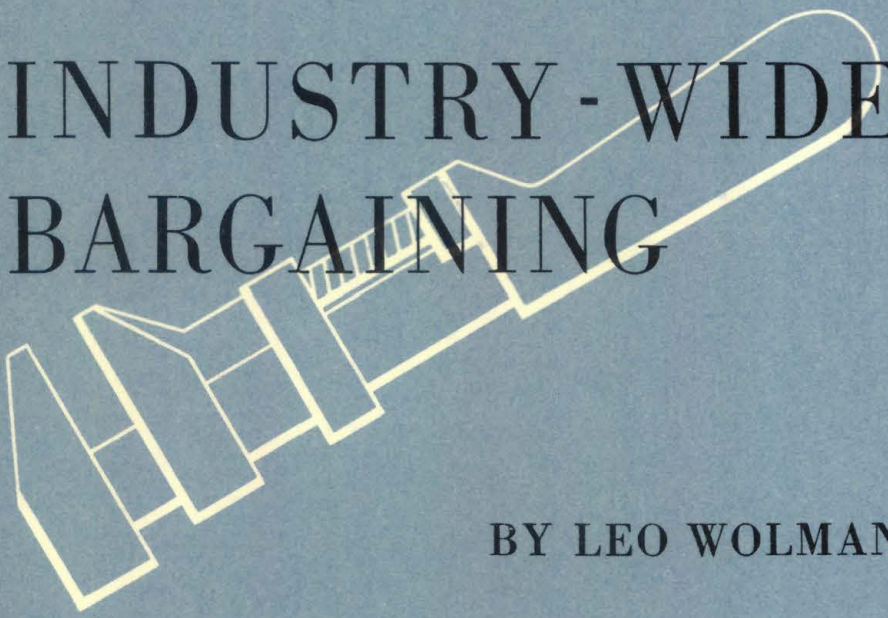
INDUSTRY-WIDE BARGAINING



BY LEO WOLMAN

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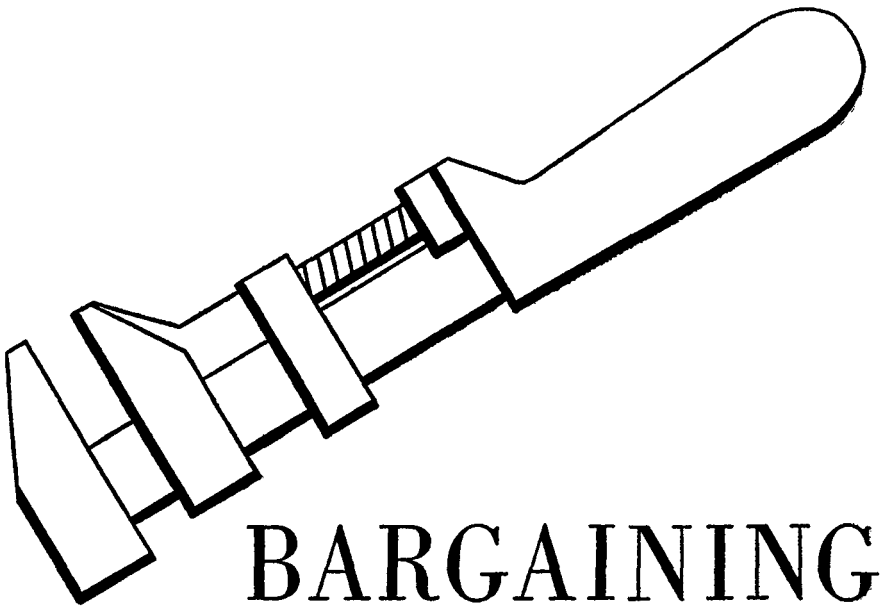

BARGAINING

BY LEO WOLMAN

IRVINGTON-ON-HUDSON, NEW YORK 1948

FOREWORD

DEVELOPMENTS during the past decade have brought the issue of industry-wide bargaining to the front as a crucial issue in the American economy. Such an outstanding issue deserves the study and analysis of an outstanding scholar. Leo Wolman, professor of Economics at Columbia University, is an eminent authority in the field of labor relations.

Professor Wolman has written extensively on labor relations and related subjects. His works include: *The Boycott in American Trade Unions; Growth of American Trade Unions 1880-1923; Planning and Control of Public Works; Ebb and Flow in Trade Unionism.* He is co-author of *Business Cycles and Unemployment; Recent Economic Changes; Recent Social Trends;* and *The State in Society.*

Presently a member of the research staff of the National Bureau of Economic Research, Leo Wolman has served on numerous public and private boards and agencies. He is a trustee of the Mutual Life Insurance Company of New York and of The Foundation for Economic Education.

LEONARD E. READ

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INDUSTRY-WIDE BARGAINING

THE people of the United States have had many opportunities in recent years to see what happens when one union or a combine of unions controls the labor force of an entire industry. Each year, since the end of the war, the United Mine Workers has struck. Each time it has effectively cut off the coal supply of the country because the employers refused to grant the union's demands. Each time the result has been a spreading paralysis of industry and trade. In the railroad industry we have had one national strike and the threat of another. In the automobile, and in the steel industry, not to speak of others, a wage and contract settlement with one important company has become, for all practical purposes, the settlement for all other companies because the unions of automobile and steel workers have the power to impose their terms on all employers, whether or not they have seriously bargained over them and arrived at them by voluntary agreement.

These are the facts. But what are the causes of them? How did these events come to be? And what is to be done about them? On the railroads and in coal mining, industry bargaining is a matter of formal contract. In the more recently organized auto-

mobile, steel, electrical manufacturing and a score of other industries, the same results are accomplished without a general, formal agreement. In either case, whether the terms of collective contracts are arrived at in one way or the other, this trend toward "industry-wide bargaining" is fraught with political and economic consequences that are little understood by the public as well as by the parties to organized labor relations. These consequences affect the welfare of every man, woman and child in this and every other country. Any effort to clarify this problem, therefore, should clearly be an educational responsibility of first-rate importance.

In its pure form industry-wide bargaining exists when one or several unions, acting together, bargain with an employers' association over wages and working conditions for an entire industry. The contracts, or agreements, apply to all of the firms or employers in the industry. In practice, industry-wide bargaining in this extreme form is rare in the United States. But something close to it exists in the railroad and bituminous coal industries, where for all practical purposes, the unions and the employers' associations usually legislate for everybody in the industry — company and employee.

More common than systems of industry-wide bargaining are regional and local systems. In these, employers in a city or wider area join together to bargain for the industry in that area or region with the union or unions representing their employees. Such "multiple-employer" bargaining may cover an entire industry or a part of it, or it may cover the employers of diverse industries in a given area. Good examples are the local arrangements in the building industry in many parts of the country and the arrangements prevailing in San Francisco between the

San Francisco Employers' Council and various of the unions in that city.

Under arrangements of this kind, a chief purpose is to fix uniform scales of wages and uniform working conditions within an entire industry or area. Uniformity may not always be achieved, and where it is achieved it may not last or it may be interrupted. But uniformity is still the goal. There are often obstacles in the way of getting it, but the struggle to surmount them goes on.

To many laymen and even to some professional students of labor problems, there seems to be nothing wrong with this aim or policy. It seems natural to move from bargaining with a single employer to dealing with a group of employers and then with an entire industry, acting as a unit. The objectives appear valid and reasonable. Each party to the arrangement is considered to be within his rights. Essential interests are being protected. The scheme of things frequently looks like "stability," and any policy that lays claim to promoting stability is assumed to be correct and good.

This appeared, until recently anyhow, to be the prevailing public opinion toward such devices as industry-wide and multiple-employer bargaining. The subject was never even mentioned in the halls of Congress. Only in the past few years has there been a noticeable shift in opinion. And with this shift in opinion the whole subject of bargaining by industry has come to be regarded as the single most important issue of labor relations and public policy toward the labor problem.

It is no accident, therefore, that the first session of the 80th Congress should have given extended attention to this question and that the legislative proposals for dealing with it should have

become the subject of bitter debate. In the task of revising the nation's labor law, to which this session was largely devoted, the matter of the scope of collective bargaining elicited the most novel proposals for altering existing legislation, as both Senate and House bills undertook to restrict the area of bargaining.

