employers must make the best of a bad situation and follow patterns set by others.

Where, as noted earlier, counterpressures working against pattern following are relatively mild, power elements may remain far in the background or be virtually nonexistent. The stronger the counterpressures, however, the more important these power elements become. The pressures can build up to a point, as they have from time to time in basic steel, where traditional lines of control are breached. Thus, pattern following in such industries rests on something more than centralized power; if it is to remain intact, it cannot conflict too markedly with the economic and institutional environment surrounding it.

Prospects for Employer Cooperation

While the two sets of circumstances —leading to employer cooperation in the one instance and pattern following in the other—can be distinguished for purposes of analysis, they tend to be commingled in actual practice. Many industries, of course, contain elements of both types of collective bargaining relationships. Judging from the three papers presented here, contemporary labor relations in airlines, automobiles and basic steel fall somewhere between these two categories. Product market competition is not nearly as intensive as in small-firm, atomized industries, but it is strong enough—especially when strikes disrupt normal customer relations—to exert considerable pressure on employers to establish a common front. As Mark Kahn indicates in his paper, this seems particularly important in explaining the mutual aid pact of the airlines. The unions do not directly influence a very large proportion of total costs in these three industries, but they have enough influence to put a considerable premium on employer unity. Finally, in none of these industries is there a dominant firm at the present time; labor relations, however, are largely shaped by a small group of large firms, any one of which might choose (or be chosen) to play the leader role.

Given these circumstances, it is therefore hardly surprising that considerations of short-term bargaining advantage, the nature of the particular problems at issue, or even the abilities and temperaments of individual negotiators should determine whether the managements in these industries move toward or away from cooperative action. In the 1959 steel negotiations, much was made of the fact that the employers' emphasis on the "make work" issue merely served to consolidate the union's ranks against the companies. Equally noteworthy, as William McPherson points out in his paper, was the way in which the demands by the United Auto Workers for a shorter workweek and other contract changes in the 1958 negotiations helped consolidate the ranks of the automobile manufacturers. Both managements and unions in such industries will doubtless continue to keep different bargaining avenues open—waiting as long as possible to see in what direction their best interests lie. For employers, a united-front strategy thus becomes but one of many bargaining devices open to them.[7]

[7] The history of bargaining relations in rubber tires is a good example of how the parties' strategies can change on this issue. George W. Taylor, and Frank C. Pierson (eds.), *New Concepts in Wage Determination* (New York, McGraw-Hill, 1957), chapter by Everett M. Kassalow and Nathaniel Goldfinger, pp. 76-77.

Despite these mixed and conflicting short-run circumstances, are there any indications of a longer-run tendency towards greater employer unity in these and similarly placed industries? My reading of the evidence, sketchy as it may be, is that there are. Some of the general influences working in this direction can be briefly noted:

(1) Pattern following, while not the same as cooperative employer action in the sense that that term is used here, nevertheless bears a close affinity to it. What more natural evolution than for "follow the leader" to develop into "work with the leader" —or, perhaps, "work on the leader"? Just how and when these traditional practices shade over into active or meaningful cooperation is impossible to say, but certainly a nose-count of employer groups which engage in formal joint or parallel bargaining seriously understates its extent. Nor is it conceivable that employers will sit idly by, year after year, letting their labor policies be completely determined by parties outside their control.[8]

(2) As union and employer relationships become older and more settled, the pressures on individual employers to throw in their lot with their fellow employers increase. Over the years, as Jack Stieber observes in his paper on the steel industry, unions whittle away any differences in working conditions or personnel practices which individual firms may have. Moreover, the expectations of rival firms, of employees and of unions regarding any one employer's actions become both more stereotyped and more compelling with the passage of time. Precedents assume a more important role and it becomes increasingly difficult for a single company to strike out on its own. This helps to explain why employer cooperation is characteristic of a number of older bargaining systems like printing and railroads. Indeed, something closely akin to employer cooperation is likely to develop in any long-established, settled industry even where the role of unions is minor or nonexistent.

(3) Cooperative action becomes increasingly likely where any one of a number of firms can set the pattern for an industry. If there is only one dominant firm, close collaboration is less necessary and cooperation on anything approaching an equal footing hardly feasible. If any one of five or ten firms can set the pattern, on the other hand, it well behooves the entire group to stand together—lest a strike aimed at one will yield a very costly settlement for all. This is the situation in the three industries under discussion here as well as in meatpacking, rubber tires and many other industries.

(4) The employer who knows his rivals' labor costs are going to rise as much as his faces a less disturbing prospect than one who does not. He knows, for example, that product prices charged by all his competitors will probably be raised by the same amount. In an industry subject to rate regulation by a public body, this probability becomes a certainty.[9] Alternatively, if prices are not raised, at least he knows that all his competitors will remain on much the same footing

[8] The fact that an agreement signed with a key employer group often serves as a pattern for agreements with many other firms in the same industry indicates how close these two types of bargaining often are to each other.

[9] Railroad managements, for example, typically present a common front in national wage and national rate cases in their dealings with the unions and before governmental emergency boards and the Interstate Commerce Commission. The Twentieth Century Fund, *How Collective Bargaining Works*, Ch. 7 by Harry D. Wolfe, especially pp. 339-343.

with respect to wages and labor costs as he. The same result might still obtain if all the firms followed a single leader or even if the leader-follower pattern was somewhat vague and loose in nature. The advantage of employer cooperation in collective bargaining is simply that it lessens the chances of a particular firm finding itself at a competitive disadvantage later on, either in terms of labor costs or product prices. Hence, each firm will be much readier to accept any proposed settlement—a fact which explains why many unions welcome employer cooperation and why many observers concerned with consumer welfare oppose it.

(5) The need for employers to stand together in labor negotiations increases when they are subject to upward wage pressures and to counter price-increase pressures at one and the same time. Pattern following or single company bargaining with strong unions is characteristic of an environment in which firms can readily pass cost increases on to consumers by way of higher prices. As union wage demands meet with mounting resistance to price increases, employers must either band together to keep wage pressures under control or find themselves ground between the upper and the nether millstone. It is this set of circumstances which bids fair to make the recent steel strike settlement so costly to the steel companies, not the cost of the package as such. It is this set of circumstances, also, which is calculated to push these and similarly placed firms together in their bargaining policies in the future.

(6) Frequently, the kind of pressures to which firms are subject by unions can only be dealt with on a group basis. The individual firm is more likely to take a narrow or short-term view of a particular issue; the group is more likely to see its broader, long-range implications and, collectively speaking, to be able to do something about it. Issues like private pension programs, supplementary unemployment compensation plans, adjustments to technological improvements and the like are, to a considerable extent, industry-wide or at least market-wide in nature. Also, efforts by companies and unions to approach problems in broad terms and to remove them from the highly charged atmosphere of the collective bargaining table presupposes a considerable measure of employer unity. Witness the recent agreement by the 11 big steel companies to accept Secretary Mitchell's suggestion to establish work rules and human relations committees with the steel workers union.[10] Then, too, the full import of a union's demands on many types of issues can be seen only when a given group of employers stops to ask where their industry as a whole is heading. Under these circumstances, the logic of employer cooperation can indeed become compelling.[11]

Appraisal of Employer Cooperation

The foregoing suggests that employers—not only in small-firm, highly competitive industries, but even in large-firm, less competitive industries —will co-ordinate their labor policies to an increasing degree in the future. How is this trend to be appraised? Should it be encouraged or discouraged? Will it strengthen or weaken the nation's economic and social institutions? This is too large a subject to be more than adverted to here,

[10] *New York Times,* April 27, 1960, p. 27, and May 1, 1960, Sec. 4, p. 102.

[11] The fifth and sixth influences have their counterparts, as noted earlier, in small-firm, highly competitive industries in which employer cooperative action tends to be more prevalent.

but a few comments about it may be in order.

Employer cooperation in labor relations has been criticized on a number of grounds—that it introduces greater rigidity and formalism into negotiations; that it carries bargaining farther away from the local plant, grass-roots level and leads to an undue concentration of power; that it tends either to widen the gulf between organized blocs or (at the other extreme) to draw these same blocs together in collusive action against other groups and the general public; and that it points away from the kind of collective bargaining that is associated with competitive, democratic institutions and points towards the kind of collective bargaining found in England and on the Continent, where the role of government is more nearly dominant.

It would be easy to answer these criticisms by advancing counterarguments in support of the view that employer cooperation is needed to achieve the very goals it allegedly endangers: (1) It gives more employers a chance to be heard; (2) it serves to limit the power held by any one firm and to offset the concentration of power held by union groups; and (3) it encourages accommodation and mutual dealings between parties and lays the basis for continuous attention to the long-range interests of all groups involved. In short, if employer cooperation has played an important and essentially constructive role in small-firm, highly competitive industries, it is hard to see why it could not play much the same role in large-firm, less competitive industries.

In weighing the pros and cons of this issue, much depends on whether interfirm collaboration on the labor front will weaken competitive rivalry on the product front. As already indicated, this is a danger which calls for continual vigilance. On the other hand, it hardly seems likely that product competition among large companies, to the extent it exists, would be seriously reduced by interfirm cooperation in labor relations. Certainly, monopolistic tendencies among large firms predate the advent of unionism by many years, and attempts by companies to cope with unions through cooperative action are an even more recent development. There is some possibility that firms which form a united front against unions would be readier to act in concert to prevent new firms from being established or from entering certain product markets; but, again, antitrust prosecutions aside, limitations on entry into large-firm industries rest on quite other grounds. The case against employer cooperation on this score, therefore, does not seem particularly cogent.

Much more telling is the contention that a united-front policy is likely to take bargaining out of the hands of persons who know most about labor relations and turn it over to persons whose knowledge is second-hand and rather remote. When the top managements of large firms join together to determine labor policy, the resulting decisions sometimes seem wholly divorced from the actual problems which individual firms confront. Judging from comments widely heard in management circles, something like this appears to have happened in recent years in the basic steel industry. A different conclusion might apply if the full story were known; second-guessing is not a very fruitful pastime anyway. The fact remains that if the recent steel settlement is taken as an example of employer cooperation among large firms, many managements would vote for less, not more, cooperation in the future.

A reasonable inference to draw from this discussion is that companies should

keep their dealings with workers and unions just as close to the individual firm and individual plant level as circumstances permit. Even where some kind of united front becomes necessary, every effort should be made to vest responsibility for bargaining on most issues in the hands of those directly concerned. There is considerable evidence that from this point of view too much power has been concentrated in the national office of a number of trade unions. Employers bear a heavy responsibility to resist this trend by striving to keep labor relations on a single-firm or single-plant basis.

Nevertheless, for the reasons already discussed, the pressures making for greater employer cooperation are in ascendance in a number of industries, and management must therefore ready itself to work with this approach to labor relations to a greater extent than in the past. In choosing this route as the least repugnant of the various approaches open to a particular industry, it needs to be remembered that, like most other instruments of collective bargaining, employer cooperation can play either a highly destructive or constructive role. Under some circumstances, and in some hands, it can accentuate all the worst features of modern labor relations; under other circumstances, and in other hands, it can accentuate the best.

The ultimate test which it seems to me must be applied to any venture in employer cooperation (or to any other development in collective bargaining for that matter) is whether it helps resolve a given industry's problems in a broadly acceptable way. Where it is used as a device to protect established interests, prevent change and exploit some narrow, short-run advantage, it merits only condemnation. Where it is used to implement improvements and develop human and physical resources in ways that are generally beneficial to the groups at interest and to society as a whole, it deserves support.

Put candidly, I rather doubt that cooperation among managements will raise the sights of an industry much above the level found in any one of its more influential member firms. Leadership on the employer side of the bargaining table will still largely depend on the imagination and resourcefulness of one or two managements in a given field. The contribution of employer cooperation will probably come in providing a more effective forum for exercising this type of leadership and for implementing suggested courses of action. The prior question to consider—and on this count the experience in airlines, automobiles and basic steel is something less than reassuring—is where these ideas are coming from and whether they are worthy of general employer support. **[The End]**

LEGALITY OF CHARITY FROM UNIONS

Secretary of Labor James P. Mitchell recently challenged the interpretation that the new Labor-Management Reporting and Disclosure Act makes it illegal for unions to contribute to legitimate charitable, educational, philanthropic or community welfare projects. "It has been most distressing to me that certain persons have insisted on misinterpreting that section of the Act which places fiduciary responsibilities on the officers of labor organizations to mean that unions can no longer contribute money to such commendable causes," he said.

Participation in Elections: The Problem

By WARREN E. MILLER

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IN POLITICS as in sex, the definition of the problem depends on whose problem it is. In deference to this truism, the following comments are intended more to facilitate the identification of problems related to political participation than to solve a problem which the author has selected for analysis.

This paper is devoted to a brief discussion of the nature of the American electorate in the mid-twentieth century. It touches on some of those aspects of electoral participation presumably most germane to the political activities of union and management. The conclusions which it summarizes are based on research carried out over the past decade by the author and his associates at the Survey Research Center of the University of Michigan.* This work was inaugurated in 1948 in a postelection study of the Truman upset. Major studies of the national electorate have been carried out in 1952, 1954, 1956 and 1958, and another in the series will be undertaken in the fall of this year.

Each study involves interviewing a probability sample of the adult citizenry of the nation. The interviews, usually lasting from 45 minutes to an hour and 15 minutes, are designed by the Ann Arbor staff and are carried out in the respondent's home by the 200 or more interviewers trained and supervised by the Survey Research Center field staff. The usual pattern has been to conduct a first interview in the six weeks preceding an election, then return and reinterview each respondent after the election. The near-verbatim transcripts of each interview are sent to Ann Arbor where an elaborate content analysis is performed to categorize each of the many thousand responses. This makes possible their transfer to punched cards and subsequent analysis with the use of the full array of data-processing equipment, including the use of high-speed computers. The analysis of each study typically extends over a two- to four-year period.

The objectives of each study are probably better described as theoretical than applied. Although our initial data-collecting decisions were guided largely by the application of common sense to the study of practical political problems, our more recent work has been shaped by theoretical problems which have been defined through the interaction of the empirical findings with segments of theory derived from the social sciences. One consequence of this mode of development may be seen in our attitude toward election prediction. As social scientists, our

*A major report from this work is *The American Voter* by Campbell, Converse, Miller and Stokes (John Wiley & Sons, Inc., New York, 1960).

only interest in prediction is an interest in *post hoc* prediction; and that, in turn, stems from the need for a test of the relative efficiencies of our explanatory models. For some of our problems, one or another dimension of the vote decision may provide a dependent behavior suitable to test the adequacy of our notions. For other problems, some manifestation other than the vote may be more appropriate, such as the relative stability of a given policy preference, or the clarity of perceptions of the positions taken by the political parties. As interested citizens or as partisans, we may indeed watch the pre-election interviews as they come into our office, and search for signs of strength among our favorites. But our professional commitments forestall the ulcerating dependence of the pollster on being on the right side of the gross dividing line between winners and losers in the electoral contest.

A more obviously relevant illustration of the basic theoretical setting in which this paper is written is provided by our work on the role of the labor union and the church in voting behavior. Over the years we have maintained a persistent interest in the general phenomenon of group behavior. To the end of better understanding the politics of a person who is a member of a politically distinct group, we have explored a number of the conditions necessary for group-oriented behavior. The most recent analysis demonstrates the utility of our theoretical ideas when they are applied across the board to members of various groups—Negroes, Catholics, union members and Jews. Our research interest in this topic is well served by data which confirm our theory that conditions posited as necessary for the group to influence its members are of general applicability and not limited to significance for some groups but not others. But our interest is an interest in the meaning of group membership; and it thus far has not been defined to embrace, other than by exclusion, the meaning of nonmembership. The meaning of nonmembership is a related problem of considerable importance, as the reference group literature testifies. But it is a theoretically and empirically separable problem, and we have not undertaken its investigation.

The point of all of this is quite simple: If our research interests were restricted to contemporary definitions of practical problems, the timing and sequence of our work would be quite radically different. As it is, we can now use our research results in the spring of 1960 as the basis for speculating about Catholic response to the Presidential candidacy of Senator Kennedy, but we have nothing beyond lay knowledge on which to base speculation about Protestant (that is nonmember) response to the same group-related stimulus. We can, in a similar manner, say a good bit about the role of the labor union in politics—but largely with reference to the union member. We have not thought it theoretically useful to conceive of management as a social group analogous to the union or the church; consequently, our speculation about the impact of management participation in electoral politics cannot be as directly informed as in the case of the union.

The consequences of our presumptuous, if not parochial, willingness to make up our own definitions of the problem of political participation are not entirely those of limiting and restricting the present discussion. Indeed, I now suggest that a salutary consequence is to place a set of basic propositions about political participation in the foreground of the discussion. These propositions provide, in our view, a crucial perspective for the analysis of such particular programs of action as are involved in

the current efforts of business management and the labor unions to stimulate political participation. Although the propositions were not developed in direct response to the topic of this meeting, their importance and relevance to the topic seem clear.