The House bill (H.R. 3020), in the section dealing with representatives and elections, provided:

> A representative that has been designated or acts as the representative of employees of any employer shall be ineligible to be certified as the representative of employees of any competing employer, unless the employees of such employers whom the representative seeks to represent are regularly less than one hundred in number and the plants or other facilities of such employers at which the representative acts and seeks to act as such are less than fifty miles apart, but nothing in this paragraph shall prevent any representatives from being affiliated or associated, directly or through a federation, association, or parent organization, with representatives of employees of competing employers, if the collective bargaining, concerted activities, or terms of collective bargains or arrangements of such representatives are not subject, directly or indirectly, to common control or approval: Provided, that no such competing employers may engage in concerted activities, collective bargaining, or arrangement in the formulation of labor policy for collective bargaining whereby any such competing employer is subject, directly or indirectly, to common control or approval of any other competing employer except in the instances mentioned above where the plants and facilities are less than fifty miles apart and the employees of such plants are regularly less than one hundred in number.

It should be plain what the purpose of these elaborate provisions was. It was to prevent employers and unions from agreeing to fix wages and working conditions for large competitive areas. To accomplish this purpose the bill would have restricted common collective bargaining and collective labor contracts to a radius of 50 miles and within that area to em-

ployers regularly employing less than 100 employees. Had these terms been adopted, they would clearly have outlawed current labor relations practices in the coal and railroad industries and probably in many others. In time, also, they would have probably transformed the character of American trade unionism.

What the House of Representatives had in mind, when it drafted this language, it sets forth in House Report No. 245 on H. R. 3020:

> Probably the most important clause of section 9 (f) is that which limits industry-wide bargaining. . . . Arrangements by which competing employers combine, voluntarily or involuntarily, to bargain together, and arrangements by which great national and international labor monopolies dictate the terms upon which competing employers must operate seriously undermine our free competitive system. They undermine, also, the rights of the men in the mines and in the shops, who find their terms of employment determined not according to their circumstances and those of their employers but by arbitrary decisions of the national and international officers.
>
> Such arrangements as these stifle competition among employers, and slow down the development of new techniques for producing more goods to sell at lower prices. They tend, in some cases, to reduce the resistance of employers to extravagant demands of the unions, and, in others, to holding down wages in plants where greater efficiency than prevails in others might, but for the group arrangements, result in better wages for the employees. The arrangements often are the foundation of shocking restraints of trade, such as we find in the construction trades and in parts of the clothing industry.
>
> It is no answer to all this to say that some employers like to combine together to bargain collectively. It is natural that they should dislike having their plants struck while the plants of employers who are competitors, or who ought to be, are operating. Most employers believe that the disadvantages of industry-wide bargaining outweigh its advantages. Our concern, however, is not with its advantages and disadvantages for either employers or unions. Our concern is the public interest, and the

public interest demands that monopolistic practices in collective bargaining come to an end.

The Taft-Hartley Act, adopted over the President's veto by the Senate on June 23, 1947, failed to include the bars to industry-wide and multiple-employer bargaining of H. R. 3020. They had been passed, with a substantial majority by the House, and an analogous version, sponsored by Senator Ball, was rejected in the Senate by a majority of one. The problem with which the 80th Congress sought unsuccessfully to deal has, however, not been settled. It has become increasingly a subject of discussion and inquiry. In the literature on labor and labor relations, the question was once treated as a natural and expected stage in the evolution of collective bargaining. Now writers on the subject are seriously re-examining the issues involved, and, in the process, some minds are apparently being changed. The question of industry-wide bargaining stands high on the agenda of the Joint Congressional Committee on Labor-Management Relations, created by Congress to "conduct a thorough study and investigation of the entire field of labor-management relations, including . . . the methods and procedures for best carrying out the collective-bargaining processes, with special attention to the effects of industry-wide or regional bargaining upon the national economy. . . . "

The rise to importance at this time of the problem of industry-wide bargaining is the result of practical experience with labor relations in this country during the last 15 years. This experience raised many new and unanticipated questions and caused the old and accepted institutions of organized labor and collective bargaining to be viewed with a more critical eye. What had hitherto been taken for granted as an indispensable reform

and humanitarian movement some now regard as the source of great evils. To understand this formidable change in opinion, the first task is to describe the conditions and setting under which it took place.

1. THE SETTING

WHAT obviously focused public attention on the systems of union-employer relations in the United States was the unparalleled growth of unionism since 1935. From 1935 to 1940 union membership increased from 3,650,000 to 8,100,000. By 1947, there had been added another 6 million, bringing the total to 14,300,000. In 1948, the number was still rising.

There is no parallel to such an expansion of trade unionism in the entire history of the country. In an earlier period of union growth, during World War I, membership advanced from something over 2,500,000 in 1914 to 5,000,000 in 1920. No comparable expansion of unions, in so short a time, can be found in other industrial countries of the world, unless the peculiar and unique growth of the Russian unions since the revolution is considered comparable to what has happened to the so-called "free" labor movements of England and Western Europe. The English unions arose in an environment which most Americans believed to be much more friendly to organized labor than the American. They raised their membership during World War I from roughly 4 to 8 million. And today, after several years of Labor Government and full employment, the number is not much greater than in 1920.

In a little more than a decade, unionism radically changed its position in the United States. From a small minority, representing most of the time little more than 10 percent of the nonagricultural wage-earning and salaried population, it rose in these last years to a minority empowered to speak for 40 percent. It is only natural that so great a shift in absolute and relative power should shortly place old and familiar questions in a new perspective. It was to be expected that a public which viewed the behavior of a small and relatively weak minority with equanimity and indifference should begin to take seriously the same practices in the hands of a larger and much more powerful minority. For, if nothing else had changed, the new minority was certainly much more likely than the old to be able to enforce its demands.

This was not the only change in the position of organized labor. In the long industrial history of this country preceding the last decade, trade unionism was a limited movement. It was consistently strong in building and on the railroads, occasionally so in coal mining and clothing, firmly embedded in such crafts as actors, theatrical stage employees, musicians, and printers. Beyond this, there was little or no organization. The extensive manufacturing industries of iron and steel, machinery, food, textiles, automobiles; mining other than coal; transportation other than railroads; public utilities; trade and commerce; and the services were all practically unorganized. Whatever there was of a labor movement in the United States before 1935 was segregated in a handful of industries and crafts.

With the increase in total membership, large segments of these unorganized industries were rapidly unionized. In the services, unions are still weak, and in wholesale and retail trade, though

union membership is rising, it constitutes a small percentage of those employed. But the balance of industries formerly non-union became largely union. In a decade the leading manufacturing industries were organized. So were trucking, water transportation, and air transport; the electric light and gas industries; metal mining, not to speak of an extensive and heterogeneous group of employees hitherto unorganized and, until recently, unorganizable.

This transformation in the position of organized labor had swift practical consequences. Union policies and practices which previously affected only the fringes of American industry now went to its very heart. Single unions or combinations of them now had the power to shut off the flow of innumerable goods and services, or to determine the conditions under which it was allowed. In a country in which the right of men and women to strike was freely granted, this was the first time that organized labor was strong enough to shut down any one of a long list of important and often essential economic activities. With the disappearance of limited unionism, there was the threat of the disappearance of the limited strike. As the labor movement became more or less universal, the public increasingly faced the risk, in times of labor trouble, of being deprived of a variety of goods and services and of their competitive substitutes.

The rise and spread of organized labor, therefore, aroused public concern simply because what had before been restricted had now become general. Featherbedding attracted hardly any attention so long as it was practiced only in the building and railroad industries and by musicians, but it rose to the position of a major political issue when it promised to become a universal labor policy. The right to strike, in recent decades denied only

by extremists, took on a wholly different complexion once exercise of the right threatened recurrent industrial paralysis and crises and endangered the people's health and safety. In a country, also, long hostile to monopoly of any sort, the far-flung development of union monopoly could hardly be expected to pass unnoticed and, in the long run, untouched.

At the center of these changes and fears stands the national union, the highest stage in the evolution of trade union government. The national union binds diverse local and occupational unions into a central organization. As a rule it is the custodian of the union's financial resources, the center of power, and the originator of policy. Local constituencies are held in line through the discipline imposed by the union's national, or central, office. Like most popular organizations, the national union is ruled by an extensive political machine which, once it is firmly established, is necessarily concerned with perpetuating itself in office. It is only natural that an organization of this type should be moved by various, and often conflicting, considerations. It is usually not unaware of the economic course best calculated to serve the interest of its members. But as a political machine, concerned with augmenting the power of the union, it often decides to use the methods and strategy best calculated to serve the interest of the organizations whether or not the resulting policies are sound and beneficial to the members. Whenever these interests come into conflict, as they invariably do, one must give way to the other. It is not inconceivable that there should be frequent occasions when the members' interest is subordinated to the interest of the union.

We have in the national union, therefore, a species of private political machine or government which, in the nature of the case

and in common with all governments, is engaged in furthering its own, special ends. In 1947, there were some 200 such national unions in the United States, the majority of them being organizations of substantial size. The following seven national unions claimed, in 1947, between 500,000 and 1,000,000 members and exercised jurisdiction over a wide range of industry:

UNION	MEMBERSHIP IN 1947
United Steel Workers (C.I.O.)	858,000
United Automobile Workers (C.I.O.)	836,000
Machinists' Union (Independent)	650,000
Brotherhood of Teamsters (A.F. of L.)	625,000
United Electrical and Radio Workers (C.I.O.)	625,000
United Mine Workers (Independent)	600,000
Brotherhood of Carpenters (A.F. of L.)	600,000

Aside from everything else, organizations of this type constitute large and valuable vested interests, which, once they are acquired, the union officialdom is loath to surrender. Although national unions possess extensive powers, many of them analogous to the powers of government, they are essentially private institutions. What they do lies in large measure within their own discretion, and their authority to make laws on matters that go far beyond the immediate and often narrow interests of the union and its members is subject to few practical restrictions. The extent of the area over which they claim jurisdiction and for which they make the policies governing working conditions is determined by their own arbitrary decision. The United Steel Workers, for example, has in its short life organized an infinite variety of shops, all of which it elects to classify under the steel industry and in which it then attempts to apply, usually with marked success, common rules. The United Mine Workers, pur-

suing a similar imperialistic design, by a simple revision of its constitution, converted itself overnight from a union composed exclusively of coal miners to an organization of coal miners plus chemical, plastic, building, clothing, and other employees.

Under prevailing American law, custom, practice, and public policy, it is considered an inalienable right of national unions to bring under their sway employers and employees, wherever they are, whatever they may be doing, and by whatever methods the unions may choose to use. Testifying before the House Committee on Labor, Paul S. Chalfant, a labor relations consultant, describes the behavior of the Teamsters' union as follows:[1]

More than a year ago the Teamsters filed for strike votes under the Smith-Connally Act in 3191 companies in the Midcontinent area. Of these, 3190 were named, while No. 91 was John Doe, identified in the petition as hundreds of companies operating "into, within and out of" that area.

One John Doe petition resulted in the case of Interstate-Trinity Warehouse Company et al. vs. Edwin A. Elliott, No. 1823 Civil. Judge William H. Atwell of the United States District Court at Dallas, Texas, heard this utterly fantastic testimony in the suit to enjoin the Teamsters from holding strike elections in a group of Dallas warehouses:

J. B. Turner, business agent of Teamsters Local No. 745 testified that he got the list of companies from the local telephone directory. He was asked to "tell the court what companies, if any, you had a labor dispute with at the time you filed the (strike) notice."

His astounding reply was: "Well, those issues in dispute, as I interpret this, I would say, either came from our International office or our attorney, our legal advisor, is where this form was made." Here you have an Indianapolis-made conspiracy, top-side strategy, applied at the Dallas level.

Well, the transcript shows that a representative of the U. S. Conciliation Service telephoned Mr. Turner and asked whether he would call off the request for a strike vote. Turner declined, presumably on orders

[1] Exhibit No. 1 (mimeographed copy from the author).

from Indianapolis, so the conciliator certified the case to the NLRB as a dispute.

Edwin A. Elliott, NLRB Regional Director, the defendant, was asked as to his investigation of "whether or not Local 745 was the representative of the employees of these employers." Elliott replied: "The only function we have, sir, is to conduct the election. We do not make the investigation."

Judge Atwell lost no time in granting the injunction, and in his oral decision said: "Did the defendant (Elliott), knowing the facts, and having additional information from these employers, let the Boards at Washington, making up this machinery, know about this? I fear not. But like the ready servant that he was, he proceeded to arrange to do what this representative of none of the parties (Turner), and where there was no dispute, asked to have done."

Variants of this kind of behavior are by no means rare. If they have escaped the public's attention, it is only because labor treatises and other writings on the labor problem fail to deal with such matters.

The national union, being what it is, is an instrument ideally suited for the practice of monopoly. The typical national union is constantly re-defining and extending the boundaries of the competitive area for which it stakes out its claim. The avowed purpose of the undertaking is to restrain, reduce, or eliminate competition in anything that may be defined as a condition of work. The grand aim of a labor movement is to raise all standards of pay and working conditions, and to see to it that no one falls behind the leader of the procession. Therefore, the main objective of the national union is to remove all labor conditions from the influence of competition.

In the years since 1935, these actual and potential restraints on competition have become more formidable than they ever were before. One reason for this is that they are today, because

of the expansion of trade unionism, more extensively practiced than in the past. Secondly, the list of issues which are subject to joint negotiation and collective bargaining is much longer than it was 10 years ago, and it is still being extended under the influence of public policy, decisions of the National Labor Relations Board, and the effective demands of the unions. Thirdly, unionism is spreading to industries which customarily competed one against the other — as, for example, trucking competed against the railroads, oil against coal, etc. In these days, the common run of industries is already organized or is rapidly becoming so and it is the accepted policy for one union to reach for the higher standards of another. The result, therefore, is to reduce competition between industries as well as within them. Competition is thus attacked from two directions — inside an industry and between industries that normally compete with each other. This tendency does not take into account the efforts of strong pressure groups, like the modern unions, to use their political influence to block the establishment of competitive enterprises.

In these recent developments in organized labor and labor relations the federal government took a leading and decisive part. Clearly, in the absence of government intervention there would have been nothing like the spread of unionism such as has taken place since 1935. A succession of federal laws to promote unionism began with the Railway Labor Act of 1926 and reached its climax in the Wagner Act of 1935. These laws were supported by numerous federal administrative agencies whose functions directly or indirectly touch the labor situation. These laws and agencies not only removed existing obstacles to unionization, but deliberately promoted the expansion of labor

unions. In addition, there was widespread failure of local courts and police to enforce the laws against assault and intimidation and against illegal seizure of property by union pickets. In many cases the police actually helped the pickets keep nonunion workers away from their jobs on the grounds that they were thereby helping "keep the peace." In this process of unionizing the labor force, the dividing line between lawful and unlawful practices, between sound and unsound public policy was slight. And, in retrospect, it is fair to say that at no time in these years were the probable consequences of the country's labor policies carefully examined and appraised.

A decade's experience with a vastly expanded labor movement has deeply affected American opinion. Conclusions previously held are no longer taken for granted. For many participants in labor relations and for many students of the labor situation, the rise of a universal labor movement and the way such a movement deals with the country's industry have raised novel and unforeseen problems. The question is what the most critical of these problems are.

2. THE QUESTION OF LABOR MONOPOLY

On their face, the national union and the type of bargaining it practices present the practical features of monopoly. The aim of the national union is to extend its jurisdiction over the widest possible competitive area. Where the competitive area is local or regional, as it is in building, the appropriate labor bargaining unit is limited to that region or locality. In both cases, the purpose common to all labor movements and all systems of labor relations is to restrict competition in labor matters, or to do away with it. Even such defenders of industry-wide bargaining, as Richard A. Lester and Edward A. Robie, recently wrote:[2] "Most national unions in industries producing for a national market favor country-wide uniformity in wage scales to 'take labor out of competition.' "

Yet, despite the plain evidence, the literature on the question is full of confusion and contradiction. Some students deny the existence of monopoly or hold that, though the purposes of modern trade unionism are monopolistic, these purposes are rarely achieved. Hence union policies or intentions are of no practical importance. This seems to be Lester's view when he

[2] *Wages Under National and Regional Collective Bargaining*, Princeton University, Princeton, N. J., 1946, p. 7.

says:[3] "Cases of real industry-wide bargaining are relatively rare if one means by the term that practically all the industry is represented in a single negotiation."