The first and perhaps least surprising proposition is that the American people are just not much interested in politics. Although we shall reserve for a moment the discussion and documentation of this proposition, it should be noted that its truth poses a formidable obstacle to political action programs. Convincing your employees or your members that it is all right for them to do something they aren't interested in doing may not add much to the election day totals. Nor will it necessarily help matters appreciably to let them know that you think they should be interested. Educational programs based on the assumption that a few sessions on "know-how" will unleash a burning desire to get into the political act are probably similarly doomed. This is not to say that encouragement and facilitation of political participation will be totally unrewarding; it is to say that exhortation and education as contained in most programs for political action cannot be expected to alter the pre-existing level of political involvement among the uninvolved.

A second proposition holds that the American citizen, voter and nonvoter alike, is not ideologically persuaded. His level of discourse falls far short of a concern over the role of the state, the proper relationship between local and national units of government, or a choice between liberalism or conservation. The absence of even modest or occasional ideological concern poses another severe limitation for those who hope to promote their own political or economic philosophies through political participation of the great unwashed. It betokens great disillusionment for those who imagine that encouragement and facilitation of mass participation will, if properly guided, result in a triumph of righteousness, however defined.

The third proposition is consistent with the first two but scarcely derives from them. It maintains that the electorate is highly partisan but frequently nonpolitical in its view of politics. Three out of every four adults, and eight or nine out of every ten voters, are persistently if not permanently identified with one political party. Identification with party is, year in and year out, the most pervasive and most important determinant of political behavior. But the meaning of party identification to the individual identifier is more often like that of attachment to church or ethnic group than it is like the sophisticated view of politics which many of us have when we think of the meaning of Republicanism or capital-D Democracy.

Our fourth and final proposition is no more than a summary of the other three, designed to point up some vitally important connotations of the others: The mass electorate is so remote from the political world of the activist as to create monumental problems for the activist who would communicate and influence the politically inactive and uncommitted.

Now to consider each of these propositions in turn. Let us first establish the basis for the proposition and then consider briefly some implications for our discussion.

Involvement and Participation in Politics

During the next few months we will all observe, as in years past, an ever-growing emphasis on getting out the vote. From many quarters, including such nonpartisan sources as the American Heritage Foundation and the National Advertising Council, we will

see and hear the attempt to broaden the base of electoral participation. The older counterparts to relatively new get-out-the-vote programs find candidates magnanimously concluding their sales pitch with the assurance: "We don't care how you vote, but we want to see each and every one of you at the polls tomorrow." Whether motivated by what is hopefully assumed to be self-interest or by what is equally hopefully assumed to be the public interest, these admonitions and the discussions which surround them usually assume that 100 per cent participation among eligible adults is desirable. Each failure to boost the voting rate over the 60 or 65 per cent mark prompts a spate of articles which wonder why it is that more of the people don't vote.

Let us set aside for the moment the assumption that total participation should be the goal. Let us set for ourselves the task of understanding why each person behaves as he does; let us ask, simply, what factors are associated with voting and nonvoting. This task has been one of the major tasks around which our studies of electoral behavior have been organized. Our work has produced a host of particular findings—clues to an understanding of political participation. But rather than examine the particulars, two general results of this line of investigation may be noted here. In the first place, it is extremely difficult to discover a set of integrated explanations which give an adequate account of participation. It has been considerably easier to develop a scheme which, when put to the empirical test, accounts for a large part of the variance among individual political preferences. In the second place, our attempts to account for the difference between voting and nonvoting are most often thwarted by the unexplained presence of a large segment of the population on the voting side of the ledger.

From the detached view generated by our theoretical interests, the problem of voting turnout has been redefined and really turned on its head. From this viewpoint the intriguing question is not: "Why don't more people vote?" The puzzler is: "Why do many of those who do vote ever bother to do so?" In each national election, particularly each Presidential election, many million people go to the polls and vote, despite the fact they have paid no attention to the campaign, don't care how the election comes out, know virtually nothing about either party or any candidate and, in short, are almost totally devoid of any involvement which we might expect to find among voters. Some few of them may be sustained by drives to get out the vote; but, if so, their performance is scarcely inspiring. The nonvoters, on the other hand, are by and large about the sort of people one might expect them to be. Except for a minority of would-be voters who are disfranchised (temporarily, as in the case of migrant Whites, or more permanently, as in the case of many Southern Negroes), the nonvoters are predominantly the politically uninvolved citizens.

We have repeated documentation that large majorities of the adult population fail to be aroused or respond to politics even at the height of an election campaign. When added to the equally persistent picture of minimal involvement on the part of many regular voters, this information leads to the necessary conclusion that for most Americans political participation is one of the most peripheral of activities.

Examination of the factors which *are* associated with participation adds further information which is pertinent to this discussion. Again, without detailing the specific findings, we may note at least two broad categories of factors associated with political par-

ticipation: (1) the personal, economic and social experiences of life—the slow accumulation of experiences which shape the individual's attitudes toward politics; and (2) the social context in which the individual finds himself at the moment. Both sets of factors combine to concentrate the politically active citizens in the upper strata of our society. Among college-educated people, the professional and managerial group, or persons in the higher-income echelon, participation is already the rule and nonvoting the exception. It is here, moreover, that the activists—the amateur politicians, the money givers and the political rally attenders—are found.

In part as a consequence of the absence of a labor party, or even a well-developed tradition of labor participation in partisan politics, the more numerous occupants of the blue-collar ranks have a much more variable record of participation. Among the most disadvantaged—those with no more than a grade school education, the one out of four who even today is a member of a family in which the total annual income is less than $3,000, the Southern Negro or the unskilled laborer—voting is at best an occasional activity. In between the extremes on the social and economic ladder, variability in turnout—reflecting the level of stimulation of a particular election, the pinch of immediate economic necessity, or some other more or less transitory pressure—is more often the rule. It is within this sector of the electorate that the immediate potential for some increase in participation may be exploited.

Political Ideology in American Elections

If it is difficult to realize that only a minor fraction of the population can be interested in the politics of a Presidential campaign, it is perhaps close to impossible to accept the fact that only a minor fraction of the interested minority have anything resembling a generalized or ideological approach to politics. Much contemporary discussion of the elections of the 1950's has turned on the question of how liberal, how conservative—or how moderate—the electorate is. Whether by way of Sam Lubbell's selection of the book title *Revolt of the Moderates* or in Sam Rayburn's conclusion that the election of 1958 was a mandate for moderation, the pronouncements refer to the intent of the electorate. The much-discussed thesis of the cycles of liberalism and conservatism, as developed by the Arthur Schlesingers, similarly rests on notions of the changing ideological persuasions of the electorate. Despite the array of expert opinion which assumes that voters in the large *are* concerned with grand questions of political theory—the individual versus the state, federal control or states' rights, liberalism and conservatism—our work at the Survey Research Center suggests that not one person in 20 sees national politics in these terms.

There is, of course, the occasional person who thinks the Democratic party is too "liberal" because it spends too much on the farmers, or who thinks Mr. Truman too "radical" because "he cusses too much." But aside from such very infrequent colloquial usage of terms like liberal or progressive or conservative or moderate, scarcely more than three or four of every hundred people think or talk about the parties or the Presidential candidates in these terms. The level of discourse of the American voter may be sophisticated or simple, and it may focus on issues as well as on parties or personalities, but it seldom is couched in or even presumes familiarity with the abstract language used by the politician, the commentator or the analyst.

Eventual upgrading of educational attainment may overcome some of this presumed deficiency. But even here it is instructive to note that no more than 10 or 15 per cent of the college students of today take course work in political science, where they might be expected to become most familiar with the language of political ideologies. In the national population, less than one in five among all people with some college education responds to politics in terms of ideological alternatives that are or might be offered by the parties and candidates.

If people are not concerned with states' rights or free enterprise or the welfare state, what are their political interests? The answer is simple: They are concerned with self-interest, be it the interest of the individual, his group or his party. People are concerned with the immediate impact of events and governmental action on their self-interest. Foreign policy, even in 1952, was a relatively limited focus of attention because of its remoteness and lack of personal relevance. War makes foreign policy relevant; the threat of peace reduces it to a minor force in electoral politics. The voter's political commitment is prompted by concern over the welfare of his labor union, or of fellow Negroes, or of farmers. It focuses on personal prosperity and employment, or hard times in the family, and the loss of overtime or the loss of a job. It reflects his own felt need for better medical care, for improved housing, for the education of his children. Communism or socialism, or even socialized medicine, may well be anathema to most Americans. But the highly relative meaning of popular distaste for such slogans and symbols is to be seen in the overwhelming popular support which exists, at the same time, for federal aid to education, for governmental aid assuring medical care or for a national policy guaranteeing job opportunities for all.

It seems fair to deduce that only a few live in the world of abstractions and logically connected symbols which is the world of political ideologies. Many more live in psychological space defined by their immediate experiences, a space in which elaborate superstructures of political philosophy are relatively unknown. Some critics of modern social science are most free with their admonitions to avoid mistaking the analyst's conceptual framework for the reality he is trying to understand. It may well be that the sin of confusing one's own view of the world with ultimate reality also lies behind much of the political speculation which has dealt with democratic citizenship over the years.

In any event, the extremely weak ideological focus of American political involvement has obvious implications for programs of political education and action. Programs which are primarily concerned with the recipient's problems—as he sees and defines them—are most likely to enlist his support, or opposition. Where the linkage between a felt problem and governmental action is simple and direct, reaction to a related political education program may be forthcoming. But if the problem is defined largely in the context of ultimate ideological goals, or if the connecting links between problem and solution are specified in accord with ideological notions of political cause and effect, the most elaborate program of political action will probably disappoint its authors.

Partisanship and Politics

The political party does for most voters what a persuasive, programmatic ideology does for a few. The party provides the linkage by which the citizen, his daily interests and worries, and the political process are

held together. In this context the party is not necessarily the formal organization nor its contemporary representatives; it is, rather, the historically established institution which its adherents think it to be. To some the party is a man, a Roosevelt or an Eisenhower; to others it is the embodiment of a posture toward foreign policy or an agency dedicated to preventing depression. The party is an entity to which the individual gives his political allegiance; it exists as its adherents think it to exist, and the definitions of it reflect the heterogeneity of its members.

Whatever difficulties are posed by conceiving the party to exist because its members think it exists, the rewards of using such a conception in political analysis are great. We discover, to begin with, that three out of every four people consider themselves to be members of a political party; half of these self-identified partisans consider themselves to be strong Democrats or strong Republicans. The sense that one can be a Democrat or a Republican, without membership cards or other formal indications of membership or nonmembership, is shared as well by four out of every five citizens who reject the idea that they themselves might have a party affiliation. No more than 5 per cent of the people indicate that the *idea of belonging* to one party or another is an unfamiliar idea.

In the eight years that we have assessed this phenomenon of identification with party, there has been virtually no variation in the proportions just mentioned; in each successive annual study, using independent samples of the electorate, some 40 per cent of the people classify themselves as strong party followers, another 40 per cent proclaim a partisan allegiance but see themselves as not strong members, 15 per cent indicate one or another sense of independence from party ties, and the remaining 5 per cent are all that find the idea of being a Democrat, a Republican or an Independent so strange as to be unmanageable. Year after year, throughout the entirety of the Eisenhower Administration, the party identifiers consistently divided 60-40, Democrats to Republicans, in their allegiance to party.

Even without further corroboration, this short-run persistence of the distribution of party allegiance among the members of the national electorate would suggest a stable, durable attachment of some importance. However, we can turn to a rather substantial array of accumulated data for further indication of the meaning and importance we should attach to this phenomenon of individual identification with political groups. A summary of the most relevant of these data supports the following propositions:

(1) Most people maintain an identification with one party throughout their adult lives. For such persons, a sense of party affiliation is often transmitted by parents and develops, along with other social identifications and values, in the general process of socialization. It is likely that acquisition of a sense of identification with a party usually occurs before other factors lead to an involvement in politics.

(2) The one in five persons who does change party identification does not do so primarily for ideological reasons. At least, among people who change parties for other than immediately personal reasons such as marriage, the direction of change is only slightly related to established bases for ideological predispositions. Moreover, relevant data fail to confirm the hypothesis that pro-Republican changes in basic partisanship are related to upward social mobility. With reference to fundamental social and political orientations, the most persuasive

interpretation of relevant data suggests that change in enduring partisan loyalties is largely idiosyncratic. Political crisis may occasion changes in party identification, but change is likely to be a matter of individual reaction in all but the most catastrophic situations. It is probable that a common significance has attached to widespread realignment of party loyalties in no more than two or three epochs in post-Colonial American history—the Civil War, the economic crisis of the 1890's and the depression of the 1930's.

(3) A major function of party identification is that of giving political meaning to social, economic and political events. The party, or the perceived agents of party, acts to provide a political and a partisan interpretation of events. The nonideological, relatively uninvolved citizen is able to make at least minimal political sense out of those most salient of events which come to his attention because of the cues which his party provides. There are, of course, limitations on the extent to which one's party identification can color one's view of politics. Only the very strongest Democrats were able to ignore evidence of corruption in the Truman Administration; and both strong and weak Democrats were well aware that Mr. Eisenhower was a most attractive presidential candidate. They were so aware that one out of five votes for Eisenhower was cast by a Democrat. Nevertheless, even in such unusual situations as the elections of 1952 and 1956, party identification is the most important single factor in the shaping of the attitudes and perceptions on which the voter's choice of candidates rests. In the Congressional elections of this decade, it has played *the* dominant role.

The argument of these propositions about the nature and role of party identification is essentially to emphasize the origins of the very great stability and continuity which characterize American national politics. The two parties, Republican and Democratic, are among the oldest political institutions in the Western World. Occasional crises supply new common understandings of the goals and competencies of the parties, but such meanings intermingle with older commitments and endure to color the subsequent behavior of party followers through succeeding political generations. It is party which sustains political participation by an apolitical nonideological electorate.

One greatly oversimplified consequence of the propositions concerning involvement, ideology and party may be suggested by the conclusion that most citizens are moved out of routine, habitual support for their own party and its candidates only by major events which have personal relevance and which do grave violence to established expectations. Any attempt to remold the political face of America, shaping the participation of its rank-and-file citizenry through private education and exhortation, must recognize the powerful conserving forces which must be overcome.

Union and Management Participation in Politics

The attempts that are being made, by labor unions and by business management, to alter political participation are so diverse as to make simple description of them most difficult. Consequently, the most pointed comments which can be made, without danger of totally missing that target in which each of you is interested, are comments still on a very general level. Continuing the format established for this paper, let us now review a final set of propositions which are derived from and sustained by various pieces of research:

(1) The ability of the group to exert political influence on its members is a function of a number of conditions, but it depends ultimately on the extent to which each member identifies with the group. The political behavior of nominal group members who do not, in fact, have a sense of group identification will not reflect the political standards of the group.

(2) The political commitments of a group may affect the political behavior of nonmembers who are aware of the group and who have learned to make their political evaluations with reference to that group. For example, on many issues a Republican may define his own position simply by knowing what position the Democrats are taking, and vice versa for Democrats. Or, knowledge that labor unions are in favor of a policy will be sufficient for many persons with strong feelings about unions to decide what their own attitudes must be toward the same policy.

(3) The image which nonmembers have of a group is likely to be very general and is not likely to reflect differentiation among the components of the group. Only the most sophisticated will recognize that there is no single view held by farmers, by industry or by labor.

The implications of these propositions for union and management political participation programs are not completely obvious without adding one or two pieces of more particular information about contemporary politics in America. One of the more important data concerns the public's evaluation of the political parties in terms of the segments of the population which each party is thought to benefit. Out of a common understanding of recent American history, the Democratic party is widely approved as the party of the worker, the common folk, labor, the poor people; and the Republican party is disliked and distrusted because it is seen as the party of business, the upper classes, the rich and prosperous. Between 1952 and 1956 the Democratic party lost support on many counts, including foreign policy and the field of social welfare legislation. But the insistence of the Eisenhower Administration in identifying itself as a Business Administration apparently reinforced the public image of Big Business Republicanism and the Laborers' Democracy. It is probable that the Republican party thereby lost a precious opportunity to rid itself of a class-oriented stigma. In any event, it seems clear that the association of the Republican party with the interests of the few and the Democratic party with the interests of the many is, rightly or wrongly, a dominant theme of contemporary politics.