Some admit both the tendency to labor monopoly and the practice of it, but justify these labor policies by asserting that, since industry is monopolized, labor unions have to do the same thing in self-defense. The editor of the *CIO News* takes this position in one of his recent editorials in that influential paper:[4]

> I may be damned as a dangerous radical for saying this, but I'd like for this nation of ours to try out free enterprise — free competitive enterprise. . . .
>
> Just think what might happen to the cost of living if steel and other basic commodities were sold on a competitive basis. . . .
>
> The more I think about it the more convinced I become that a real, free competitive enterprise system would be a good thing. . . .
>
> I haven't figured out yet exactly how trade unions would operate under such a system, but obviously their role wouldn't be more difficult than it is now.

Another view, deriving from the widely accepted notion that labor is not a commodity, is that the economic policies of labor relations are guided by principles peculiar to themselves. Those who take this position are, as a rule, supporters of a competitive private business system. But they believe that the principles of business competition do not apply to the labor market. This opinion, widely held by contemporary students of labor, rests on the assumption that there must be some other principles of wage-determination than the competitive forces of the market. What these principles are is not disclosed. But the nature of the argument is revealed in the following statement of it:[5]

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[3] Richard A. Lester, "Reflections on the 'Labor Monopoly' Issue," *Journal of Political Economy*, Dec. 1947, p. 521.

[4] Allan L. Swim, "Radical Doctrine: Free Enterprise," *CIO News*, May 17, 1948.

[5] Lester, article cited, *Journal of Political Economy*, p. 530.

> . . . One may conceive the labor market as subject to its own peculiar principles and conditions, which normally and necessarily involve price-fixing and monopolistic elements, and view labor unions as political institutions, striving to survive, expand and gain certain positions within a labor movement. Such a conceptual framework rejects the blanket borrowing of commodity-market programs intended to curtail monopoly or enforce competition and requires that any remedial programs be tailor-made for the labor market and labor unions.

Thus the specialist in what is nowadays called labor economics often appears unable or unwilling to deal lucidly and correctly with the economics of the labor problem. He avoids grappling with the problem of the effects of alternative labor policies on the performance of an economic system. By juggling the terms "political" and "economic" he professes to reach a conclusion concerning the validity of a proposed course of action, failing to note that an incorrect economic decision, if that is what it is, is not made correct and desirable by calling it a political decision. Throughout the world and in connection with numerous issues many bad economic decisions are being made in deference to political considerations, and it is a doubtful service to the members of a union and to the country to deny them a competent analysis of union policies only, or primarily, because unions are simultaneously economic and political institutions.

More straightforward discussion of the elements of monopoly in modern trade-unionism makes it quite clear how strong those elements are. As the English economist, H. W. Singer, points out[6] collective wage bargaining has been developed as a device for getting higher wages. Insofar as it has had this effect it has

[6] H. W. Singer, "Wage Policy in Full Employment," *The Economic Journal, Dec.* 1947, p. 438.

been only because most employers put up much less individual resistance to wage demand when they know that all employers are going to be subject to the same rise in costs. This, of course, accounts for the preference of trade unions — which would otherwise seem incomprehensible or even foolish — to deal with representative employers' associations instead of dealing with employers individually. The more employers the wage agreement covers, the less will it affect the competitive position of any one of them within the industry and the easier will it be to shift higher wages on to prices. The next step, naturally, is a unified wage bargaining system covering all industries. "Producers will lose the last incentive to resist wages claims since not only their position within their industry but also the position of their industry *vis-a-vis* other industries would remain unaffected by a universal change in wages. Further, the last impediment to absorb the wage increases in higher prices would also be gone since the prices of possible substitutes — if only in the sense of goods competing for people's income — would be similarly affected."

Two representatives of American management, writing about the advantages of industry-wide bargaining to unions, make these observations:[7]

> Equalization of wage rates throughout the industry or area . . . tends to stabilize wages and reduce employer hesitation to grant wage increases, since the increases will equally affect all competitors . . . one union (New York State Council of Machinists) states. . . . "The union also has the problem of unionizing entire industries and areas in order to stabilize working conditions. By this means we eliminate the low-paid shops by bringing them all up to a minimum standard and pre-

[7] R. C. Smyth and M. J. Murphy, "Industry-Wide Bargaining," *Personnel Journal*, Vol. 26, No. 3, p. 109.

venting a few shops from undermining the standards set for the area or the industry." . . . Labor costs tend to be equalized throughout the industry through the stabilization of wages, hours, and working conditions under the master contract, thus eliminating one area of competition within the industry or area.

These authors have no doubts about the purpose or effect of national or regional bargaining, which is to take wages and working conditions out of competition. They do not, however, consider the virtues or evils of this development. This cannot be said of Sidney and Beatrice Webb, the first systematic theoreticians of organized labor and collective bargaining and, by all odds, the most influential of all the writers on the labor question in the modern world. The Webbs did not conceal their views of the way collective bargaining would affect a competitive business society. They regarded competition as the source of labor ills, and they looked to collective bargaining to curb it. In their scheme of things, collective bargaining, as practiced in England of the late 19th and early 20th centuries, was a stage in the evolution of British economic organization from capitalism to socialism. They believed, therefore, that the natural development of labor unions would apply increasingly effective restraints to competition.

Their discussion of collective bargaining makes it clear that an ideal system of labor relations embraces a total competitive area. In *Industrial Democracy*, they write:[8]

It is a necessary incident of the collective bargain that one man should not underbid another. . . . Trade unionism cannot be said yet to have progressed beyond the securing of a local standard rate. This leaves the workmen exposed to the constant attempts of employers to "level down" the rates in the better-paid districts, in order, they assert,

[8] 1920 ed., pp. 305, 319, 320.

to meet the competition of the lower-paid districts. . . . It is a fundamental article of the trade union faith that it is impossible, in a system of competitive industry, to prevent the degradation of the standard of life, unless the conditions of labor are settled, not by individual bargaining, but by some common rule.

There cannot be much doubt that these various interpreters of the modern labor movement, whatever their individual differences or predilections, see unions as actual or potential monopolies. For all of them the distinguishing feature of unionism and collective bargaining is the practice of monopoly. Men differ, therefore, not as to whether labor unions tend to become instruments of monopoly or whether an established, strong national union is in fact a monopoly. What they really differ about and what, indeed, has not been satisfactorily considered, is whether this condition, whose existence is admitted, is of any importance and what its effects are.

3. THE EFFECTS OF LABOR MONOPOLY

THE most common error, persistently repeated in union propaganda is the assertion that the total wage and salary bill is a relatively small item and, therefore, an insignificant part of the cost of doing business. If this is so then changes, up or down, in wages do not have serious effects on the behavior of the economy. Under such conditions almost any wage policy could be expected to work. And the whole business of trade unionism and collective bargaining would hardly deserve anything like the attention they now receive.

The fact is, however, that wages and salaries are overwhelmingly the largest item of business costs. Depending on how they are defined, they are estimated to average over long periods of time from well over 60 to more than 80 percent of the national income. Of these two figures, the larger is the more relevant since it contains other classes of pay, such as the income of farmers, professionals, self-employed, which must in any case be paid no matter what scheme of economic organization is in effect. When, therefore, labor spokesmen speak of aggregate wages amounting to 10 or 20 percent of cost, they are misleading their followers and confusing the issues.