A second and more obvious datum concerns the relationship of the national citizenry to the two entities, business and labor. Most citizens are, of course, neither businessmen nor union members. But those who are neither are probably much more likely to sense commonalities of interest between themselves and the people who are affiliated with a labor union than between themselves and members of the managerial community. This may be changing as prominent unions are less often seen as protectors of the underdog and more often are viewed as just another special interest group; but as of 1956 the association between labor and the Democratic party still worked strongly for the Democrats. And, of course, between the members of the two groupings themselves there are considerably more who hold a union card than there are those who are in the habit of signing one of Mr. Hilton's *Carte Blanche* cards.

Modern unionism and modern management each strive to bind its

members ever more tightly to the group. More and more aspects of the personal, social and economic life of the member are drawn into a web of relationships in which the union or the corporation is of dominant importance. As these efforts to provide an integrative organization of the lives of group members succeed, the identification of the individual with the group will occur more often and will develop greater strength. Also, the political interests of group leadership will have a greater influence on the members.

If the political interests so defined for the group are visibly nonpartisan or truly bipartisan, their implementation through political participation programs may have some effect on members—although it may be prudent to remain dubious about the likely extent of the impact. The enduring impact of these programs on nonmembers will probably be quite limited.

When the political interests of either management or labor come to be seen as predominantly partisan, the impact on nonmembers is almost certain to increase. Evidence that this has already occurred in the case of the labor unions is plentiful. Their preponderant support for the Democratic party and Democratic candidates is, of course, one of the precipitating factors in many of the decisions which have brought the corporations into politics. There is considerable evidence testifying to the impact of union political action on union members; there is less evidence but still good cause to believe that some Republican votes have been created among nonmembers who dislike the unions and even among nominal union members who do not personally identify with the union.

It seems reasonable to predict that the political participation programs of business and industry run the risk of having a considerably greater impact on nonmembers than on members. The members of the managerial community are already voting at a consistently high rate and providing a large share of the manpower and financial support for politics. If any visible segment of business would make public its interest in beating the unions at their own game, or its commitment to the Republican party and against the Democratic party, the entire business community might reap the whirlwind. The apathetic citizens who visit the polls for the first time are not likely to be those who identify themselves with the industrial, business or financial corporation. They are likely to share the general impression that it is the Democratic party which is the party of the little man. And the union member who didn't think the union should mix in politics may feel differently when he learns that his company has jumped into the arena, even when his foreman tells him that it's all nonpartisan and for the good of the country.

In 1948, the two-party vote for President was sharply polarized along social class and occupational status lines. A more attractive candidate on the Republican ticket might have defeated Mr. Truman, but a more appealing leader for the Democratic cause would have buried Mr. Dewey. In 1952, and even more in 1956, the vote lost much of its class-oriented character. But if many blue-collar workers voted for Mr. Eisenhower, his Administration did not try and therefore did not succeed in further reducing the class distinctions in popular images of the two parties. Unless both labor and management demonstrate great forbearance, the burgeoning interest in promoting mass political participation may now give America an era of class politics such as it has never known. There

may well be those among you who would welcome this as a means of achieving greater rationalization of our party system of government. It is almost certain that our parties would become the parties of liberalism and conservatism. Also, it would become a simple matter to explain our partisan politics to our children or to visitors from abroad. Such a reorganization and simplification of our politics would, however, have a price. Governor Dewey named part of that price a few years ago when he abruptly told the senior Senator from my home state, Mr. Mundt of South Dakota, that his particular scheme for creating honest-to-God liberals and conservatives out of the Democrats and Republicans, respectively, was a fine scheme if one wanted to make certain that the Republicans would never elect another president. **[The End]**

Political Participation by Unions: The 1960 Situation

By MITCHELL SVIRIDOFF

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MAY I INTRODUCE my subject with a thought which at first glance may seem far afield?

A reading of history shows that peoples of all ages considered their problems unique. Each generation of man has faced critical issues.

Never before has mankind had the physical capability of producing *abundance for all* or *destruction for all.* In 1960 we possess this capability. The nations of the world have the tools to produce food, clothing, homes and medicine for life. They also have the means of producing nuclear missiles for death.

In politics we used to talk about the future of freedom and of civilization as we had come to know it. Political talk today must encompass the future of the whole world as all the peoples of the earth—including the emerging new nations—desire it to be.

Will there be a world? Will there continue to be human life on earth?

In our lifetime we have conquered time and distance on earth. Every place of human habitation is within hours of this spot by airplane. Soon it can be within minutes by satellite. Then comes interplanetary travel. Never again will the heavens be free of man-made satellites. Will they circle the earth, the sun and the moon with destructive or peaceful intent? This is the political question of the 1960's.

The answer to this question depends on what each of us does in his own political life. There is no future for mankind unless we make politics work for the common good of all people everywhere. This will take the combined political intelligence of every segment of our population. Labor is no exception.

Organized labor entered politics for self-preservation. Labor's first widespread political activity in the 1936 Presidential election concerned itself with such measures as wages, hours, the right to organize, unemployment insurance and social security.

Today we are still concerned with such bread-and-butter issues, but self-preservation includes international as well as domestic problems. Labor's political activities today include elections and legislative programs at local, state and national levels, as well as international activities affecting our relations with the so-called "have" and "have not" countries of the world.

The future of every American was made more secure, whether he recognized it or not, when an American labor leader aided the cause of freedom by addressing an audience of 600,000 persons in West Berlin on May Day, 1959.

Labor, in fact, has more of the international political contacts, "feel" and know-how needed in the 1960's than any other organized group in American society. It was not always this way.

Labor leaders of Sam Gompers' day would have difficulty understanding the character of American labor's political role today. Their difficulty would stem from the fact that beginning with their day, the orientation of American unions leaned toward the pragmatic and the economic. In striking contrast, the European labor movement, from its very inception, has been rooted in the ideological and the political.

Until very recently, the economic techniques of trade unionism—the strike, collective bargaining, the union contract—were almost incidental to the political functions of most European trade unions. Also until recently, the situation in American has been precisely the reverse, with the political subsidiary to the economic.

To argue the superiority of one or the other of these divergent tendencies is to ignore basic differences in national character. Class lines, made rigid in Europe by the traditions of monarchy and the feudal system, were diluted in an America emerging from an antimonarchical political revolution and finding a new expansive economic base in the flowering industrial revolution. Just as the socialist-oriented political character of the European labor movement emerges out of the circumstances of its particular history, so does the pragmatic economic character of the American labor movement come from its origin in a new world with a land frontier to conquer.

Attempts to transpose the socialist political experience of the European labor movement onto the American scene have resulted in appalling incongruities. It is little wonder therefore, despite brief and isolated moments of success, that the record of independent labor or socialist parties in America is largely a record of frustration and failure.

Despite the obvious fact that American workers have not responded affirmatively to the socialist political philosophy so deeply rooted in European unions, one should not conclude that the American worker rejects out of hand a political role for his union, or that the American labor movement will not develop its own political techniques and philosophy.

Admittedly, there was little in the history of the American labor movement from Samuel Gompers to William Green to suggest that this could happen. You will remember the oft-quoted Gompers statement of political faith: "Reward your friends and punish your enemies." It was another Gompers quotation which more accurately

describes the prevailing mood of the American labor movement in his time: "economic organization and control of *economic power* are the fulcrums that make possible influence and power that may be used for good in every relationship in life." (Italics supplied.)

Strange as it may seem today, the AFL officially opposed minimum wage, social security, unemployment insurance and similar social legislation—even as recently as the early 1930's. Reliance on its own economic strength to protect and advance its economic interests, combined with long distrust of government and politics, represented the underlying principles of the American labor movement prior to the politically turbulent Roosevelt era.

Developments in Roosevelt Era

There evolved during this period a fundamental shift in union organization and, of equal significance, a new union philosophy and attitude toward politics and government. Two developments which emerged are of special significance in the relationship of workers and unions to politics.

(1) The organization of the unorganized into unions of their own choosing, the principle of exclusive bargaining rights for majority status unions and the institution of collective bargaining became objectives of national policy. Primarily through the passage of the Wagner Act, and its eventual Constitutional endorsement by the Supreme Court in 1937, these principles became firmly rooted in the law of the land.

It was no mere accident that John L. Lewis' CIO, the organization of America's basic industries, and the tremendous growth of the labor movement from 3 to 10 million workers paralleled the legislative and judicial processes which produced the Wagner Act. These were natural and harmonious by-products of the times.

A labor movement, itself substantially the product of law and politics, could isolate itself from politics, as it had done in the past, only at extreme peril to its own interests.

(2) There was extraordinary growth of social legislation under New Deal sponsorship. Social security, the wage and hour law, unemployment insurance and public housing became the cornerstones of a new national policy of social welfare. The legislative successes in these fields jarred even the old AFL from its extreme anti-statist philosophy. The federation soon embraced this whole array of social legislation. Along with the CIO and the liberal community, it joined the advocates of social progress through legislation.

It was not that the labor movement suddenly looked to government to accomplish what it had once assumed could be done by relying on traditional trade union action. The point was that in the 30's, just as today, the broad and complicated economic problems of that day did not lend themselves to solution either through the self-adjustment of a free economy or through trade union economic efforts; moreover, the intense pressures of the times demanded immediate and workable solutions.

During the past quarter century, labor has developed a unique American philosophy of social action. This philosophy does not rely mainly on government and political action as is the case with the Europeans; nor does it rely solely on trade union economic pressure, which represented the traditional American technique. Instead, it brings into play pressures for social progress in both areas—the political as well as the economic.

The ultimate goal—far from fully realized in America—is that a humanistic society can be achieved *without* socialism. This concept is a potent

response to those who attack the welfare state. Social progress achieved through this combination of voluntary trade union and legislative action represents the only truly persuasive democratic alternative to socialism.

In any case, these two developments—the making of both the organization of the unorganized and the principle of collective bargaining matters of national policy, and the emergence of social welfare legislation as a natural complement to the labor movement's economic efforts—drew unions and workers irresistibly into the mainstream of politics, the Gompers heritage notwithstanding.

A more recent factor—albeit of a negative quality—has intensified the importance of union alertness to politics. The slow but certain swing of the political pendulum to the right at the end of the 30's brought a sudden halt to the creative social welfare legislative processes. Even more serious, in terms of specific union interests, was the destructive nature of the political counteroffensive, which reached its peak at the national level with the passage of the Taft-Hartley Act in 1947. The subsequent enactment of antiunion security statutes in 19 states, coupled with the slowdown of organizational progress in the South, has dramatized with great force to the labor movement generally the urgency of effective political action at all levels of government. The successful "toughening" of the Taft-Hartley Act, incorporated in the labor reform legislation adopted in 1959, is the most recent chapter in this continuing campaign. It has become, in essence, a matter of survival—of preventing political erosion of the most basic trade union principles.

Widening of Interests

Up to this point we have explored the union's relation to politics within a narrow sphere of union and workers' interests. During this past quarter century, labor's political activity gained broader social significance in at least three respects.

(1) It became apparent that worker's interests could not advance in a social and economic vacuum. The worker's social and economic interests are tied directly to the welfare of the community. He makes his greatest progress along with the total community, and not at its expense.

This is obviously the case insofar as the worker's economic goals are concerned. A weakness in any significant sector of the economy, whether in agriculture, construction, manufacturing, commerce or even foreign trade, affects at some point the total economy. Hence, through his union's political and legislative efforts, he tends to support responsible economic policies designed to stimulate all sectors of the economy.

When, through his union, he supports better education for his children, he is supporting better education for all children. When he supports a better city in which he and his family can live, he is supporting a healthier community—to the benefit of all who make up the community.

His interests are at once narrow and broad—involving a constant interaction between the worker and the community. To its credit, union political action has placed as much emphasis on issues of broad social interest as it has on immediate and direct trade trade union matters. Indeed, as I have suggested, the two are inseparable.

(2) Union political action has served as an effective counterbalance to the traditionally top-heavy influence of business in government.

Despite its pretense of suddenly and only now discovering the game

of politics, the business community actually dominated the political and economic life of the nation until Roosevelt's election in 1932. Business regained its primacy with Eisenhower's election 20 years later.

Political pressures exerted by business are not necessarily improper, though they have been in some cases. But improper or not, they were and are, at the very least, oblivious in large degree of broad community interests. Organized business resists vigorously every effort for social and economic advancement, no matter how mild or how important to the national interest—even such universal causes as public education and civil rights.

Other organized groups, such as the American Medical Association, exert similarly negative pressures against important social legislation.

In the absence of effective union political action, these negative political forces would dominate the political scene with such power as to unbalance seriously the political relationships essential to a healthy democratic society. Indeed, there appears to be no other organized group in America with sufficient strength in numbers, resources and integrity of purpose to offset the negative influence of the organized business community and its allies.

(3) Perhaps the most appalling defect in American political life today is the incredibly low level of understanding of important issues, equalled only by the low degree of citizen participation in politics. It is in these areas that unions can and do make a contribution of extraordinary significance.

The increase in voter registration which has been a major point of concentration for union political action—not to speak of the increasing number of trade union leaders actively drawn into the swirl of political currents through union programs—has stimulated more active political participation by larger sections of the population.

In a very real sense, too, union political activity has made possible meaningful debate on important public issues which would otherwise be smothered by the weight of the business-oriented mass media. To restrict unions further in the field of political action would be to limit an indispensable source of information and opinion; more important, it would seriously stifle the kind of democratic dialogue so vital to the health and vigor of a free society.

Effectiveness of Action

Now two final considerations: how effective has union political action been? And where does it go from here?

An examination of the effectiveness of labor in the field of politics usually brings forth two totally conflicting viewpoints. Often both of these viewpoints emanate from the same source. On the one hand, our critics point to the Taft campaign in Ohio in 1950 and to the two Eisenhower victories of '52 and '56 as proof of the failure of union leadership. A reference to the 1958 Congressional elections or to the states of Michigan and Minnesota will, on the other hand, evoke out of the same mouth all the tired old fear slogans designed to conjure the image of labor hobgoblins in control of a labor socialist state.

Obviously both contentions can't be right. The fact is that they are both wrong; there have been varying degrees of failure and of success. Never has labor's failure been so complete as to be utterly devastating, Taft and Eisenhower to the contrary notwithstanding; and never has our success been so resounding as to over-

whelm any state, or the nation as a whole, with a one-sided, labor-oriented government.

If the trade union movement is here to stay—as I think it is—and if American society is to continue along its historic path of social pluralism and fluidity—as I am certain it will—neither of these horrendous alternatives (utter failure or total victory) is likely.

The success or failure of political action by a union is affected by a wide variety of factors. Techniques may help or they may hurt. A methodical union program built around intensive registration efforts, year-round and effective leadership-membership education and extensive voluntary fund raising has in many instances made the difference between victory and defeat for labor-endorsed candidates. On the other hand, a program relying mainly on widely publicized leadership endorsements and bombastic recriminating attacks serves mainly to mobilize the opposition, as in Ohio ten years ago.

An effective campaign by labor can accelerate a favorable political trend. It can decelerate an unfavorable one. It is possible that the right kind of campaign can be just enough to make the difference. But if the trend has great strength, as in the two Eisenhower elections, or conversely, as in the antirecession reaction reflected in the Congressional elections of 1958, the impact of union political activity is substantially minimized.

The measurement of labor's political performance must therefore take into account the political and economic context in which a given election takes place.

Such a test must also recognize the diversity of influences and pressures which bear upon American workers as much as they do on any other sector of American society. If the pursuit of fun pervades the popular mood, the worker, like anyone else, falls an easy victim to its infectious power. If, seized by the virus of insecurity, the country runs mad with fear and hate, responding en masse to a Joe McCarthy, or to a demagogue of another stripe, American workers cannot be injected with a serum which will guarantee absolute immunity.

Perhaps the fact that the American worker, unlike his brethen in certain other parts of the world, is not ideologically committed is part of the price we pay for our open society. Perhaps, too, this emphasizes the importance of maintaining positive and constructive political pressures, such as labor political action, in order to counteract those negative influences which are constantly alert to opportunities to weaken the fabric of democracy.

What of the future for labor's political program? Union political action in America will, I suspect, continue along the pattern established in the late 30's and 40's. That is, we shall see evolving a synthesis of the economic with the political effort. Politics will not become dominant in union policy; but slowly, and with certainty, it will emerge as a full-fledged partner in union affairs. The pressure of circumstances make this inevitable.

The counteroffensive against labor and against the forward movement of essential social legislation has not been stopped. At best, it has merely paused for breath. The business community is prepared to make an investment in political action which will dwarf into insignificance any of its past efforts. The great wealth of business, as well as its control of the major sources of public information, will be fully marshaled for battle.

If labor hesitates, falters, doubts—if it drifts back to the trade union

methods appropriate at the turn of the century—it invites disaster for itself, as well as for the total community. For in addition to the obvious bread-and-butter issues, and the compelling need to preserve the labor movement as an effective and constructive force, the nation is confronted with national and international issues of extraordinary dimensions.