Moreover, with the expansion of organized labor, the total

wage bill tends to be increased by the addition of new labor costs. A most prolific source of such added costs are the numerous issues which tend, with the advance of labor unionism, to become the subject of collective bargaining. In the United States these increases in costs have come only recently because the bulk of the labor movement is young. But the concessions won through negotiations over these issues have already grown to large proportions and they are rapidly increasing. The issues in question cover a variety of demands, from vacations with pay to seniority, hiring halls, welfare funds, pensions, and insurance. In the soft coal industry the tax of 20 cents a ton collected to finance a welfare fund for coal miners is estimated to be the equivalent of 15 cents an hour in wages. Actuarial estimates of the cost of the social insurance system available to railroad employees put the future burden of that plan at more than 20 percent of the payroll.

These additions to cost are, in the common run of industry, still in their infancy. Before the war, except in isolated cases, such matters were not often bargained over and were moderate in cost. With respect to them, management possessed considerable freedom of action. This condition was changed by government policy during the war. At that time the so-called "fringe" issues, then considered non-inflationary substitutes for direct wage demands, were brought under collective bargaining by the War Labor Board and the Board required employers to make concessions on these issues. The latest stage in this evolution was reached several months ago when the National Labor Relations Board held that the refusal of employers to bargain with unions over pension and insurance plans was a violation of the Taft-Hartley Act.

Many of the costs of collective bargaining are indirect. They

arise out of restrictions on the right to manage which are a feature of nearly all highly developed systems of collective bargaining. They arise, also, out of the restrictive practices systematically introduced and fostered by union policy in nearly all established systems of organized labor relations. In the early stages of such collective arrangements, the costs of these policies are not easy to see, much less to measure. But they grow steadily from year to year, if the union retains its strength. After several decades they have risen to large proportions and have become a decisive factor in the position of an industry, as can be seen in the history of the building and railroad industries.

National unions, therefore, which are fixing the wage costs of the country in a large and increasing proportion of its industry are dealing with the major element in total business costs. To the extent that these unions pursue monopolistic policies, they overshadow any private business monopolies with which this country has yet had experience. The several hundred national unions of the contemporary American labor movement can, if they adhere to the traditional policy of taking labor out of competition, effectively monopolize the labor market for major economic activities of the United States. And taking labor out of competition will amount in time to taking business out of competition.

This is not to say that these ends have been secured or that the methods of monopoly have reached their apex. But things have gone a long way. Industry-wide bargaining, the most perfect device for administering labor monopoly, is thus far employed by relatively few unions, but practices which produce the same result are being widely and effectively used. What has happened is that the labor movement has, for the moment any-

how, yielded the form in exchange for the substance of power. As a report of the U. S. Department of Labor puts it:[9]

> In the more recently organized, mass-production industries there are at present no examples of industry-wide bargaining resulting in a single union agreement covering the full range of employer-union relations. In a few such industries, however, certain bargaining relationships have come into existence which produce considerable uniformity in the agreements throughout an industry.

This model of understatement means that, where the new national unions have as yet been unable to persuade the employers of an industry to bargain jointly for the entire industry, the unions have accomplished much the same result by insisting upon identical terms of settlement with all of the members of the industry. These terms comprehend not only wages, but also work-rules, methods of bargaining, and "fringe" issues. Bargaining in this manner has been widely practiced in the steel, automobile, rubber, and other industries.

The method is, in fact, so widely practiced that the fixing of national wage and labor "patterns" is regarded by some as equal to an industry-wide master contract. Here and there, also, recognizing the practical consequences of "pattern" bargaining, employers are being persuaded to withdraw their opposition to industry-wide contracts. They would, apparently, rather do jointly and formally what they are already doing singly and informally.

Under "pattern" bargaining national unions, like the Steel and Automobile Workers, first make a settlement with a large and preferably prosperous company. The union then takes this

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[9] Bulletin No. 897, Bureau of Labor Statistics, U. S. Department of Labor, 1947, p. 8.

settlement as the pattern or standard for the industry under its jurisdiction. This standard it then proceeds to apply in all of its contracts, to large and small firms, wherever situated, and whatever the relation of a company's product may be to the product of the industry over which the union elects to assert its authority. These practices and policies, a feature of the great strikes of 1945-46, were a powerful influence in persuading Congress to deal with the questions of national bargaining and contracts. They made members of Congress aware of the threat and dangers of national labor monopoly.

This form of bargaining has been going on for only a few years, but it has already had far-reaching effects on the wage structure of the country. In the steel and automobile industries long-standing wage differentials in favor of plants situated in small towns and rural communities and of small and new business have been eliminated. Companies of this type now pay as much as or more than is paid in large, urban industrial centers. They may not yet have been forced to make the multiplicity of concessions on "fringe" issues which have been granted by the great corporations. But the process of attrition is inexorable and the lag between regions and type of business is steadily narrowing.

Will the effects of these policies and practices be any healthier here than they have been in the long unionized industries? At the moment these effects are covered over by an inflation which makes everything look rosier than it really is. When the inflation ends, as it always does, we may expect these policies of national unionism and national bargaining to shrink the total volume of employment and to divert to the larger industrial centers a good deal of what employment is left.

Let us look, therefore, at the experience of an industry in which the practice of national bargaining has had a long history. On the railroads, steeply rising labor costs plus greater uniformity in wages and working conditions have certainly not led to a satisfactory record of employment, not to speak of other consequences. A recent report on "Railroad Wages and Labor Relations, 1900-1946"[10] makes this pertinent observation:

> The problem (of mounting labor costs for passenger service) becomes even more exigent on branch lines. Today there is hardly any greater subject of complaint against the railroads or any cause which more contributes to popular ill-will against them than the drying up of passenger service for countless communities scattered through the country which do not happen to be located on through arteries of railroad transportation.
>
> The results of this character are at least in part due to the insistence of labor organizations on absolute standardization and uniformity of wages, pay practices and working rules in all parts of the country and on all lines of railroads, without allowing consideration to be given to differences in operating and traffic conditions nor to the standards and cost of living in different localities.
>
> Another result of this insistence on standardization is that the financial ability of a very few comparatively prosperous railroads too frequently supplies the standard for the wage demands which are made upon all railroads generally. . . .

Over a shorter period of time, a strong national union, the United Mine Workers, has brought about the equivalent of industry bargaining. It has raised wages and labor costs to unusually high levels and established national uniformity in wages. The course since 1919 of the differences in wages in the northern and southern bituminous coal fields is shown in the following table:

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[10] Published by the Executive Committee of the Bureau of Information of the Eastern Railways, New York, June 1947, p. 24.

WAGE DIFFERENTIALS IN BITUMINOUS COAL MINING SINCE 1919[11]

PERIOD	PERCENT SOUTHERN OF NORTHERN RATE
1919 (January to May)	86.8
1921-22 (October 1 to February 15)	91.6
1924 (October to December)	79.0
1926-27 (November to March)	77.9
1929 (first quarter)	87.1
1931 (first quarter)	83.4
1933 (February)	81.7
September 1933 to April 1934	91.3
April 1934 to October 1935	92.0
October 1935 to April 1937	92.7
April 1937 to April 1941	93.3
April 1941 to July 1947	100.0

From 1939 to 1948, the hourly earnings of soft coal miners rose from 89 cents to two dollars. And the final figure does not include the equivalent in hourly earnings of the welfare tax of 20 cents a ton of coal. The resulting rise in the price of coal, not to mention the uncertainty of supply in time of strikes, has led hundreds of thousands of former users of coal to turn to other sources of heat and power. Looking ahead to what are bound to be unsettled economic conditions it is doubtful that the

[11] Source and description of data, 1919-1933, are given in footnote 12; of the data 1933-1947 in footnote 13.

[12] Source: Berquist et al., *Economic Survey of the Bituminous Coal Industry Under Free Competition and Code Regulation*, NRA Work Materials No. 69, Vol. I, March 1936, p. 75. *Data are average hourly earnings* of bituminous coal miners in states east of the Mississippi. The South includes Kentucky, Virginia and West Virginia; the North includes Illinois, Indiana, Ohio and Pennsylvania.

[13] Source: National War Labor Board, *Report on Wages and Related Problems in the Bituminous Coal Industry*, p. 31. *Data are union daily wage rates* of inside skilled labor which are considered representative of the wage situation of all daily-rated workers. Due to the increase in unionization, union rates closely approximate straight-time average hourly earnings for all workers in the industry.

labor policies applied to this industry will produce satisfactory employment and payrolls or that the prevailing hourly rate will be a correct measure of the miners' annual earnings. Nor can it be predicted now where in the various centers of the coal industry a reduced output of coal will be produced.

Like all monopolies, labor monopolies do not adjust easily to changing conditions. Policies, once decided, are hard to revise. The very notion of "stability" to which monopoly is usually attached and which appears to be the cornerstone of monopolistic economic policy is a risky guide of conduct, especially in unstable times. The price paid for protecting certain standards of prices, wages, or work rules may well add instability to the whole enterprise. When an employer cannot reduce costs, he may have to close down altogether, or at least dismiss a large part of his labor force. When this happens to many employers at the same time, the result is mass unemployment and depression. What is likely to happen in prevailing labor relations is that at the first sign of trouble, adherence to established standards of wages and working conditions will prove more stubborn than ever. For the maintenance of previously won standards is the credo of the labor movement in general and of national unions in particular. Thus, instead of achieving the stability they desire, the national unions through their policies face the risk of prolonging the processes of adjustment and correction, postponing the date of recovery, and exposing their members to longer and more serious spells of unemployment than they would otherwise experience.

So long as a national union, operating in a nationally competitive industry, or a group of local unions, operating in a regionally competitive market, control the employers with whom

they deal, they are subject in what they do to little restraint. Hence, in good times, they are likely to go to extremes. And, in bad times, they will prove most reluctant to order a retreat. Having achieved the monopoly power to which they aspire, they become insensitive to the requirements of a competitive business system, on whose prosperity the welfare of the unions' members and of everyone else depends.

4. JOINT UNION-EMPLOYER MONOPOLY

INDUSTRY-WIDE bargaining, or its local counterparts, presupposes organization on both sides of the bargaining table. When it first organizes, a national union does alone what it prefers to do jointly with the employers. At that stage the majority of employers are reluctant to combine for bargaining purposes. They prefer to use their own resources in dealing with the union and they may even think that they derive competitive advantages from going it alone. They appear to benefit from the freedom they retain.

But in time this attitude begins to change. The union grows strong enough to wrest the same concessions from all employers whether the bargaining is done individually or collectively. To add to an employer's discomfiture, the union may strike his plants as an object lesson to his fellow employers. He may then make larger concessions than he thinks proper in order to settle the strike and stop the business from going to his competitors.

As this procedure is repeated employers begin to weaken. Like the labor organization, they accept the notion that in union there is strength. In time also, they detect added benefits. The new arrangements are more convenient. The responsibility for bargaining is placed in the hands of paid, professional negoti-

ators. And they are less worried about the concessions they are required to make since they are assured that all of their competitors are conceding the same things. By this time they have been won over also to the policy of taking labor out of competition.

This has been the usual evolution of collective bargaining in England and Western Europe and in the United States. Everywhere the same results follow. The employer-union relations become substantially collusive arrangements. Concessions are more willingly granted because everybody makes them simultaneously and because labor concessions can forthwith be translated into price increases which also everybody simultaneously makes. The public interest, then, is subordinated to this new joint interest of capital and labor, or employers and union, and the influence of competition is further impaired.

In practice, under such arrangements, employers' associations join with unions in fixing costs and prices and lose much of the interest competing businesses have in keeping their costs and prices down. In 1944, the British cotton industry, supported by the textile unions, proposed to the British Board of Trade "a regime of self-government . . . with legally enforceable price-fixing powers and with jurisdiction over rayon, cotton's young competitor." In rejecting the proposal, Mr. Dalton, then president of the Board of Trade, said: "There are grave dangers in such minimum price arrangements, which may easily lead to restriction rather than expansion of output, and to the perpetuation of inefficient and old-fashioned methods. . . . "

Though they differ in form, these arrangements are not unlike the price-fixing and restrictions that prevail in long unionized industries, such as building, and unless present forces are arrested, they will become established in the recently organized

lines. It was the United Mine Workers which, after the NRA, took the initiative in promoting federal price-control legislation for the coal industry. The numerous price-fixing and restrictive arrangements common to the building industry and their effects on the cost and supply of housing are matters of common knowledge.

An English student of the evolution of restrictive practices in England has this to say about union-management cooperation in furthering monopoly:[14] "But no doubt there is a general tendency for complementary monopolies to hang together lest they should hang separately. Thus the railway unions have publicly intervened in the road (bus) versus rail controversy on the side of their employers. Their members who happen to be members of Local Authority finance committees also customarily press the railways' case in local rating (tax) disputes."

In his testimony before the Joint Congressional Committee on Labor-Management Relations, the spokesman for some 20 railroad national unions makes the point[15] that the unions' quarrel is not with the railroads but with the Interstate Commerce Commission for not raising railroad rates fast enough. He says: " . . . it is the responsibility of management so to operate the enterprise and so to deal with regulatory agencies as to obtain from the rest of our economy a sufficient contribution in return for the transportation service the industry provides. . . . There are indications that perhaps this responsibility has not been successfully discharged."

The virtues ascribed to joint employer-union bargaining are

[14] A. S. J. Baster, *The Little Less — An Essay in The Political Economy of Restrictionism*, London, 1947, p. 59.

[15] *Railway Labor Relations*, Railway Labor Executives' Association, Washington, D. C., 1948, p. 30.

in the main illusory. If strikes are fewer, then where they are called they are larger and more expensive. When there are no strikes, then peace has been purchased at an excessively high price for all concerned. Nor is there evidence that employer organizations increase the bargaining power of employers. The contrary is the case. For organization removes the most formidable obstacles in the way of acceding to excessive demands.

The probabilities are that the owners and management of a business, as well as the men and women on their payroll, stand to lose when they turn over their negotiations to an association and its agents. Once that step is taken, the most serious and costly decisions of a business are made by outsiders not directly responsible for its survival and prosperity. The interest of the business becomes merged in the supposed interest of the industry, the constituents of which may often have little in common. The association, like a union, develops its own special needs, primarily the need to survive and expand, which before long become the dominant objective of its existence.

Although no one has scratched the surface in studying the effects of multiple bargaining on the fortunes of particular companies, examples of what is likely to happen keep cropping up all the time. An interesting one is the current dispute between the *Journal of Commerce* and the typographical union. In this case, the president of the *Journal of Commerce* refuses to accept the contract, negotiated for the newspapers of New York City by the union and the New York newspaper publishers' association. His reasons are that the contract, particularly its shift schedule and overtime provisions, fails to meet peculiar requirements of the *Journal.* The contract contains a no-deviation clause which prohibits making conditions for one paper different from

those set for all. The president of the *Journal,* commenting on this provision, says: "This means that *The New York Times* and the *Daily News* bargain for us. . . . We cannot hold our circulation unless we can get out on time, and we cannot afford to pay [for the cost of excessive overtime]."

These subtle developments arising out of joint employer bargaining are admirably set forth in a recent article on the San Francisco experience:[16]

> The effect of centralizing decisions, at least in San Francisco, generally seems to have turned collective bargaining, in a particularly pronounced way, into a political and legal institution, with formal procedures replacing informal ones and institutional relationships replacing personal relationships. Flexible personnel policies are supplanted by a legally defined system of rights and duties. Grievance procedure is vested in professional personnel. Differences of opinion are referred to the final authority of the contract, regardless of other considerations of equity. While these tendencies are evident also in single-unit bargaining, the extension of the agreement to a multi-unit area greatly augments them.
>
> There are distinctions between the employers' association and the constituent employers who compose it. The employers' association acquires an institutional character and an identity somewhat distinct from that of any of its member firms. It becomes interested in its own survival as an institution and must provide against internal conflicts which would threaten its dissolution. . . .

So, the interests of individual employer and employee are sacrificed to the purposes of organizations which were originally founded to benefit each of them.

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[16] Clark Kerr and Lloyd H. Fisher, "Multiple-Employer Bargaining: The San Francisco Experience" in *Insights Into Labor Issues,* Macmillan, 1948, pp. 33, 46.