There is the grim prospect that America may lose its position of world leadership. The uncommitted peoples of the world are beginning to show signs that they may turn away from us, if not against us, because of our failure to demonstrate a sympathetic understanding of their special problems. This dangerous trend is spurred on by our own lack of affirmative moral commitment to human rights on the home front.

There is the dismal fact that our rate of annual economic growth has fallen to 2.3 per cent, while Russia's surges ahead at a rate of 9 per cent.

The critical national deficits in health, housing, education, urban rehabilitation and the development of our national resources loom larger and more foreboding with each passing day. Pockets of appalling human distress fester in a climate of national affluence.

The full impact of the technological revolution is still ahead of us, while the hot breath of total nuclear annihilation breathes down our collective necks.

With this host of neglected national and international issues, America in 1960 cries out for a surge of affirmative and creative national leadership—for a sense of national purpose.

Against this stark backdrop, there would appear to be no responsibility confronting the American labor movement more compelling than that of providing the maximum in effective, but more important, in *responsible* political action.

Here is a mission at once essential to the immediate as well as the long range interests of labor—crucial to the achievement of a proper democratic balance of political forces—and of desperate urgency if we are to check the national drift to nowhere.

[The End]

Management Programs to Encourage Political Participation

By THOMAS R. REID

The author is civic and governmental affairs manager, Ford Motor Co.

THE GREAT GAME of politics in America has become a spectator sport. It is like baseball—everybody loves to read about it and talk about it, but only a few of our millions of people participate actively for the full season in the two major leagues of either politics or baseball.

I have no plea to offer today for more sandlot baseball players, desirable as that may be, but I do urge that factory workers, farmers, house-

wives, businessmen and other citizens of whatever occupation play a more active role in public affairs and in politics.

The encouragement of political participation is *not* a union-management matter. This is something which clearly should be outside the realm of labor-business controversy and which just as clearly is a matter of transcendent importance to *all* of the American people.

Anyone who approaches this subject in the context of business versus labor reflects an attitude already far too prevalent in America—the attitude that practically everything in the public domain, including even the American system of representative government itself, has a labor side and a management side.

I say these things so bluntly at the outset of my remarks because I have been concerned from the time I first was invited to appear on this program about the wisdom of scheduling separate treatments of the labor point of view and the management point of view on this subject. The format itself suggests a debate or a disagreement. In spite of this concern, I wanted to accept the invitation to participate in your program because:

(1) The subject of encouraging political participation is of such vast importance to the American people that free and open discussion of it should take place wherever the opportunity is presented.

(2) There is active participation of the academic profession in the association. The widespread influence of what professors and teachers will be saying on this subject in our schools and colleges is so vital to a clear understanding of the topic for years to come that every opportunity to present the facts to the academic world should be welcomed.

Need for More Participation

The course of public affairs customarily has been shaped by the professional politicians and a relatively few interested individuals. This has come about not only because they have had so much to say on the subject while others have remained apathetic and silent, but also because the politicians, and these individuals too, oftentimes, have taken the trouble to inform themselves and work at this business of government while others have not. I would be the last to criticize those who are active and articulate in public affairs. My contention is simply that there should be *more* activity, *more* participation and *more* voices raised from all segments of American society if we are to retain government of, by and for the people.

Government in this country cannot be the private preserve of the professional elite, the political elite, the financial elite or the organized elite of any category. In this age of specialization, it is interesting that two of the most fundamental responsibilities we have in a democracy—parenthood and political participation—are largely entrusted to amateurs. Parents have no choice. Once the offspring arrives he has to be taken care of—and parents learn by doing. It is different with our political responsibilities, however. No one really is forced to assume them. We can always let George do it—let him and Sam and Bill make the decisions and run our town, or our country, for us.

Who does the encouraging of citizenship participation seems far less important to me than that there be a great deal of encouragement from *all* quarters. I don't think of this as a question of whether unions or business should encourage participation—I simply think that everybody who loves his country should encourage participation.

This movement toward greater interest in political affairs that we have seen just in the past year or so should not be confined to business people. Everybody belongs in the act. It is every bit as desirable that lawyers, doctors, housewives, bricklayers and bankers be encouraged toward more active citizenship participation by the organized groups to which they belong.

In short, there is absolutely nothing wrong in any group in our society with organizational influence over any category of citizens encouraging more active participation by such citizens. There is everything right about it.

Means of Achieving Greater Participation

Now, I recognize full well that exhortation alone will not produce wholesale citizen participation in public affairs. We are not going to see the great mass of the American people battering down the doors of their political club houses seeking admission. Apathy will continue to be with us as long as men retain their human shortcomings. But I am not too discouraged by this. I hold to the optimistic view that a meaningful measure of new participation can be achieved by (1) creating a climate of positive encouragement; (2) repairing the unfavorable public image of politics and politicians; and (3) making politics familiar, acceptable and convenient for people.

Business, and in particular the public relations and advertising fraternity, likes to think it knows something about shaping public images. Probably no group in America is in a better position than business to do something to correct the unfavorable public image of politics. One reason is that business itself is partly responsible for creating and fostering that unfavorable image; and the aversion toward politics, heretofore so typical of business, has had far more serious implications than just undermining the effectiveness of business in its dealings with government. It is not too much to say that it has tended to undermine the vigor of our free democratic system.

Professor Andrew Hacker, the Cornell University political scientist, made this point in his widely quoted study on *Politics and the Corporation,* published by the Fund for the Republic in 1958. He holds that the American corporation has helped to remove a great body of the middle class from any real participation in our political processes. He also shows that, historically, we have depended heavily on middle-class participation in public affairs for the success of our democratic system. His indictment of the corporation is *not* that it seeks to dictate the political behavior of its people, but rather that its net influence is to *discourage any participation* by them in political affairs.

Businessmen in Politics

It is interesting to reflect that the many business firms which have announced political participation programs have been in remarkable agreement as to their fundamental philosophy. Considering the diversity in size, interest and management personalities of these many business firms, it is amazing in a way that there has been so little difference in the underlying tenets of the programs announced in the last year or so.

The businessmen-in-politics movement really began to gain momentum in America when businessmen finally (1) admitted to themselves that representative government in America could best be served by urging able people to become active in *both* political parties and (2) abandoned the idea that the only hope for America was building up one party and tearing down the other.

I don't know exactly how this particular business philosophy came into being. Some say that a brief paper by Raymond Moley first enunciated the principle which was subsequently so widely accepted by business. Others say that it just grew, like Topsy, and suddenly emerged full-blown upon the American scene. I do know that the first time we ever saw it in writing, or considered stating it for our own company, occurred on January 7, 1959, when I prepared a memo as a draft policy for a Ford Motor Company public affairs program. I said in that memorandum:

"The proper role of the corporation in government and politics is two-fold:

"(1) The corporation should express its position on public affairs issues and legislation at all levels of government in which it has interest, either favorable or opposed, because anything which affects its business becomes its business.

"(2) The corporation has no business in politics as a corporation but it has a responsibility as a community of interest in modern society to encourage its members of management and its employes to voluntary participation as individual citizens in the political party of their choice.

"I have in mind on this that there has been a great deal of confusion in interpreting the reawakened interest of corporations in government and politics as a move on the part of corporations to use their power and their money to strengthen the Republican Party in the same way the big labor unions have used their power and their money to strengthen the Democratic Party. I do not believe this is right. I believe that corporations' direct participation in a single political party would only compound the error and eventually make a farce of our two-party system by lining up corporate power and money in support of another party. The preservation of the two-party system is integral to the American governmental system and the real objective should be to improve the interest and participation of all citizens in both political parties and in governmental affairs to keep government representative of all the people."

This was adopted and continues to be our program. It is essentially the program of all businesses with public affairs programs in America today. Although the same statement of fundamentals may have been expressed in 1,000 different ways in as many articles and speeches since January 7, 1959, this remains the essence of the business position on this subject. It thus far has met every contingency which threatened it. I think it accurate to say that it has won the support of the press, the public, the politicians and the people generally. I am sure this political philosophy for the businessman is here to stay.

Differences Between Company and Union Approaches

This, incidentally, points up a significant difference between the company and the union approaches to political participation. While the general business attitude is that it is *not* a proper function of the company to take sides in a partisan way, the unions do so as a common practice. The AFL-CIO nationally has endorsed candidates for President. Local labor bodies endorse candidates for local and state offices, and much of the weight of the union organization is thrown behind the favored candidates.

Organized labor can and should press its views on the issues affecting it with vigor and candor, and it can and should urge union members to participate in political affairs. But I want it understood that I do not condone the employment of the union

organization, or of union funds, for partisan political purposes, wherever that occurs. It is not right for a company to do it. It is not right for a union to do it.

Ford's Public Affairs Program

However, espousing a philosophy is one thing, and putting it into practice is quite another. For purposes of illustration, I would like to outline to you how the Ford Motor Company has launched its public affairs program.

Essentially, we have done three things: We have declared our intention to speak out as a corporation on important public issues; we have encouraged our employees to participate in political and governmental activities within their party; and we have tried to do our part in encouraging the spread of this activity by suggesting programs that may prove useful to smaller businesses and other organizations.

When we started, we had several things in our favor. We had a management that was wholeheartedly in favor of such a program, and we had a civic affairs office of ten years' standing to serve as a nucleus for our new organization. In 1959, our management authorized the following expanded public affairs program:

(1) A top-management civic and governmental affairs committee, whose members include the chairman of the board and the president, was created to review legislative and governmental issues that affect the company and was charged with formulating positions on these issues.

(2) A staff of public affairs specialists was assembled to engage in public affairs research and to plan and carry out a civic and governmental affairs program.

(3) Eight regional offices were established to provide field services throughout the country. These offices were staffed with men with special knowledge of their area. One of their functions is to give direct assistance to local company management in civic and governmental activities.

(4) An information program in public affairs was established. Management is reached through public affairs bulletins, employees are reached through plant newspapers, and dealers are reached through regular dealer publications.

Of course, we have always done some of these things. We have made our views known to stockholders, employees, elected representatives and the public generally. We have spoken out on issues, testified before Congressional committees and participated in any activity that was important to us. But we hadn't recognized the importance of these activities to the health of the corporation and to our political system. Furthermore, we hadn't placed the emphasis where it belonged—on the individual.

Ford Effective Citizenship Program

In an effort to stimulate bipartisan interest in governmental affairs, the Ford Motor Company recently announced a novel plan aimed at encouraging its employees to work for and financially support the political party of their choice. Meetings were held during April in company locations throughout the United States to explain the plan which is known as the Ford Effective Citizenship Program.

The new program provides employees an opportunity not only to learn the mechanics of this country's political system, but also to volunteer for service with, and to contribute financially to, the party of their choice.

The political training course, consisting of eight two-hour sessions to

be held after working hours, and the party activity plan will be offered initially to supervisory employees of the company.

Because of the practical problems involved in reaching the company's 120,000 hourly employees in plant locations throughout the United States except by mail, the company has communicated information on the program to them by letter and will later distribute printed informational material on political processes to all employees.

The political party participation plan provides employees with an opportunity to decide voluntarily whether or not they wish to engage in politics, and, if so, to what extent.

It is not a discussion of issues, nor is it propaganda for anybody's views about legislation. Rather, it will provide an understanding of the processes and techniques of political party committees, conventions and election procedures in all levels of government.

At the risk of some repetition, but in order to illustrate the spirit of our communications, let me read to you at this point the full text of a letter sent in the first week of May to the Ford Motor Company employees, signed by the appropriate executive of each plant or office:

"The Company encourages all its employes to take an interest in political affairs in the party of their choice as a citizenship responsibility. Under our free system of government such participation should be truly representative. Each party depends on the voluntary participation of individual citizens to maintain its program. Each party also depends on the voluntary contributions of individual citizens to cover the cost of political party operations and campaign expenses. These costs are particularly high in an important presidential election year like 1960.

"In order to provide a convenient method for Ford employes to contribute to the party of their choice, a simple contributions plan has been developed. The plan is designed to safeguard completely the privacy of each employe's party choice and to assure the employe that the Company will have no knowledge of the confidential voluntary action that he takes as a private citizen.

"Enclosed for your use are a contribution card; an inner envelope and an outer envelope.

"If you wish to make a contribution, simply place your check, or cash if you prefer, with the card properly filled in, in the *inner* envelope. Then seal it and check the party to which you are contributing on the front of that envelope. Then, place it in the outer envelope, seal that envelope and drop it in one of the collection boxes which will be placed at convenient locations throughout the plant beginning Monday.

"Do not write your name or otherwise identify yourself on *either* sealed envelope.

"For your information, checks intended for the major political parties should be made payable to the (Democratic State Central Committee, or to the Republican State Finance Committee.)

"The contribution envelopes will be turned over directly to the proper representatives of the political party you have checked on the inner envelope. The collection boxes will be kept in the plants throughout the week beginning May 9th.

"Which party you contribute to and in what amount you contribute is entirely up to you. Any support you give to the political party of your choice will help to strengthen our American political system."

The contributions plan has the endorsement of the UAW-CIO. Following discussion of the proposed procedure with company officials, Ken Bannon, director, National Ford Department, UAW, addressed a letter to presidents of all Ford local unions, encouraging cooperation.

The initial indications of response to our new Ford effective citizenship course have been most encouraging. To date, with returns in covering over half of our supervisors throughout the country, we find that 31 per cent of those attending the presentation sessions are enrolling in the course.

We know, naturally, that no such eight-week course will transform a neophyte into a skilled politician, or anything near it. What we do hope is that we will whet the appetite of at least some of the participants for more direct involvement in political affairs.

In one of our first courses, one of the men was asked to find out who his party precinct chairman was. He called the county committee, was informed that the post was vacant and was asked to take it himself. He did and is now up to his elbows in local politics—and I'll bet he is having the time of his life. This little occurrence undoubtedly is being repeated time and again all over the country where business people are taking this type of course.

Incidentally, it is not our purpose to develop candidates for office. However, if experience to date is any guide, some of our employees will certainly run for office and be elected. Hundreds already have served, or are serving, in some public office—normally a part-time one.

We firmly believe in helping to strengthen government in this way, and we give such employees all the recognition we can. We note their election or appointment in our employee publications, and often Mr. Ford writes them a personal letter of congratulations.

In addition, we have extended nationwide our practice of publicly presenting community service awards to those employees, hourly and salaried, who have achieved success in any type of public service. Also, we have recently announced a leave-of-absence policy for those elected to full-time public office. This policy safeguards certain rights and benefits while the employee is away from the company. He is provided, in effect, somewhat the same assurances that are given to employees inducted into military service.

Suggested Program for Smaller Firms

This brings me to the final activity I want to discuss. Our civic and governmental activities are tailored to the Ford Motor Company, one of the country's largest corporations. Many organizations, whether business concerns, professional associations or other groups, would find such a program beyond their scope. At the same time, they have an interest in political participation, and we are looking for program guidance.

While a number of the larger companies have taken the lead in combating apathy and encouraging activity, they cannot do the job singlehanded.

Companies with less than 1,000 employees have 62 per cent of all business employment. Even if all the larger corporations adopted and carried out effective participation programs, their efforts would have limited effect.

Recently, we suggested this nine-point program as suitable for adoption by most American business firms:

(1) Study the problem of the impact of governmental and political

affairs at all levels of government on the individual business firm, and determine the extent to which public affairs matters directly affect its business operations.

(2) Consider the social responsibility of the company to the community, state and nation in advancement of the public interest.

(3) Establish a written policy on company statements pertaining to public issues and legislative action on issues directly affecting it, and on encouragement of employees to express their individual convictions and participate in the political party of their choice.

(4) Inform and educate employees on the importance of citizen participation in public affairs and political activity through discussion meetings or political training courses.

(5) Take inventory of employees active in civic, governmental or political affairs and give them suitable recognition.

(6) Arrange for elected representatives in city governments and state legislatures to visit the company plants and offices, and for key company executives to become acquainted with their congressmen and senators.

(7) Devote a reasonable percentage of the total content of house organs, management bulletins and other communications with employees to the subject of public affairs and political participation.

(8) Designate an executive within the company with functional responsibility for civic and governmental affairs—with the portion of his time allotted to it depending on the size of the company and the scope of the program undertaken.

(9) Regard the public affairs program as a continuing added dimension of company activity—as a positive, affirmative program that must help meet community and national needs as well as needs within the company.

This is a course of practical, positive political action that may be adopted by any company in America.

Before I close, I would like to say that people sometimes ask us what motivates the businessman to enter politics. I have given you most of the reasons already, but let me answer one or two specific questions that often arise.

We are sometimes asked if we are not trying to create a big business party in this country, to build a massive business lobby or to out-politic organized labor. We do not consider our program an effort to do any of these things.