5. ELIMINATING COMPETITION

BEFORE unions can achieve the monopoly in industry they aspire to, they must somehow eliminate competition from within their own ranks. This is not an easy task and in the long history of labor relations in the United States, it was most difficult to perform. Union monopoly, like business monopoly, is a tender plant. It depends for its success on special favors, in the law and in administration. Union monopoly, in particular, is an easy prey to competition, unless it is the beneficiary of extraordinary support and protection.

Such support and protection the unions of the 1930's received in fabulous measure from the federal government. They also were greatly aided by failure of local police and courts to protect non-union workers, non-strikers, and employers against intimidation and assault. Without such help the unions could not conceivably have brought under their control so large a share of the country's labor force. In their path stood unions already on the ground and working men and working women who, whether through indifference or conviction, were hard to convert to trade unionism.

The local independent organizations commonly described as company unions, were the most formidable barriers to the ex-

pansion of the A.F. of L. and C.I.O. unions. They were numerous and strategically located. They were, therefore, the first to receive the attention of the unionists and of the federal administration. One result was the Wagner Act which outlawed unions that were found to be company dominated.

This prohibition was broad, but it was the administration of it that successfully exterminated the independent, unaffiliated union and paved the way for the national unions to pick up the pieces. A close student of this episode describes this process as follows:[17]

> In 1935, independent labor organizations, those not affiliated with a great federation like the A.F. of L. or part of a national union like one of the railroad brotherhoods, represented 3,000,000 or more employees. Had they increased as affiliated unions increased, their members today would number nearly 14,000,000. Instead, they number around 1,000,000.
>
> From the start, the National Labor Relations Board regarded independent unions with suspicion. Its antipathy for them early became well known and is a matter of record. . . .
>
> A Regional Director of the Board expressed the view that "no independent labor organization could exist without some form of company support." . . .
>
> Another (agent of the Board) spoke of his wish "to get the old company union club polished up and go to work." . . .
>
> Still another reported his efforts to handicap independent unions by withholding from them information as to how to get themselves certified.
>
> The Board's chief administrative officer told subordinates to file "in the icebox" petitions of independent unions for certification as bargaining agents.

Such effective intervention by the government produced quick results. In a short time the independent unions were dispossessed and the national unions moved in and took their place.

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[17] Theodore R. Iserman, *Industrial Peace and the Wagner Act*, New York, 1947, p. 41.

Had these independent unions received different and fairer treatment, the national unions would not have won the national control over many industries which they now have.

Likewise, in organizing non-union plants and employees, the national unions and the federations with which they are affiliated were given greater leeway than any fair and strong administration of the law would permit. Violence and coercion, ranging from sit-down strikes to mass-picketing and intimidation of individuals, were widely and freely used and were condoned by the public authorities, local and federal. These methods are still used to keep recalcitrant companies and employees in line.

The labor monopolies of today were born in violence, short-sighted legislation, and in improper administration of the law. To deal with them effectively obviously involves extensive revision in public policy and in the administration of our labor law.

eral Motors to its employees was clearly not a response to pressure from union members, since a large number of them had already accepted the plan and recognized it as much superior to what they had. The union, with its own prestige in mind, preferred no plan to one for which it received no "credit."

The theory on which the national union operates is essentially monopolistic. This is shown by the zeal and persistence with which it seeks to extend its authority over all parts of the competitive area. No union, however large and powerful, ever stops organizing. A single non-union employer in a highly populous industry is considered a menace to the union, even if his economic advantage consists, not of lower wages or longer hours, but of greater freedom to manage than his organized competitors have succeeded in retaining. Once they achieve or approximate full control over a competitive industry, national unions become, next to the government, the most effective cost-and-price-raising instruments of modern times. In the long run they have this effect not only by reason of their wage policies but through the ways they limit the right to manage and devise elaborate and cumulative restrictions of output.

Collective bargaining operates by rules. The older and more "successful" a system of collective bargaining is, the larger the number of rules and the more stringent is their application. It is not surprising, under the circumstances, that the range of management's discretion should be progressively narrowed. The process is an insidious and subtle one. In its early stages it is hardly noticed. But after a decade or two the effects are marked and unmistakable. The climax of this sort of development can be observed in the nationalized British coal mines, where the more resourceful and imaginative mine managers are resigning

because they no longer enjoy the right to manage. No greater contribution can be made to an understanding of the future problems of labor relations in the United States than a comprehensive and detailed study of what happened to management after generations of collective bargaining in England. It would be an arduous and expensive undertaking. But it would be more than worth the money.

A recent report by the British "Cotton Manufacturing Commission," shows how this industry, still privately owned and managed, goes about solving its specific labor problems. The report deals with wage arrangements and methods of organization of work in the cotton manufacturing industry. The industry's problems are admittedly difficult. It is suffering from a severe shortage of labor and from long years of restrictions, from price-fixing and wage-fixing, from highly developed collective bargaining, and from the deficiencies in management which might be expected to accompany and result from such arrangements. The upshot of the Commission's inquiry is the recommendation[18] that "minimum rates of wages and methods of assessing wages for every occupation in cotton and rayon manufacture will be binding by law throughout the whole of Great Britain."

The purpose of this recommendation is to apply, by law, a system of wage incentives which will get more work out of the cotton and rayon weavers. This approach to the solution of the British textile problem will seem a strange one to American textile manufacturers, and probably also to the officials of our textile unions. But they should be reminded that what now promise in England to become regulations enforced by law,

[18] London: H.M.S.O., 1948, p. 5.

originated in systems of rules, negotiated privately, by employers and unions, and enforced either by the union alone or jointly by unions and employers' associations.

Among the union rules which in the long run produce the most costly effects are the regulations restricting output, directly and indirectly. These rules appear to be common to union arrangements everywhere and to all unions. The trouble is that they have never been adequately investigated. Even in the building and railroad industries, where restriction is long established and extensive, there is available no systematic review of the origins, evolution, and direct and indirect costs of restrictive practices. In contemporary labor writing the opinion is frequently expressed that restriction, as union policy, is peculiar to the craft unions and is not nearly so widely practiced by the industrial unions. No satisfactory evidence is at hand to support this opinion. If the great industrial unions born in the 1930's seem less addicted to restriction than their fellow craft unions, the reason probably is that it takes time to build up a system of restriction and what they have already done by way of restriction is not a matter of available record.

In union policy, restriction of output stands usually on the same footing with wages, hours, discipline, seniority and other conditions of work. What a union normally promises when it is engaged in getting new members is less work for the same or more money. Union labor is, also, predisposed to restriction of output because of long indoctrination with the evils of machinery, speed-up, stretch-out, and the like. What people forget about the labor situation in the United States, in contrast, say, with England, is that here prevailing work habits and efficiency were well established in most industries long before the recent

rise of organization. What the future holds is another matter. The late arrival of large-scale unionism in the United States, deplored by many as one of the great evils of American industrialism, may turn out to have been a blessing in disguise. Certainly the record of labor relations in the few industries which have been union for many years, e.g., the building trades and railways, is not such as to inspire confidence in the future of labor relations in steel, automobiles, textiles and other industries.

It is also forgotten that, in the few nationally competitive industries in which unions flourished before 1935, the efficacy of union restrictions was often checked by the unorganized employees. It was this condition, in fact, that kept these unions from winning control over an entire competitive area and engaging in industry-wide bargaining or its equivalent. Since 1935 unions, with the extraordinary assistance of government, are rapidly removing this check on union domination.

How the absence of national control and industry-wide bargaining affects the capacity of a union to practice restriction effectively is suggested in a description by exceptionally well-informed students of precisely such a situation in the full-fashioned hosiery industry. Writing about competitive producing areas, George W. Taylor and G. Allan Dash, Jr. say:[19]

> The second period of rapid expansion in the demand for full-fashioned hosiery, which began in 1935 and continued through 1940, has been characterized by severe competition between the long-established mills in the north and the more recently established mills in the south. This competition was engendered to no little extent by the requirement of labor agreements that union shops must adhere to the single-machine method of operation. Although there were strong social

[19] *Stock and Production Policies in Full-Fashioned Hosiery Manufacture*, The Textile Foundation, Washington, D. C., 1941, p. 15.

reasons for not adopting the double-machine system of operation, which would involve hiring helpers for whom knitting jobs would never be available, the continuance of the single-machine system meant that the older equipment of the north could not be operated at the lowest possible costs. The construction of longer section and faster machines was thereby accelerated, although the non-union territories were the only ones financially able to install the new equipment, and the machinery capacity of the industry as a whole was again boosted. Although labor rates, overhead, and profits were reduced on the single-machine system, they never caught up with the costs on the more productive machines.