We have no intention of trying to create a big business party. A corporation, as such, has no business dealing in party politics. Should business align itself with either political party, it would be the surest way of creating a labor party.

As for creating a business lobby, let me make it clear that, acting as a corporation, we intend to articulate a business point of view on the public questions that concern us. We feel it is part of the democratic expression of all interested parties to make known the stand of the company on such matters, and we do not intend to be bashful. At the same time, we realize that we must formulate a point of view that serves the public interest. It is often difficult to resist narrow, self-interested objectives. We realize that, but we are convinced that we must apply ourselves to public problems and attempt to offer truly constructive solutions.

Finally, we are not trying to outbid organized labor's interest in the political field. Mr. Henry Ford II said recently:

"Despite the growing political power of labor unions, I think it would be a great mistake for businessmen to regard political activity in negative, stop-union terms. Business and unions could well be together on issues more often than they are apart."

The real issue in citizenship participation is not management versus labor but pressure groupism versus total democracy. There is nothing wrong with our government or political system that participation by more people won't cure. **[The End]**

Inflation, Economic Growth and Collective Bargaining

By W. ALLEN WALLIS

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IN CONSIDERING prospects for economic growth and price stability during the 1960's, we must distinguish between what our economy *can* do, and what it *will* do.

About what it can do there is no question. Our economy can perform prodigies. What it will do depends in large part upon the policies we pursue. Too many of the policies being advocated to promote prosperity with price stability would actually promote stagnation with inflation.

We are currently in the midst of a great national debate on means of achieving economic growth. It is a debate that is remarkably parallel in substance and in motivation to a similar debate 200 years ago in England and America.

Two hundred years ago England faced a mortal enemy dominating the continent of Europe. English economic policies, of necessity, attached paramount importance to national security. Exports and imports were regulated by the government with a view to maximizing England's strength while minimizing that of France. Domestic production and prices were regulated to see that those things, and only those things, contributing to national strength were produced. Elaborate legislation governing consumption attempted to prevent the affluent society of the eighteenth century from dissipating its resources on things judged by officials to be of low social priority.

The seventeenth and eighteenth century approach to economic growth may be likened to an architectural or engineering approach. A design is drawn, specifications are written, and activities are planned and coordinated in an attempt to produce predetermined results from a preconceived economic structure.

A contrasting approach attracted support toward the end of the eighteenth century, an approach which may be likened to a biological or agricultural approach. The biological or agricultural approach involves

cultivating growth. Emphasis is on conditions which will give the best possible growth, not on target rates or composition of growth.

The outcome of the debate on economic growth, two centuries ago, was to replace the engineering approach by the agricultural approach—in other words, to specify means rather than ends. Following this change, first England, then the United States, reached levels of economic welfare not dreamed of even by those who had advocated the approach, and at the same time reached levels of national security equaled only by the Roman Empire at its height. And as a by-product, we attained an economy whose benefits are shared by all to a degree that is unique in history.

Even the greatest societies of the past, those whose contributions to civilization we cherish most, such as Ancient Greece or Renaissance Italy, were all societies which took it for granted that the natural state of mankind requires that all but a few live out their lives in hunger, disease, filth, ignorance, meanness and misery. And the overwhelming majority of mankind throughout the world lives that way today.

Now we are again engaged in a great debate, in which the ultimate issues are whether to continue the agricultural approach that we have followed for 200 years, of cultivating growth by maintaining proper conditions for growth, or whether to return to the engineering approach of extensive government direction that prevailed in the seventeenth and eighteenth centuries.

It is not my intention to discuss those ultimate issues here. I simply want to call your attention to the nature of the issues, and to remind you that the same problems were thoroughly talked out and the same alternatives were thoroughly tried out in the great debate two centuries ago between what was then called "mercantilism" and "liberalism." Liberalism won out, on the whole, but now it faces a powerful reactionary movement toward mercantilism—which, after all, never really disappeared, but today goes under the name of liberalism.

Price Stability

Another aspect of economic growth about which there has been long and recurrent debate is price stability. To gain perspective on the issues involved, we must appraise the future in light of the past. What has been the recent record, and what are the prospects for price stability in the 60's?

Prices have been comparatively stable, on the average, for two years. This is a good opportunity, therefore, to inspect our anti-inflationary defenses calmly between battles and while they are holding firm, rather than hastily and in panic when the alarms have sounded.

If we look at the record of prices in the 1950's, we find that from the beginning of 1952 to the present, the Index of Consumer Prices rose by 11 per cent. That was a rise for the eight years of 1¼ per cent per year. The upward movement of consumer prices, however, was not spread evenly throughout the period. About two thirds of the total rise occurred between the spring of 1956 and the spring of 1958—a 7½ per cent increase in average prices in two years. Except for that two-year period, the index has been reasonably stable since the beginning of 1952.

The 11 per cent rise in the index for the eight years is almost certainly an overstatement of the true rise in consumer prices. No one really knows how much the overstatement is, but informed guesses range up to one half

of the rise in the index in the period 1952 through 1959. In other words, though the consumer price index rose 11 per cent, the true rise in prices may have been as little as 6 per cent in the eight years.

At the wholesale level, the price record of the 50's shows even greater stability. The wholesale price index now stands, as it has for two years, only 2½ per cent above the peak reached in March, 1951, during the Korean War.

In short, the 50's, from early 1952 onward, was a period of reasonable price stability except for the two years from early 1956 to early 1958.

Nevertheless, the problem of inflation was a serious one throughout the 50's, in two respects. First, it was a period of serious and almost continuous inflationary pressures, though on the whole the pressures were effectively contained. Second, many people suffered severely from inflation during the 50's and will continue to suffer in the 60's. To explain this, we must look further back than 1952.

Historical View

The longer historical view shows that neither the United States nor any other country has ever suffered substantial or persistent inflation unless there was a substantial increase in the effective stock of money (that is, money and near-money substitutes) relative to the quantity of goods and services. Nor has any country ever increased the effective stock of money substantially in a short time without suffering inflation.

In the United States, substantial increases in the effective stock of money relative to the quantity of goods and services have occurred only during wars and immediately after wars. Each of our major wars has been financed in large part by an inflationary monetary expansion. The price level nearly doubled in the North during the Civil War. The price level nearly doubled again during and following World War I, and again during World War II and its aftermath.

Many people, especially retired people, are today suffering severe hardships from inflation. But the inflation from which they are suffering is almost entirely the inflation of World War II, of the period immediately following it, and of the Korean War. Of the total rise in the Consumer Price Index in the last 20 years, nearly 90 per cent occurred before 1952—that is, during and after World War II, and during the Korean War.

Though sharp and substantial increases in the price level have occurred only in time of war, moderate increases in time of peace have been frequent. For example, the Consumer Price Index rose almost 6 per cent in 18 months in the mid-twenties. Typically, in peacetime the price level has risen during periods of business expansion. In mild contractions and the early stages of recovery it has remained stable or fallen slightly. Only in severe contractions has the price level fallen appreciably. We have made great progress in eliminating severe contractions, that of 1937-1938 being the most recent. This is a great blessing, but it means that greater vigilance is needed during prosperity, for price increases in periods of business expansion may become permanent and thus cumulative. The remedy, of course, is to curb increases in the average level of prices during economic expansions and to encourage downward price flexibility where appropriate. Such efforts will be doubly worthwhile, for, to the extent they are successful, they will prolong expansions and reduce still further the severity and duration of recessions.

It should go without saying, but nevertheless it cannot be said often enough or clearly enough, that when we speak of controlling inflation, we most definitely should not mean controlling individual prices. That is worse than the disease, for it causes waste and inefficiency and retards growth. And direct price control is not a cure for inflation, any more than putting stops on speedometers is a cure for speeding. Direct price control is not even a poor method of controlling inflation—it literally has no effect on inflation whatever. Prices are meaningless unless those who want to buy can buy, and those who want to sell can sell at the prices. This is never possible under direct price control. What must be controlled is the average level of prices.

Neither the recent, nor the longer historical record supports the notion that appropriate monetary and fiscal policies to control inflation have stunted or will stunt our economic growth. Some periods in which prices were falling have been periods of rapid growth; and some periods in which prices were rising have been periods of slow growth. While there are effective ways for the government to cultivate economic growth, to attempt to promote growth by inflationary measures would be self-defeating, for it would distort our productive processes and our foreign trade relationships. Moreover, such a course would be callous and irresponsible in the extreme, for it would cause widespread hardship and injustice.

Forces Behind Behavior of Prices

Now let us consider the forces behind the behavior of prices. Inflation is, of course, an old problem, but because it always takes place in a new and changing economic setting, there is a natural tendency for people to look for new or unique explanations. Inflation has been blamed on business monopoly, union power, shifts in demand, high taxes, government spending, excessive debt, easy money, tight money—and just about everything but witches and flying saucers. Without underestimating the strength of various inflationary forces at work during the period, we can still say that both the general level of prices and the prices of particular groups of commodities and services behaved in rather conventional fashion during the 1950's, and call for no novel explanations.

First, in the 1950's as in the past, rising consumer prices have characterized expansions of business activity; and constant prices have characterized mild recessions and the early stages of recoveries. Since World War II, business expansions have been longer and contractions shorter and milder than in the past. Business expansion occurred in all but 22 months of the past eight years. There have been no severe contractions since 1937-1938.

Second, the general price rise of 1956 and 1957, which accounted for most of the increase in consumer prices during the past eight years, was associated with the business investment boom of 1956-1957, which reached its peak in mid-1957.

Third, during the fiscal years 1956 and 1957 federal cash payments to the public increased by $10 billion, or about 15 per cent. State and local spending also increased considerably.

Fourth, while monetary policy kept the quantity of money under restraint during the 1955-1957 period, it did not offset the rise in the rate of use of money which began in 1955 and continued during 1956 and the first three quarters of 1957; and this rise in the rate of use of money (turnover or velocity) contributed to the advance in prices.

Fifth, services and rents accounted for a substantial part of the average rise in consumer prices. Because increases in productivity in the services tend to be below average, wage increases were reflected rather directly in higher costs and prices. Much of the increase in rents was a catching-up process, rents having lagged behind other prices in the war and post-war inflation. The average price of durable consumers' goods was actually lower in 1959 than in 1952. This, again, was to be expected, in view of the above-average increases in productivity in these industries, and in view of the intensification of competition in producing and selling durable consumers' goods after World War II.

Finally, food prices, which had been falling from 1952 to 1955, thus partially offsetting the rise in the prices of services and rents, rose sharply from mid-1956 through the first quarter of 1958. This sharp increase was the result of temporary agricultural conditions, but it came at a time to reinforce the other upward price movements which were taking place.

There has been considerable comment about the fact that the Consumer Price Index continued to rise during the recession that began in July, 1957, and stabilized only at about the time recovery began in April, 1958. Consumer prices usually do not stabilize or turn down until some time after the beginning of a recession, and in a recession as short as that of 1957-1958—only nine months—they may not fall at all. In addition, during the 1957-1958 recession, personal disposable income fell hardly at all, so total consumer demand did not decline appreciably.

In sum, the recent pattern of price behavior, generally and for particular groups of commodities, has not been exceptional or extraordinary and does not call for novel explanations. This does not mean that we should ignore the many complicating factors which are so often singled out as inflationary culprits. Present-day collective bargaining arrangements, government price and wage supports, subsidies, and business monopoly taken together do introduce rigidities into the economy that stunt economic growth and make inflation more intractable. But to explain the general price movements of the past eight years, primary attention must be directed to monetary and fiscal policies and to the cause of fluctuations in the general level of business activity.

Prospects for the 60's

Let me summarize this analysis of the price record of the 50's in order to see what light it throws on prospects for the 60's:

First and foremost, inflation can be controlled. There is no doubt about that.

Second, inflation has been effectively controlled during the past two years, and substantial progress has been made in checking inflation during the past eight years.

Third, in the long run, inflation will continue to be a serious recurrent threat. However, sound anti-inflationary policies, if they are integrated with sound antirecessionary policies, can continue to subdue that threat.

Several features of the future that can be clearly seen bear directly on the prospect for price stability:

(1) We will be misled if we set tight tolerances for our expectations and interpret price indexes too literally as measures of true changes in price levels.

(2) With the economic growth of the 1960's the average productivity of labor will continue to rise, and wages will rise substantially, both in terms of money and in terms of purchasing power. With rising wage rates, we may expect higher prices for goods

and services which cannot be produced mechanically or chemically but require a good deal of direct labor—consumer services, for example, such as education and medical care. Conversely, if general monetary, fiscal and market disciplines are maintained effectively, we should expect declines in the prices of goods and services produced mainly by mechanical or chemical means.

(3) If we avoid major economic contractions, as there is every reason to hope and expect, the economy will have an inflationary bias—unless we limit upward general price movements in recovery and expansion. This can be achieved by monetary and fiscal policies during periods of expansion which help to minimize the imbalances and overcommitments that characterize these periods. Such policies will have the further advantage of prolonging the periods of expansion and minimizing the length and depth of recessions, thereby promoting a maximum sustainable rate of economic growth.

(4) Our international balance of payments will exert a greater disciplinary force, both in the market place and in policy making, than in the past. With the recovery of Western Europe and with the economic development of other nations, we face increased world competition. In addition, the dollar is the chief reserve currency of trading nations; foreigners have accumulated substantial dollar claims, part of which they would liquidate by demanding gold if they lost confidence in our ability to preserve the stability of the dollar's purchasing power.

(5) Monetary discipline is, of course, essential. Since inflationary monetary policies were abandoned in 1951, there has been only one serious breach of price stability, in 1956 and 1957, and that was associated with a capital goods boom and an unusual jump in federal spending.

(6) Better co-ordination of antirecessionary policies and anti-inflationary policies is also essential if we are to enjoy healthy, noninflationary economic growth. Fiscal policy, especially, should be made a better complement to monetary policy. In recessions, budget surpluses tend to be too large and too long continued; in prosperity, budget surpluses tend to be too late and too small. The outlook for prices in the 60's depends in large part on how successful we are in generating substantial budget surpluses during business expansions to offset the deficits which cushion recession and promote recovery, and how successful we are in rapidly adjusting our policy when economic conditions change.

(7) Finally, the outlook for prices depends on how vigorous we are in breaking down economic rigidities and immobilities. Persistent efforts to enforce competition in all markets and to root out many government-induced impediments to economic change and efficiency will do much to insure price level stability.

Collective Bargaining

The topic of collective bargaining was included in the title assigned to me. Let us look briefly at possible relationships between collective bargaining, inflation and economic growth.

Since I scarcely alluded to collective bargaining or to business monopoly in analyzing our recent price history and the prospects for price stability, it will be clear to you that, whatever evils I attribute to business monopoly and union power, inflation is not the most important.

If inflation is to be explained by the monopoly power of unions or of business, it is not enough to show that some unions or businesses have monopoly power. That would explain only why some prices are high. But inflation relates to the *average level*

of prices. Furthermore, inflation means not that the average level of prices is high, but that the average level of prices is *rising*. So to attribute inflation to monopoly power, it must be shown either that monopoly power is rising, or that exercise of monopoly power creates some dynamic generalized upward cost-demand pressures. The evidence, however, both for business and for unions, contradicts the first hypothesis and gives no support to the latter. The extent of business monopoly has not increased since at least the 1890's. Union membership has been constant in actual numbers for several years, and, as a percentage of the labor force, it has been declining.

Furthermore, there has been considerable exaggeration of the power of businesses to raise prices and of unions to raise wages. A recent summary of the evidence concludes that about a quarter of union members (and union members are only a quarter of the labor force) receive wages as much as 15 or 20 per cent above what they would receive without unions; that another quarter of union members receive essentially the same wages as they would without unions; and that about half of union members receive 5 to 10 per cent higher wages than they would without unions. In this connection, we may note, for what it is worth, that, on the whole, wages have been rising more for nonunionized than for unionized workers. When most of the blame for inflation is placed on unions, they are being hoist by their own petard, for unions themselves have exaggerated their effects on wages, this being a principal part of their appeal for members.

It is true, of course, that if, on the average, wage increases outrun productivity increases, there must be inflation. That arithmetic relation says nothing, however, about which is hen and which is egg. Nevertheless, it is often suggested that wages should somehow be administered to conform to productivity increases.

If wages were tied to output per man-hour, industry by industry, the result would be both unfair and impractical. Wages would go up rapidly in some industries, stay about the same in others and even decline in a few. Since many occupations and types of jobs are found in virtually all industries, people doing the same work would receive different pay. In fact, many plants produce in several industries, so wages might differ for the same work in the same plant. Industries with constant or only slowly rising wages would have more and more trouble persuading people to work for them, while people would be on waiting lists to work in the high-wage industries.

Also, tying wages to output per man-hour in each industry would reduce the incentive to industry to introduce the innovations which raise productivity in the first place, and would discourage expansion in the successful industries by preventing exceptional productivity from being fully reflected in reduced costs and prices.

Not only would it be impractical to tie wages in each industry to productivity in that particular industry, but it would also be impractical to tie wages in each industry to average productivity in the whole economy. This would ignore differences in the need for labor and in its availability. In an expanding area, industry or occupation, employers frequently raise wages more than the national average increase in output per man-hour. These large wage increases serve the useful purpose of inducing labor to enter the area, industry or occupation in question, and they help pay moving or retraining costs. In a declining area, industry or occupation, a chronic labor surplus may develop, and attempts to increase wages in line with the na-

tional average increase in output per man-hour would reduce employment opportunities and make it less likely that new industries would move into the areas of labor surplus.

Productivity and changes in productivity throw little light on what wages should be, or what changes in wages should occur, in any particular job, firm, industry, occupation or region. Above-average increases in productivity in any one industry, for example, may to some extent raise wages in the industry, increase employment in the industry, decrease employment in the industry, increase output in the industry, lower prices in the industry, raise wages in other industries which compete for similar workers, lower wages in other industries and lower prices in other industries.

The extent to which each of these adjustments is appropriate in any instance depends on literally thousands of details and special circumstances, and can best be worked out by individuals who have freedom and opportunities to choose among jobs and among the goods and services they buy. Since the public interest may be little concerned with each separate adjustment in each instance, and since the maintenance of free institutions and free collective bargaining are paramount goals of public policy, attainment of the appropriate over-all result for the whole economy must be sought by controlling the environment in which wage and salary negotiations occur.

The key to a proper environment is to maintain a legal and institutional framework, such that the self-interest of each party is either consistent with the public interest or else is balanced and checked by opposing interests of other parties. If excessive wage and price increases would cause severe losses of employment, sales and public good will, for example, one side or the other will resist them. Where excessive concentrations of power in the hands of labor or business produce results contrary to the public interest, remedies should be sought through eliminating the power to injure the public interest, rather than through direct control of unions, businesses or collective bargaining.

Another key to an environment which will hold wages and salary settlements in line with the public interest is sound monetary, budgetary and debt management by the government. When mismanagement creates pervasive inflationary pressures, little success can be achieved by those who attempt to hold down particular wages or prices, for neither party to transactions gains any advantage from preventing increases—and, to the extent that they do succeed, they may do as much harm as good, since "grey markets" appear under these conditions.

Collective bargaining may adversely affect our over-all economic performance. But, in the final analysis, the serious harm of excessive wage increases lies chiefly in their damage to economic efficiency and growth, rather than in their possible inflationary consequences. This point needs to be clearly understood. Suppose a wage cost rises from $3 to $3.50 an hour, without a corresponding increase in productivity. Some people who would have been employed at the $3 rate will not be employed at $3.50. These people may have to accept, say, $2.50 in other work. From the viewpoint of these people, they have suffered a loss of income. But from the viewpoint of the national economy, also, there has been a loss, for these people are now contributing less to total national output than they would have been able and willing to contribute.

Measuring Growth

Finally, I should like to return to the vast subject of economic growth,

and touch sketchily on two further points: the problem of measuring growth, and the role of government in promoting growth.

Growth can be measured by gross national product, by GNP per capita, by output per man-hour, by output-per-unit-of-labor-and-capital-combined or by other criteria. Of these, I prefer output per man-hour, since it relates output to people, and it is not held down artificially by increases in leisure, which, after all, are one of the great benefits of economic growth.

Whatever measure is used is an average for the whole economy. An average can rise much less rapidly than its components, if the weights shift so as to reflect more strongly those components that are growing least. This is actually happening in the United States, thereby rendering invalid most comparisons with a country where the opposite statistical phenomenon is occurring, as in Russia.

Whatever measure of growth is used must be applied to a long enough period to iron out erratic short-run movements. The initial and final dates of a period for which growth is calculated must be at comparable stages of the business cycle, peaks being best, provided they are not war booms. Since World War II, there is really only one valid period for measuring growth in the United States, 1948 to 1957. Hence, many interesting and important comparisons cannot be made honestly.

Government policies for economic growth must provide price stability. But while this is necessary, it is not sufficient. The government must arrange its taxes and spending so as to promote rather than stifle growth; it must deal effectively with problems of recession so as to assure a continuity of maximum employment opportunities; it must alleviate the consequences of such unemployment as occurs, some of which may result from the very processes of economic growth; it must promote science, technology and education; it must provide the public works needed by a growing economy; it must act to maintain competition and restrain excesses and abuses in the private economy; and it must provide services which, while valuable to the nation as a whole, do not offer sufficient rewards to induce private groups to provide them for sale, or do not offer sufficiently direct benefits to induce private groups to buy them.

In conclusion, let me say:

First, inflation will be a serious recurrent problem for many years to come, but we can continue to curb it and probably will.

Second, collective bargaining arrangements need to be examined more closely with respect to the danger of stunting economic growth than with respect to the danger of inflation.

Third, American economic growth, as measured by productivity, has proceeded at a very healthy and rather high pace since World War II, and will undoubtedly continue to do so.

[The End]

AFL-CIO RECOMMENDATIONS TO THE PLATFORM COMMITTEE OF THE DEMOCRATIC PARTY

"Coverage of the Fair Labor Standards Act should be extended and its minimum wage requirement increased to at least $1.25 an hour."

"The existing 40-hour workweek standard of the Act, established more than two decades ago, should now be updated as rapidly as possible to provide for a standard 7-hour day, 35-hour week."

Foreign Trade and Collective Bargaining

By PHILIP ARNOW

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COLLECTIVE BARGAINING in the United States takes place in an economic setting that is constantly changing. Every so often it is appropriate to appraise the economic changes which are taking place and to assess their significance for the bargaining process. It is certainly time for a new appraisal of the significance of international economic developments—especially the nature and effects of changes in foreign trade. The United States has an "unfavorable" balance of payments with the rest of the world; there has been an outflow of gold and a large accumulation of foreign-held dollar balances; and some American industries are, for the first time, facing stiff foreign competition, both abroad and at home.

At the outset, a distinction must be drawn between the national balance of payments and the balance of imports and exports of merchandise. The balance-of-payments problem relates to the achievement of balance in the total accounts between the United States and the rest of the world. These accounts involve not only private merchandise trade (which makes up about half of our international transactions) but economic and military aid, the movements of capital, tourist expenditures and the other invisibles which together make up the remainder of the total balance.

Our merchandise exports, in total, still exceed our merchandise imports. One might argue that the continuation of a commodity export balance is in itself testimony to the continued general competitiveness of United States products in world markets.

Unfortunately, such a conclusion does not help resolve the balance-of-payments question, which is, how to restore the kind of total balance that will enable the United States to finance a desirable level of foreign aid, undertaken as a matter of foreign policy. Such an objective appears to call for a greater surplus of merchandise exports than now exists.

Restoring balance by devaluation, restriction of imports and overseas investment, restriction of tourist expenditures, etc.—the means used by other nations in the past decade—has not been regarded as appropriate or even necessary for the United States. These methods would create other problems, and some of them could lead to retaliation and progressive lowering of total world trade levels, rather than to the increasing volume of trade—and consequently of living standards and employment levels—that has been a major United States objective in the postwar period. Solution of the balance-of-payments question, then, is inevitably linked to the size of the nation's over-all export surplus.

We have had a sizable surplus of merchandise exports throughout the postwar period. This surplus reflected our great postwar productive capacity, as well as the process of postwar reconstruction in other countries. During the immediate postwar years, our competitive position and our ability to supply goods were so great that they threatened the dollar and gold resources of countries hungry for our exports. Most foreign countries placed severe restrictions on imports from the United States in order to put their scarce supplies of dollars and gold to uses involving their greatest national priorities. In the final analysis, it was necessary for other countries to devalue their currencies and cheapen the world price at which they sold their exports in order to be able to compete with United States products in world markets and United States markets.

The most significant devaluations occurred in Europe in 1949, in an atmosphere of crises. Among the questions debated at that time was the following: Could Europe become more competitive by increasing productivity, thereby avoiding the price-increasing consequences of devaluation at home? Despite austerity, wage restraint, price controls and increase in productivity, it was quickly agreed that the further increases in productivity necessary for the achievement of competitiveness could not be awaited.

With the gradual restoration of industry, economic aid and devaluation, the ability of the Europeans and of Japan to compete increased. We began to have an "unfavorable" balance of payments, that is, a building up of dollar credits abroad, each year beginning with 1950. The excess of our merchandise exports over our imports continued, however. This excess continued to be substantial, averaging $3 billion a year in the period 1950 to 1957.

In 1958 a number of things occurred:

(1) The 1958 recession affected exports of a number of commodities, while imports continued to rise.

(2) Merchandise imports and exports came nearer into balance, although an export surplus still remained.

(3) There was a peak in the outflow of investment capital from the United States, including investment within the European Common Market area. Essentially, this reflected the desire of United States exporters to ensure markets by establishing affiliates within the new common European tariff wall and to take advantage of the expected growth of the European market.

(4) There was a major improvement in the dollar holdings of the Western European countries.

These circumstances reflected transition to an era in which United States goods could begin to move more freely into countries that had previously restricted their importation. The dramatic way in which they came, however, and the gold outflow which accompanied the transition, gave rise to the question, whether another force was not in fact at work—whether United States goods were being "priced out of the world market."

One of the most revealing ways of studying the position of United States exports in world markets is to examine the trend in the share these exports represent of other countries' imports. The Department of Commerce has made such an analysis for manufactured goods for the period 1954 to 1958. The Department of Labor has made a similar analysis for the period 1938 to 1959.

These studies show a shrinkage in the United States share of world trade between 1954 and 1958 of roughly 6 per cent. Despite this change United States exports of manufactured goods

were still at a higher level in relation to world trade than in the prewar year, 1938—roughly 22 per cent of total exports of all industrial nations in 1938 and approximately 25 per cent in 1959.

The 1954 to 1958 decline is attributed, by Department of Commerce experts, largely to declines in exports of jet aircraft, motor vehicles and steel products. "The supposition," says the Commerce study, "that U. S. shares in various markets for particular types of goods have *generally* declined is not borne out in export statistics for the period 1954-1958." As would be expected, both increases and declines took place for specific commodities. Increases involved copper, railway vehicles, inorganic and some other chemicals, textile yarns and metal-working machinery. Decreases, in addition to those which have already been mentioned, involved tractors, pigments and paints, organic chemicals, a wide variety of machinery, manufactured fertilizers and some fabrics. A significant feature of the 1954-1958 shift was the re-emergence of Germany and Japan as major suppliers of their former markets in the Eastern hemisphere.

The question naturally arises: To what extent has the shifting trade pattern been the result of greater price rises in the United States than in other countries? A companion question is: What has been the differential movement of employment costs, including wages and fringe benefits?

Comparison of Price Indexes

A straight comparison of domestic price indexes since 1938 does not show a deterioration in the position of the United States. Over the period 1938 to 1959, the rate of increase in domestic general wholesale price indexes was lower in the United States than in France, Italy, Japan, Sweden, the Netherlands or the United Kingdom. The German index rose slightly less than that of the United States; however, the statistical base for prewar-postwar German comparison is somewhat questionable.

In the entire postwar period, the United States wholesale price index moved up less than any of the others cited except Italy. In the period since 1953—the date generally used for comparisons by international agencies—the United States index has forged ahead of all the others except France. The magnitude of this recent change—8 per cent in the United States compared with half this amount or less in almost all the other countries—was not sufficient to offset the lesser rise that took place in the United States in the earlier postwar period. Thus, it appears that the relative movement of over-all domestic price levels does not explain the present United States position in world trade.

This does not end the analysis of the price question, however. The domestic general wholesale price indexes are essentially indexes of internal prices: prices in world markets are affected by the extensive devaluations which took place during the postwar period. There is no completely adequate measure of the effect of devaluation and some prices, of course, were lowered in terms of dollars; this is what devaluation made possible. Since the purpose of devaluation was to increase dollar earnings, however, many dollar prices were not lowered where they were already competitive in dollar markets; this meant, of course, that they rose in terms of European currencies. Other prices were only partially adjusted.

If, nonetheless, the domestic wholesale price indexes are roughly adjusted by the full amount of the devaluations, the relative increase in United States prices over the period 1938 to 1959 is

greater than that of any other country cited, with the exception of France and Japan, in some cases by very substantial amounts.

Unfortunately, there are no adequate indexes of the prices of manufactured goods that enter export trade. Available data are influenced by the significant changes which have taken place in the composition of exports.

Wage and Employment Cost Trends

When assessing wage and employment cost trends, one faces the same considerations that affect price comparisons, plus others; for example, there is the need to take account—at least in a rough way—of the rising cost of fringe benefits, or social charges as they are called in Europe.

For the period 1938 to 1959, the rise in average hourly earnings plus social charges in manufacturing industries in the United States was exceeded by that of the United Kingdom, France, Italy, Japan and Sweden, but was slightly in excess of the increase in the Netherlands and roughly the same as the increase in Germany. Since the international base date, 1953, the rate of increase in the United States has been exceeded by all of these other countries, although the increase in Japan was very similar.

Because of the indirect relationship of hourly wage costs to total costs and prices, it is even less meaningful to adjust the movements of average hourly earnings and social charges for changes in the values of currencies than was the case with respect to prices. Such a rough adjustment, however, results in approximately the same shift in relationship that occurred when similar adjustment was made of trends of wholesale prices. In national currencies, 1938-1959, the United States increase in earnings and social charges was smaller than for any of the other countries mentioned except the Netherlands. As modified by the changes in foreign exchange rates, the increase in the United States was exceeded only by that of Japan. For the 1953 to 1959 period, the United States increase (whether measured in national currencies or adjusted to dollars) was less than that of the other countries but close to the Japanese increase.

The picture changes again when account is taken of changes in output per man-hour. All of the data used in international labor cost comparisons are necessarily crude; additional questions arise concerning strict comparability of data and methodology between countries. For example, an index limited to production workers may show a much greater rise than one which applies to all employees. In the United States, we have found that over the ten-year period, 1947 to 1957, the production worker index rose 43 per cent, the all-employee index only 31 per cent. It is possible for the United States to make both types of comparison and to compare unit labor cost trends for all employees with one group of countries and unit labor cost trends for production workers with another set of countries. Even so, strict comparability is not attainable, since some countries have only man-year data.

Using the rough kinds of data available, the situation appears to be about as follows: In terms of national currency comparisons, the rate of increase in unit labor costs in United States manufacturing industries, over the period from 1938-1939 to 1957, was lower than that in the other countries for which price and wage comparisons have been cited. Since 1953 United States unit labor costs in manufacturing increased less than those of the United Kingdom, the Netherlands and Sweden but more than those of Italy, Japan and France; the rate of increase was about the same as West Germany.

When expressed in dollars, the United States increase in unit labor cost becomes a relatively higher increase—close to that of France. For the 1938-1939 to 1957 period, the United States increase exceeded that of the United Kingdom, Japan, the Netherlands, West Germany and Sweden, and was close to the increase in France.

Features of Present Situation

These mixed trends in the composition of our exports and in prices and labor costs suggest that restoration of pre-World War II patterns of trade is probably the most significant feature of the development in the last decade. Whether the steps taken by other countries to facilitate this restoration have brought about new changes in structure and created new cost relationships which will reorient the pattern of trade in future years is by no means clear.

There are a number of additional features of the present situation that are worth noting. The changing structure of exports has already been mentioned, but special note should be made of the general competitive strength of our agricultural and coal exports. Perhaps the most significant fact to note about our exports relates to the removal of quotas abroad. Many American firms are now presented with opportunities for export which have not existed since the war and which provide an unknown potential. For some who have been able to sell abroad in a period when other sources of supply and competition were substantially absent, competitive ingenuity and resourcefulness are being challenged for the first time.

The composition of United States imports is in most respects that which existed prior to World War II, but there are a number of new trends. Apparel imports, for example, have shown a tendency to increase, reflecting the general availability of textiles, sewing machines and sewing machine labor, American merchandising, and the export of the shrinkproof processes and standard American sizes. Many foreign countries have shown strength in products formerly absent from the American market—small cars and lightweight bicycles, for example. Innovation in design is often, of course, as important in determining the flow of trade as are considerations of price, with respect to imports as well as exports. The pattern of import trade still seems, however, to support the proposition that imports which are labor intensive, and which require relatively lesser amounts of capital equipment, are the kinds of imports most likely to find their competitive place in the American market.