These developments in labor relations raise broader questions than their economic consequences. The national union is another institution devoted to the centralization of authority over widespread and remote constituencies. It requires for its successful administration the creation of an extensive hierarchy of officials, much after the manner of centralized governments, which the members must support. Local decisions which are not in tune with the purposes of the national union are overruled. A decision to strike must be obeyed whatever the members may think about it. If some of them would like to go to work when a national strike is on, they are kept idle by mass picketing, with the pickets recruited from other communities, as has often happened in coal strikes and has today become a common occurrence. Human relations in industry are today generally stressed in the professional literature, but they are hard to improve when the main effort of the union is to drive employers and employees farther apart, to harp on what it regards as the natural and inevitable conflict of interest between employers and employees, and to make local settlements subject to central policy.

The effect of all of these trends is to invite intervention by the government. The monopolistic power now used by organ-

ized labor and the prospect that it will be further fortified by combination with associations of employers mean that many of the decisions of labor relations now made by private interests will in time be taken over by public agencies.

> This process of growth and concentration of economic power has already gone far enough to disclose one of its inevitable consequences. It has so effectively limited the area of effective competition that it has removed the checks which are the only safeguards a free society possesses to protect itself against arbitrary decisions by powerfully organized groups. . . . If these trends in the organization of industry and labor continue (as I expect they will), the American public must look elsewhere for the checks and balances which it traditionally found in the operation of business and labor competition. The present stage and future prospects of government intervention in labor-management relations constitute the inevitable result of these developments.[20]

The government has already taken a position toward national strikes and strikes that directly attack the public interest. The railroad industry joined with the railroad unions to sponsor the Railway Labor Act of 1926, which was regarded as a signally progressive labor measure. Now this association has come out for the compulsory arbitration of labor disputes on the railroads. This is the trend of the times. It is short-sighted to imagine that government intervention will stop with the regulation or prohibition of strikes, unless the trends that produced intervention are themselves arrested and reversed.

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[20] Leland J. Pritchard, "The Role of Government in Labor-Management Relations," *Bulletin, American Association of University Professors*, Vol. 33 (1947), No. 4, p. 680.

7. THE REMEDIES

No single and effective remedy for the conditions discussed in this pamphlet exists, or probably can be found. If Americans desire a change of policy toward organized labor and collective bargaining, they must make up their minds that whatever is done is likely to yield only slow and partial relief. The vested interests created by our national labor policy of the 1930's and by the terms and administration of the Wagner Act are powerful and well-entrenched. A property of such inestimable value will not be surrendered without a fight.

One of the most difficult tasks of contemporary society is to recognize the effects of policy and to undo them when they are found to be more harmful than beneficial. Economic and social legislation, once on the statute books, gathers a momentum which carries it far beyond its initial goal. This has been the experience with schemes of social insurance in England, Western Europe and the United States. Started as modest undertakings with limited objectives, they soon become among the most important activities of government through the zeal of their public administrators and the pressure of their beneficiaries. As the campaign for extension and liberalization proceeds, little or nothing is said of the increasing burden of costs or of ulterior consequences.

In England today, the country's capacity to yield an unusually modest standard of living is in doubt. Yet under pressure from the vested interests in social security the program is being greatly expanded. How the expansion will be paid for, and by whom, appears to be a troublesome, but irrelevant, question.

We have pursued a similar course with our policies and legislation governing the position and activities of organized labor. Government aid in the unionization of American employees has produced results which few of the supporters of the policy in 1935 would have ventured to predict. To unscramble these results and to put the policies of labor relations on a basis which will strengthen and not demoralize the American economic system, which will safeguard and not undermine the liberties associated with a free, competitive economy, and which will discourage and not promote the intervention of government, is a formidable task. Just as it would prove a formidable task for England to restore private ownership and competitive business, in the event that the people of that country decided to reject the Labor Party's policy of a planned economy and nationalized industry.

In this country the die has not yet been cast. American business still discloses vitality and ingenuity which distinguish it from British and European business. While a not inconsiderable number of businessmen have been won over to the merits of the "stabilizing" policies of government and organized labor, the great majority of them have consistently opposed these policies because they are persuaded that they will fail unmistakably to produce the promised results. With the experience of much of the world before them, there is reason to believe that many American citizens today entertain strong doubts as to the wisdom

of the policies they appeared so ready to endorse only a few years ago.

The most urgent and effective means for dealing with the evils which have arisen in labor relations consist in removing the special privileges granted organized labor by government during the last decade. Something has already been accomplished in this direction by the Taft-Hartley Act. Under its terms, employers are placed on a more nearly equal footing with organized labor. Employers are now free to discuss with their employees the pros and cons of organization. The independent, unaffiliated unions are granted something like equality under the law, although there is no assurance that their rights will not be whittled away by decisions of the National Labor Relations Board. It is no longer obligatory for employers to recognize and deal with unions of foremen. Unions, like employers, are required to bargain in good faith. The secondary boycott, whereby unions can attack a business wholly unconnected with the original labor dispute, has been outlawed. As recent occurrences in the coal and railroad industries show, the limited use of the injunction in labor disputes is now sanctioned.

Altogether unsolved is the matter of protecting the right of men to work. Mass-picketing has become the accepted method of intimidation in the United States. Small communities, with limited police resources at their disposal, cannot furnish the protection to which their people have a right. State governments are loath to lend assistance because of the fear of political reprisal by organized labor, as events in the recent strike of the meat-packers' union clearly showed. To no small extent, the national unions owe their rise to power and their maintenance of it to the failure of local, state and federal authorities to devise

and enforce a fair and equitable policy of law enforcement in labor disputes and protection of the right to work. If this is not attended to there will be neither peace nor a sound resolution of the labor problem in American industry.

At bottom, however, the problem of labor monopoly cannot be dealt with effectively unless, and until, the immunity to the anti-trust laws which organized labor has enjoyed since 1914 is withdrawn. This immunity accorded to organized labor by public policy is one of those special privileges of unions which have no reasonable justification. Its perpetuation, in the face of the position organized labor now occupies in making economic policy, will in time cause the break-down of our entire anti-monopoly policy. This is the first step toward a regulated or planned economy, as it has proved to be in other countries. The English, after many years of inaction and, indeed, of encouragement of business and labor monopoly, are at this late hour becoming alarmed over the evils of monopoly. But a recent bill[21] aimed at monopoly exempts "practices as to the workers to be employed or not to be employed . . . or as to the remuneration, conditions of employment, hours of work, or working conditions of workers. . . . "

Any review of American labor conditions and policies should leave little doubt as to the existence of labor monopolistic practices, their effectiveness, and the rapidity by which they are being applied to an increasing segment of industry. The opinions of the courts in labor monopoly cases indubitably disclose the existence of monopoly, but they say as the Supreme Court said in the Hutcheson case: "So long as a union acts in its self-interest, and does not combine with non-labor groups, the licit

[21] 11 and 12 Geo. 6, Sections 3, (2) and 5, (4).

and the illicit . . . are not to be distinguished by any judgment regarding the wisdom or unwisdom, the rightness or wrongness, the selfishness or unselfishness of the end of which the particular union activities are the means."

This language is clear enough. It is a fair statement of the character of our public policy toward labor monopoly. It leaves the unions as the exclusive arbiters of their economic decisions. When such decisions produce results contrary to the public interest there would appear to be no effective means in the law, as it is interpreted today, to protect that interest. When, also, the decisions of unions adversely affect the interests of their members, they would appear to have no redress "so long as a union acts in its self-interest."

This states the problem of labor policy in the United States today. Is it wise to continue a public policy which has promoted great private combinations of labor, which has granted them a free hand to augment their power and to apply it, and which provides no visible means for asserting and protecting the public interest, and with it, the essential interest of laborers — those who belong to unions and those who do not?