Some of the new types of imports may well reflect not changing patterns of cost relationships but decline in levels of tariff protection. Rates of duty have been substantially reduced in the last three decades, through negotiation of reciprocal trade agreements and as a result of the declining incidence of specific duties in a period of rising prices. Tariff rates have been reduced with the realization that more imports would enter United States markets, and that more healthy competition would in fact be present. One of the difficult aspects of tariff policy has been the effort to achieve competition without seriously injuring American industries. The line between healthy competition and serious injury is not always easy to draw, and has required detailed case-by-case scrutiny. But on a case-by-case basis, the line has been drawn, and the United States is now one of the world's low-to-moderate tariff countries.

In return for our tariff-lowering, other countries have agreed to lower tariffs, to the ending of arbitrary quotas and restrictions of many kinds —some of which have impeded Ameri-

can exports for decades—and in general to the freer entry of American goods in foreign markets. But most of these reciprocal concessions are only beginning to take effect, as other nations' balance-of-payments problems come to an end and as their prosperity and purchasing power improve. Thus, our tariff-lowering has taken effect immediately on negotiation, while reciprocal benefits have generally been delayed. Under these circumstances, it is only natural to expect our imports to rise before our exports have had a chance to benefit.

Our national policies with respect to foreign trade look forward to further mutual reductions of barriers. Major negotiations with the other members of the General Agreement on Tariffs and Trade (GATT), to reduce tariff rates on a wide scale on a reciprocal basis, and to achieve a low general tariff barrier around the European Economic Community, are scheduled to begin this fall. A special message of the President on March 17 announced a major effort to expand export trade. These policies reflect confidence in the competitive ability of the American economy and, at the same time, place a challenge before it.

It is not easy to sort out the effects of the foregoing multiplicity of circumstances, upon either particular collective bargaining situations or upon collective bargaining in general. The effects of foreign trade are often obscured by the effects of other business and economic events. Judgments concerning these effects are also inevitably influenced by the varying attitudes taken by different firms and unions toward foreign trade problems—(1) welcoming the opportunities of broadened foreign trade or (2) accepting new patterns of foreign trade as inevitable and adjusting to them by product and employment shifts or (3) attempting to insulate collective bargaining by action to limit imports. It would be reasonable to conclude, however, under the conditions of foreign trade which lie ahead, that there will be increasing management cost consciousness and increasing debate in collective bargaining over the significance of import and export trends in particular commodities.

It must also be recognized that there are a number of major collective bargaining situations in the United States which are not likely to become *directly* involved in foreign trade problems. For the most part, the building trades, the domestic transportation industries, the communications industries, the public utilities, the major food processing industries, most of the service industries and many others do not normally encounter foreign trade problems in their major negotiations. Foreign trade, of course, has an employment impact on these industries, which arises indirectly as a result of high levels of economic activity and high levels of foreign trade; these are, however, generally remote from matters of immediate bargaining, although they bear upon attitudes toward national trade policy.

For industries directly affected by international trade, United States administrative procedures with respect to trade negotiations open up a source of information on the impact of trade upon collective bargaining. During the postwar years, virtually the entire range of raw materials, agricultural products and manufactured goods has been involved in tariff negotiations. Most commodities have been involved more than once. Public hearings on commodities being considered for duty reduction and on obstacles to export trade have been held several times by the Interdepartmental Committee for Reciprocity Information. Public hearings on import problems and on requests for additional protection, under the escape clause of the Trade Agreements Act, have been held by

the Tariff Commission. In addition, hearings on minimum wage questions have occasionally involved matters relating to foreign trade. In the recent steel dispute, the question of foreign competition at home and abroad was cited before the President's board of inquiry in the economic presentation of the parties.

To date, there has been no testimony by trade unions or by management in tariff or minimum wage proceedings which indicated consideration of export problems in specific plant or industry collective bargaining. I shall not here deal with the situation in steel.

On the *import* side, most witnesses in favor of continued or increased protection have not cited collective bargaining impact. Many domestic manufacturers have claimed inability to compete and, at the same time, to meet United States levels of wages and fringe benefits. In the overwhelming majority of such cases, it has been found feasible to reduce tariff duties moderately without threat of serious injury. In those cases in which fears of injury were recognized by the government as having merit—that is, where duties were lowered little or not at all, or raised in escape clause proceedings—the plants concerned, while more technically efficient than their competition abroad, had not achieved a level of investment and productivity which would enable them to compete and, at the same time, to meet rising standards of wages and fringe benefits in the United States. Many of these producers also faced significant problems of domestic competition or changes in consumer demand unrelated to competition from abroad.

Where specific bargaining problems have been cited in tariff proceedings, there has generally been representation of both labor and management. The brunt of the presentation on bargaining impact has ordinarily been made by trade union spokesmen, however. There are virtually no cases in which trade unions have appeared on a tariff problem without management participation.

Management presentations that dealt with the impact on bargaining have emphasized loss or feared loss of job opportunities, and have occasionally referred to specific instances in which wages or fringe benefits were lower than might have been negotiated in the absence of competition from abroad.

Views Expressed by Trade Union Spokesmen

The wide range of attitudes expressed by trade union spokesmen can be summarized as follows:

(1) In several cases, the unions involved strongly maintained that foreign competition was affecting both employment and the achievement of wages and fringe benefits that would match those in other contracts. Some of the commodities in this group were women's fur felt hats (in which the union initiated the first successful proceeding to raise tariffs under the escape clause), hand-blown glassware, china, pottery, tuna fish, frozen fish fillets, textiles, watches and gloves.

(2) In a number of cases, local union representatives appeared without the backing of their national unions. The national unions involved, generally having supported the reduction of tariff barriers, varied in their attitudes, in some cases leaving the locals on their own and in other cases permitting them to appear in favor of higher duties only after efforts to dissuade them had failed.

(3) Others have tried to draw the line between cases in which duties could be lowered without injury and those in which increased importation might seriously jeopardize jobs or bargaining opportunities. Tariff ad-

ministration can involve exceedingly fine commodity classification; as both labor and management have gained experience in tariff questions, there has been an increasing tendency to distinguish these two kinds of situations, and even to make constructive suggestions for selective tariff reduction.

(4) Some union officials unfamiliar with the intricacies of tariff and commodity analysis have frankly stated their desire to leave to the judgment of government officials the proper course to be taken on tariff matters. Included in this group were union officials who, in the interest of harmonious labor-management relations, appeared with employers who requested them to do so.

(5) Outright opposition to protection has appeared only occasionally. A union producing watch cases objected to increasing duties on Swiss watch movements, and an AFL-CIO spokesman appeared to argue against increases in watch duties. Last year, a Steelworkers Union spokesman appeared in opposition to increases in duties on barbed wire and other wire products.

An extensive series of tariff hearing will take place this summer in connection with the forthcoming major GATT tariff conference. It will be interesting to observe whether there are significant changes from the patterns developed in earlier hearings.

Positions and attitudes have not been revealed in public hearings, of course. Other situations that are known to the speaker involve joint labor-management development of cases for tariff relief or quota restriction, to be presented in public exclusively by management representatives; refusals of national unions to separate problems of foreign competition from problems of domestic competition, both being regarded as problems within management's sphere of responsibility; handling of import competition problems completely in collective bargaining negotiations where it is to the industry's net advantage to promote the development of export markets and not to seek tariff protection.

Difficulties in Assessing Real Effects of Foreign Trade

Just as the government has to cope with many technical problems in assessing particular problems of import competition, so the parties in collective bargaining do not always find it simple to assess the real effects of foreign trade. Assessment involves information and judgment concerning the actual character of market penetration by imports; the relation of imports to domestic production and to total consumption (for example, imports, production and consumption all may be increasing); the limits of geographic penetration; the precise quality of foreign goods; the present and potential productive capacity of the competing industry abroad (in Europe, for example, where full employment is already absorbing resources), whether lower prices or imported goods are necessary for any market penetration at all, will expand consumption or will in fact cause injury. Both managements and unions will undoubtedly have to make increasing efforts to assess these and other factors, as well as the ability of their industries and particular groups of workers to adjust under the spur of competition, as specific problems arise in negotiations.

The existence of wage differentials between American plants and those abroad has often been an oversimplified starting point for discussion. In assessing these differentials, adjustment must at the outset be made for differences in fringe benefits, for wage structures based on family responsibility rather than job duties, for productivity—data on which are especially

hard to come by. Fringe benefit costs abroad, for example, are usually a greater percentage of basic hourly earnings than is the case in the United States. Adjustment must be made for tariff duties, for transportation costs, and for the fact that nonlabor costs for raw materials, fuel and capital are often higher abroad than they are in the United States. Such factors as the relatively greater freedom of American employers to discipline and to lay off workers when job opportunities decline—while producers in many other countries are obliged, either by rigid custom or by law, to maintain excessive employment even during periods of low sales—are even more difficult to assess quantitatively.

Inevitably, discussions of wage differentials give rise to questions concerning the "fairness" or "substandard" quality of foreign wages. Government trade policies already provide for possible exclusion of goods produced by forced or convict labor, and for the refusal of tariff concessions where wages are substandard in the country of origin. There have been a number of proposals to examine wage differentials and the reasons for these differentials much more closely than has heretofore been done. Such examination would, of course, have to include the relation of wage levels in competing foreign countries to the wage levels of the national economy involved and to the economy's problems of developing employment opportunities and the capital and foreign exchange resources for economic development.

The international ties and contacts of American labor and American management during the postwar period—which have far exceeded anything this country had previously known—have also had a marked effect upon attitudes towards problems of foreign competition. There has been growing understanding of the benefits to living standards that are brought by international trade, and of some of the adjustments which are necessary in production, design, sales methods and jobs.

International ties have led to other types of adjustment. For years, many United States managements have responded to possible or actual loss of overseas markets by locating production or assembly facilities within foreign tariff or quota walls. This movement reached a crescendo with the establishment of the European Economic Community. American trade unions have used their ties with trade unionists abroad to discuss labor standards questions, and representatives of labor and management in other countries have been equally active in conveying to their American colleagues their own needs for dollar earnings opportunities, markets and jobs.

Historically, European trade unions have been regarded by many observers as much more sensitive to job and employment opportunities—especially in export trade—than has been the case in the United States, where emphasis has been put upon economic gains. This attitude of European unions is held to reflect fears of unemployment, lower income level, devotion to political activity rather than to economic bargaining, and a widespread knowledge of the importance that foreign trade bears to the economy of each country. Exports account for about 5 per cent of the American gross national product, 20 per cent in the United Kingdom, 30 per cent in Sweden, 13 per cent in France, 14 per cent in Italy, 25 per cent in West Germany, 49 per cent in the Netherlands. Similar and even higher percentages exist for most of the countries of the free world.

Some observers have expressed the view that European attitudes are changing and will change further, that the

achievement of reconstruction and higher productivity levels in Western Europe and the solution of foreign exchange problems will bring forth a wave of demands for higher money wage levels. It is too early to measure, at this point, whether there is a sufficient degree of shift in policies to have a significant effect on competitive relationships.

Additional uncertainties with respect to comparative wage and cost movements revolve around the trends in the developing countries, particularly those with great overpopulation, as they slowly increase their participation in world trade. The evolution of wage structures in the developing nations may be significantly different in time or character from those experienced in the industrial nations, with significant effects on trade patterns.

For collective bargaining in the United States, expanding and more competitive foreign trade seems to pose the following question: How will a system that is essentially oriented to many diverse domestic economic problems meet new competitive problems and a national need to expand exports? **[The End]**

Discussion of the Arnow Paper

By LAZARE TEPER

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PHILIP ARNOW'S PAPER is a competent review of some of the basic issues bearing on the development of foreign trade economic policies as well as of some of the reactions to the varied trade developments on the part of management and labor in the United States.

Two key points emerge from Arnow's analysis. He makes it clear that, despite the recently experienced negative balances of international payments, the United States is not priced out of foreign markets. Thus the balance of merchandise trade (as distinct from the balance of international payments) continues to remain favorable, as it has since 1894. The narrowing of the favorable margin in 1959 was brought on by the cumulation of several transitory factors, some resulting from the postwar assistance on the part of the United States to the rehabilitation of foreign economies, some resulting partly from the business recession in the United States, and some resulting from the abnormal level of United States exports in 1957 because of the Suez crisis. Yet, even in 1959, the proportionate share of the United States in world trade remained higher than it did either in 1928, the year prior to the great depression, or in 1938, the year prior to the beginning of World War II.

The transitory character of a reduced favorable margin of merchandise trade became evident even in 1959. As the year advanced, the margin between exports and imports steadily widened in favor of the United

States. The improvement continued in 1960. In the light of the first quarter's experience and an analysis of potential developments, it appears at the time of this writing that merchandise exports of the United States, including grants-in-aid shipments, should exceed imports by close to $4 billion in 1960. Exclusive of grants-in-aid shipments, the favorable balance should approximate $3 billion.

From an over-all viewpoint, it thus appears that the liberal trade policies pursued by the United States in the years of the New Deal and thereafter were justified. As noted by Arnow, the United States in the postwar period reduced its tariffs on completion of negotiations, while reciprocal benefits have been generally delayed. Our export trade was hampered at first—despite some tariff concessions by foreign nations—by dollar shortages abroad and by restrictive measures designed to conserve foreign exchange. Thereafter, trade continued to be hampered by the reluctance of some countries to eliminate some of the trade barriers, even after their foreign exchange position made these no longer necessary.[1]

The other point that emerges from Arnow's analysis is that it is difficult to assess the impact of foreign trade on collective bargaining. This conclusion is a natural one. For the great majority of American industries, foreign trade has remote implications. Where the impacts are more direct, the *ad hoc* character of many governmental decisions, the barter characteristics of many negotiations regarding tariff liberalization, and the lack of uniformity in the possible effects on the different sectors of American economic life make it virtually impossible to make generalized assessments of the foreign trade impacts. The analysis is complicated because, at times, foreign trade issues are raised as a part of the shadowboxing exercise which may develop in the course of collective bargaining,[2] and because experiences with specific products do

[1] "In spite of the decrease or disappearance of the financial need for the maintenance of import restrictions in certain countries, there remains a substantial area of restrictions applied by contracting parties for reasons which are not associated with their balance-of-payments situation. Certain countries which have ceased to claim the right to use restrictions for financial reasons have, nevertheless, retained restrictions on a large number of imports, many of which are in the agricultural sector. Restrictions are also applied in certain cases in connection with internal price or income support measures or for protective reasons." (International Trade 1957-1958, Geneva, The Contracting Parties to the General Agreement on Tariffs and Trade, July, 1959, p. 254.)

[2] The recent steel negotiations illustrate the use of foreign trade issues as a shadowboxing device. Despite the calamitous claims on the part of the industry, the domestic steel industry did not seem to lose its traditional domestic markets. Thus, on April 18, 1960, the *Wall Street Journal* reported: "Since United States steel makers signed a new labor contract with the United Steelworkers Union in January, new orders placed by American manufacturers with agents of foreign mills have fallen as much as 60% from the levels of a year ago. Speculators who purchased huge tonnages of imported steel late last year now are having trouble getting rid of it—even at losses of $25 to $35 a ton." In the main, the steel industry's contention of the cost disadvantages of the domestic industry by comparison with foreign suppliers was based on comparisons of hourly labor costs, without regard to possible differences in productivity and material costs. An analysis made by Louis Lister, for 1956, suggests, however, that differences in production costs between the several steel-producing countries were nowhere as great as the differences in their hourly earnings. Thus he shows that the combined cost of labor and materials per metric ton of finished steel was $88.55 in the United States, $96.50 in Belgium, $84.80 in France, $88.85 in Germany, $100.30 in Italy, $80.65 in Luxemburg, $79.97 in the Saar and $85.20 in United Kingdom (Louis Lister, *Europe's Coal and Steel Community* (New York, Twentieth Century Fund, 1960), pp. 61, 68).

not necessarily have counterparts in another setting and may not even revolve around comparative costs.[3] A fruitful analysis of the impact on collective bargaining can only be made within the framework of specific industrial situations.

Current Attitude of AFL-CIO

The American labor movement has long recognized that international trade is a subject of its concern. The current attitude of the AFL-CIO can be gleaned from the resolution adopted by its 1959 convention, which held that the expansion of international trade was a "positive instrument in helping to raise living standards of workers throughout the world." While advocating the continued support of the Reciprocal Trade Agreements program, it was felt nonetheless that some additional safeguards were needed lest injury be caused the workers in the United States and abroad. The "mushroom growth" of sweatshops in some of the exporting countries was deplored as a threat to the living standards of workers here and elsewhere in the free world. The danger of too rapid a pace of trade liberalization, which could "result in serious injury or the threat of serious injury to American industries with consequent large-scale displacement of American workers," was also recognized. It was recommended, therefore, that our government seek the "incorporation of the principle of fair labor standards in international trade," with due recognition of the fact that "the level of wages that can be paid in exporting countries will necessarily be limited by the degree of their economic development and the productivity of their industries." To prevent undue harm to domestic industry, it was suggested that in the administration of escape clause provisions under the Trade Agreements Act "maximum emphasis be placed on safeguarding absolute historic levels of domestic production so as to prevent drastic production cutbacks or employment displacement in domestic industries as a result of sudden large influxes of competing imports." Should adversity be brought to domestic operations by foreign imports, it was suggested that proper governmental "assistance to the workers, firms and communities" be given.[4]

Key Governmental Decisions

The issues generated by liberalization of international trade are, of course, much broader than those involved in collective bargaining. Of necessity, the key decisions are those of governments—our own and those of other nations. The flow of trade is determined, in the final analysis, by governmental decisions—many of them unilateral in character. Aside from the currency devaluations in 1949, referred to by Arnow, one can mention numerous actions of more recent vintage that have restrictive effects: the institution by Cuba of restrictions on foreign exchange transactions in January, 1959, and the subsequent imposition of import licensing in February, 1959, and of ad valorem surcharges on many imports in October, 1959;[5] the anticipated limitations of foreign transactions which are expected to come in the wake of the formation of the European Common

[3] For example, imports of foreign cars into the United States were fostered primarily by the failure of the American industry to meet, until this past season, the latent consumer demand for the smaller car. Another example is offered by the continued imports from abroad of hat bodies in the production of which mercurial carrots are used, while the particular process has been banned in the United States as a health hazard.

[4] *AFL-CIO Proceedings of the Third Constitutional Convention, 1959,* 1, 165ff.

[5] United States Department of Commerce, *Foreign Commerce Weekly,* February 2, March 2, October 5, 1959.

Market;[6] the imposition of credit controls by the United Kingdom in April, 1960, which were designed, at least in part, to slow down imports and to spur exports;[7] and the granting of preferential foreign exchange rates to exporters by the Central Bank of the Philippine Republic in April, 1960.[8] This list is far from complete.

It is also important to recognize that numerous postulates advocated by the proponents of unrestricted free trade fail to to take into account some of the important realities of national existence.[9] Even if foreign nations can produce certain items cheaper than the United States, this does not necessarily call for the disappearance of the particular line of production from the domestic scene. Many considerations—economic, social and political—justify the safeguarding of domestic industries from possible extinction. The most obvious argument is with regard to those lines of endeavor essential for the protection of the nation in the case of national emergencies. But this is but one facet of the problem. Even when the nation's employment is near maximum—and in recent years it has fallen short of that goal—complete interchangeability of human and material resources does not exist. To the extent that many industries are located in single-plant or single-industry communities or are heavily concentrated in particular sections of the country, or to the extent that they employ labor for whom few alternative job opportunities are available, their elimination, even under most favorable circumstances, spells a brake on domestic employment. The promotion of pockets of underemployment is decidedly not a sound objective of public policy.

One must also draw a line between the international division of labor based on natural advantages in the engineering efficiency sense and that based solely on the existence and perpetuation of substandard labor conditions. At times, a similar situation is encountered on the domestic scene. In such circumstances, the unorganized sector of an industry may exert a downward pull on labor conditions elsewhere in the same industry. Faced with such a condition, organized labor may seek to remedy it by extending organizational drives and by seeking to improve labor conditions through collective bargaining or through appropriate legislation. The situation is much more complex on the international scene. In the face of a variety of governmental policies, the issues cannot be met through the mechanism of collective bargaining. If remedies are called for, they must be sought in other quarters.

The situation may be aggravated at times when domestic entrepreneurs seek to evade the standards established over the years in the United States and seek to develop production resources abroad for the sole purpose of gaining some competitive advan-

[6] *Wall Street Journal,* April 12, 1960, reported, for example, that a Department of Agriculture analysis, circulated for "discussion purposes," contended that commodity control schemes under consideration by the six member nations of the Common Market "could go far toward wiping out an export market for U. S. crops which currently approaches $1 billion a year."

[7] *Wall Street Journal,* April 29, 1960.

[8] *Wall Street Journal,* April 26, 1960.

[9] Speaking of the free trade attitudes of English classical economists, Lionel Robbins noted that he finds "no trace anywhere in their writing of the vague cosmopolitanism with which they are often credited. . . . we get our picture wrong if we suppose that the English Classical Economists would have recommended, because it was good for the world at large, a measure which they thought would be harmful to their own community. It was the consumption of the national economy which they regarded as the end of economic activity." (Lionel Robbins, *The Theory of Economic Policy in English Classical Political Economy* (London, Macmillan, 1952), pp. 10ff.)

tage in the domestic market. In effect, it is a "runaway" situation on an international scale. Not infrequently, such activities force an undesirable overexpansion of capacity, leading to costly duplication of effort and, in the end, fostering unnecessary destruction of social capital.[10]

Nor does this development necessarily take place because the prices of the American products are excessive, or because of the suppression of domestic competition. A case in point is illustrated by the apparel industry, one of the most competitive in the nation. This is reflected both by its narrow profit margins—less than 1 per cent net on the sales dollar in recent years—as well as by the fact that its 1958-1959 prices were still about 1 per cent lower than in 1947, despite the intervening rise of over 34 per cent in average hourly earnings. Under the encouragement of a comparatively small group of domestic interests, imports of apparel from low-wage countries have risen rapidly in the last few years. Some of these entrepreneurs, judging by past history, are ready to shift their operations to new areas under the least provocation, thus adding to the economic dislocation on an international scale.

It is obvious that the problem described is a real one. It hardly seems desirable, in the name of the national interest, to destroy an industry that gives jobs to thousands of women for whom few alternatives exist. Solutions must be found in the design of patterns of international trade which would be complementary to our way of life and which would not create structural dislocations in the economy. While competition from abroad should be fostered with regard to the products of oligopolistic industries, it is important to assure that industries needed for defense, safety and health, those located in depressed and underdeveloped areas of the country, in single-industry communities or communities in which they provide a significant percentage of employment, as well as those which provide jobs for workers with no ready alternative employment, be safeguarded.

To accomplish this objective, new legislation is needed which would give power to the Tariff Commission to determine, in relation to the levels of historic output of given industries, the normal levels of domestic production which should be safeguarded. Above this safeguarded level, products could be imported either under the existing tariff rates or under lower rates negotiated under the General Agreement on Tariffs and Trade.[11]

Such action would supplement other measures which must be designed for the purpose of improving the general framework of international trade—by developing an appropriate climate for the extension of fair labor standards throughout the world, by eliminating duplication of effort by the underdeveloped countries, and by safeguarding labor standards of the advanced countries from the adverse effects of an abrupt invasion of established markets from low-wage countries.[12]

[10] "Expansion of exports should . . . be based on demand analysis, in this case for foreign markets. There might be still a danger of inconsistencies if two or more countries independently planned to expand the same line of production. Such uncoordinated programs might result in overproduction. Therefore it is desirable that duplication be avoided." (Jan Tinbergen, *The Design for Development* (Baltimore, The John Hopkins Press, 1958), p. 24.)

[11] A statement of policy in this regard, adopted by the General Executive Board of the International Ladies' Garment Workers' Union and other apparel and textile unions, will be found in *Justice,* September 1, 1959.

[12] It is reported that at the forthcoming session of GATT, the issue of dumping and invasion of low-wage countries will receive a thorough consideration (*Daily News Record,* May 16, 1960).

The problems posed by international trade cannot be resolved at the level of collective bargaining. They are a public issue of prime importance and must be handled at the public level. While our commitment to liberalized trade is sound, we must, as a nation, remain forever conscious of the domestic problems as well.

[The End]

Comments on the Arnow Paper

By LEO TEPLOW

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THE IMPACT of foreign trade on collective bargaining is of increasing importance, and Industrial Relations Research Association is to be commended for putting the subject on the agenda for the spring meeting.

Mr. Arnow's paper represents a great deal of research, and I am particularly impressed by the statistical background in the appendix [not reproduced herein] to his paper. The paper does set a background, although it might have been more useful to arrange the data so that one could determine more easily the extent of the deficit in the United States balance of payments and of the dwindling surplus of exports over imports.

The impact of foreign trade is sufficiently important to warrant a full-fledged research program which might include not only the underlying reasons for the unfavorable balance of payments, but also the manner in which foreign trade has affected specific industries.

The balance of payments problem in the United States is a serious one and is receiving intensive consideration by the Departments of State and Commerce. With total gold holdings reduced to $19 billion, there has been a net loss of $3.3 billion in gold in 1958 and 1959 alone. Approximately $12 billion in gold is required as backing for Federal Reserve notes in circulation and deposits of the Federal Reserve banks. The kind of drain we have been sustaining the last few years cannot be continued. In fact, the dollar claims of foreign governments and investors is almost equal to our entire gold supply of $19 billion.

It is true that the export-import balance has been favorable to the United States in prior years. The excess of exports has been enough to slow down the loss of gold and to compensate in part for expenditures involved in our foreign aid programs, military aid, private capital investment abroad, expenditures of American tourists and expenditures by American Armed Forces stationed abroad. Unfortunately, it does not appear that we shall be able or willing to make any substantial reductions in these expenditures abroad. Consequently, the necessity to increase our net exports becomes a matter of urgent priority—a factor which does not appear in Mr. Arnow's rather detached study.

If one examines Mr. Arnow's paper with care, however, one can find evidence that the United States is pricing itself out of the world market. For example, he recognizes that, if devaluation is taken into account, the relative movement of United States prices over the 20-year period 1938 to 1958 is greater than that of all the other countries considered except France and Japan. He also notes that it is the imports which are "labor intensive"—that is, imports in which labor is a major element in the cost of production—that are most likely to find their competitive place in the American market.

Mr. Arnow also notes that during the 1958 recession, exports of a number of commodities were affected (reduced) *while imports continued to rise.* Isn't it of some interest to speculate why, during a period of recession in the United States, when our own industries were operating at reduced capacity, imports nevertheless continued to rise? Isn't this an indication that foreign producers can undersell us not only in world markets, but even in our domestic market whenever their domestic requirements do not utilize their entire production facilities? And, since their production facilities have now expanded sufficiently to permit exports while meeting their full internal demands, isn't it likely that foreign competition will exert an increasing pressure on American producers?

Since the paper deals with broad questions of balance of trade, it avoids reference to loss of domestic markets to foreign competition in specific industries. It should be recognized that in some industries American companies have established plants abroad, not only to put themselves in position to compete inside foreign tariff and quota barriers, but also to produce for import into the United States. Reference should also be made to a number of commodities that have been seriously affected by foreign competition to the point of seriously reducing employment in the United States.

One can mention, for example, a report in the newspapers on May 2, 1960, indicating that McGraw-Edison had made arrangements with an Italian manufacturer to produce a low-priced dictating machine in Italy for importation by McGraw-Edison into the United States in order that McGraw-Edison might better compete with other imported dictating machines.

In the case of automobiles, the Commerce Department reported (*Survey of Current Business,* December, 1959) that for passenger cars "the United States position shifted from that of a net exporter of over 200 million dollars in 1956 to a net importer of 450 million dollars in the year ending September 1959."

Importers of portable typewriters took 40 per cent of the United States market in 1958.

Where there had been a number of sewing machine manufacturers, Singer Manufacturing Company is about the only company left that produces sewing machines in the United States, and even it is making part of its United States requirements abroad.

The importation of watches has increased from less than 8 million in 1949 to 14 million in 1958, while United States employment of watchmakers fell by 62 per cent.

It would seem that loss of employment, whether due to foreign competition or other reasons, is a sufficiently serious subject to warrant concern on the part of those who speak as representatives of the public.

The paper contains a great deal of information concerning trends in wholesale prices, employment costs, output per man-hour and unit labor costs. The trend in these factors is, of course, very

important, and it is very helpful to have this kind of information pulled together. However, one does note a distinct lack of data relating to specific price comparisons in the United States and abroad, specific employment costs in the United States and abroad and specific unit labor costs. Indexes showing the direction in which these factors go are quite helpful, but in the area of foreign competition it is extremely important to know how the cost of an average hour's work in manufacturing in the United States compares with corresponding costs in Europe and Asia. As to this, the paper is silent.

There seems to be a reluctance to deal with this kind of information, although it is available. Despite the difficulties of measuring total employment cost, the ILO, the European Coal and Steel Community and other government agencies do publish extensive data which can be collected. One cannot find them in this paper, nor is this a unique omission. When during the steel negotiations in 1959 the Department of Labor issued a publication entitled *Background Statistics Bearing on the Steel Dispute,* one could not find in any of the 18 sections of that document and its supplementary tables any tables of the level of wages or employment costs in the United States and the corresponding employment costs in foreign steel industries. An index of prices was included, but there was no table showing steel prices in the United States as compared with the prices charged by foreign steel producers either in their domestic markets or in their export markets. Actually, steel employment costs per hour were $3.22 in the United States in 1957, while the highest average hourly cost among our overseas competitors was in Luxembourg, with average hourly employment costs of $1.28. Belgium, France and Germany were very close to $1 an hour. In Italy and Japan average hourly costs were 80 cents and 46 cents, respectively. These facts seemed to the steel companies to be of at least as great importance as any of the information contained in the *Background Statistics.*

Perhaps a paragraph or two devoted to the steel industry may illustrate why it is important to consider individual industries, rather than limit consideration to figures covering the over-all economy. After all, foreign competition takes place industry-by-industry and item-by-item. Furthermore, the steel industry is one in which the United States has played a leadership role for about three quarters of a century.

The steel industry employment costs mentioned above indicate why, after the European and Japanese steel industries had, with our help, rebuilt and expanded their steel industries to the point that they were able to export freely, they were able not only to undersell United States produced steel in foreign markets, but were even able to invade our home market with great success. During the years 1953 to 1957, exports exceeded imports by 3.3 per cent of total domestic steel industry shipments. During the year 1959, imports exceeded exports by 4.9 per cent of steel domestic shipments. The difference between the two, that is, the difference between 3.3 per cent net exports and 4.9 per cent net imports constitutes a difference of over 8 per cent. If that figure were applied to current employment of over 640,000 hourly and salaried employees, the change in export-import balance corresponds to a loss of over 50,000 jobs. This seems to be a matter of sufficient importance to warrant concern even on the part of those who study the problem from an academic viewpoint.

It is true that the magnitude of the export-import disadvantage in steel

in 1959 was partly due to the 116-day strike to which the industry was subjected that year. But the industry also sustained strikes of long duration in 1946, 1949, 1952 and 1956. However, 1959 was the first year since the turn of the century that steel imports exceeded steel exports—and by a very substantial amount. Taking the effect of the strike into account, it would appear that the union in this case has given substantial assistance to foreign steel producers by (1) raising employment costs at an extraordinarily rapid rate, averaging between 7½ and 8 per cent per year compounded, between 1940 and 1958, and (2) closing down the steel industry in the United States for a long enough period to constitute a cordial invitation to foreign producers to ship their products into the United States.

When the steel companies made reference to the reality of foreign competition in the steel industry and to the fact that raising domestic employment costs still further would put United States in an even worse competitive position, the union's response was to attack the companies' profits and pricing policies, to point out that imports were negligible as compared to total production and to label the whole issue of foreign competition as a hoax.

To deal with the export-import problems of the steel industry would, of course, require a major study. I think I have said enough to indicate that a study of the problem of foreign trade and collective bargaining by those who are prepared to tackle the real issues would be very much in point and would be helpful, not only in the collective bargaining situation but also in the determination of major foreign policy issues.

Mr. Arnow notes, in passing, the general competitive strength of our agricultural and coal exports. It is interesting to note that these are the two industries which have had the highest increases in output per man-hour. In the case of agriculture, this is because of the increasing size of farms, increased mechanization, improved fertilizers, weed killers, and the fact that there has been no union opposition to increased production. In the case of coal mining, there has been a tremendous increase in output per man-hour as a result of extensive mechanization, in which the union has cooperated. Unfortunately, it cannot be said that the same willingness to cooperate in the attainment of efficiency is a general characteristic of unions in collective bargaining. Our increasingly delicate position in the face of foreign competition should provide serious grounds for union leaders to review their positions in this area.

In conclusion, I trust that nothing that I have said here concerning mounting difficulties in relation to foreign competition will be construed as a plea for a return to protectionism. The United States is committed to a position of world leadership, and that position is inconsistent with the general encouragement of high tariffs, import quotas, currency restriction and all the other interferences with the flow of international trade. It is important, however, that the problems we are facing be thoroughly researched and understood. We cannot for long maintain our slender lead in exports over imports unless we put ourselves in position to compete more effectively. The economic facts of life are that our net exports must be increased. The most important factor which now handicaps our export efforts is the tremendous disparity in our employment costs as compared with those of countries in competition with us, combined with increasing difficulties in the attainment of higher efficiency in industrial production. **[The End]**