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INDUSTRY-WIDE COLLECTIVE BARGAINING

Promise or Menace?

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PROBLEMS IN AMERICAN CIVILIZATION

Readings Selected by the Department of American Studies, Amherst College

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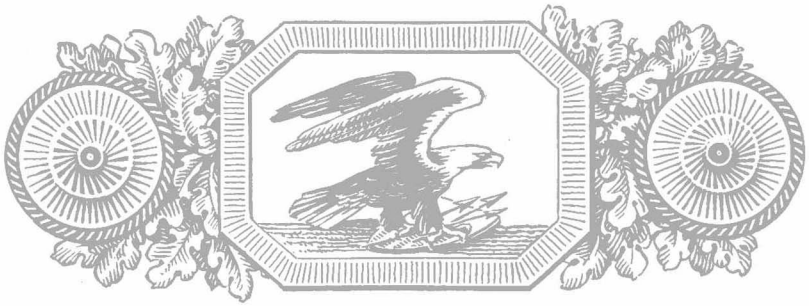

Industry-wide Collective Bargaining

PROMISE OR MENACE?

EDITED WITH AN INTRODUCTION BY

Colston E. Warne

Problems in American Civilization

D. C. HEATH AND COMPANY: Boston

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INDUSTRY-WIDE COLLECTIVE BARGAINING PROMISE OR MENACE?

Problems in American Civilization

UNDER THE EDITORIAL DIRECTION OF *George Rogers Taylor*

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INTRODUCTION

UNDER the favorable climate of the New Deal the trade union movement flourished in the United States. Not only did old established craft unions increase in membership and in economic strength; industrial unions also emerged as a power in leading basic industries. Labor became an economic and political force to be reckoned with.

This unprecedented expansion took place during a period when both the Congress and the courts took a more friendly attitude toward labor. In the closing year of the Hoover Administration the Norris-LaGuardia Act of 1932 was passed, narrowing the scope of federal labor injunctions. The National Industrial Recovery Act of 1933 and the National Labor Relations Act of 1935 gave legislative assistance to the development of collective bargaining relationships. A sequence of court decisions broadened the exemption of unions from anti-trust laws and penalized employer interference with union growth. New and aggressive leadership arose in labor's ranks, championing industrial unionism.

As labor grew in power and prestige, national unions became increasingly interested in developing an ever-broader pattern of collective bargaining. To some observers, this pattern represented the growth of a new phenomenon in American life – that of giant labor monopoly. To others, the rise of vigorous national unions was held a natural concomitant to the integration of industrial enterprise. It represented merely an effort to parallel an already established trend in business enterprise. Strong, responsible, and highly centralized unions were deemed essential to bring economic stability and full employment.

The current argument concerns the merits and demerits of industry-wide collective bargaining. Technically speaking, this phrase refers to the negotiation of a single agreement covering the conditions of labor in substantially an entire industry. Actually, the issue at stake between the contestants might better be characterized under the phrase "multi-employer bargaining," since the American economy is so extensive that relatively few labor agreements blanket an entire industry. The question is whether trade unionism negotiations should be confined to a local or company level or whether agreements should be reached which include, on a more or less uniform basis, a group of employers.

The problem of industry-wide bargaining first came to national attention after World War II, when many wage negotiations between employers and unionists became deadlocked. In a number of leading industries – coal, steel, railways, communications, shipping, motors, and electrical equipment – a considerable period of industrial strife ensued. While many of these industries conducted negotiations on a company-by-company basis, the feeling grew that labor had gained excessive power which should be

curbed by legislative enactments. The Congressional election in 1946 gave momentum to this movement. The House of Representatives then elected was disposed to include prohibitions against industry-wide bargaining in the Taft-Hartley Bill. Indeed, Representative Fred A. Hartley, Jr. only abandoned this effort because he felt that the measure, thus amended, could not secure in Congress the votes necessary to override an expected presidential veto.

The political complexion of the 81st Congress was drastically altered as a result of the unexpected re-election of President Truman, accompanied by the retirement, temporarily at least, of many of those who earlier had championed sweeping curbs on the power of organized labor. The legislative struggle, therefore, shifted from the imposition of new prohibitions to the question of the retention of existing Taft-Hartley restraints upon trade unions.

Industry-wide bargaining remains a vital problem. In the fall of 1949, production of steel and coal was halted for more than a month when employers and unionists could not agree on the terms of new contracts. In the winter of 1950 John L. Lewis again halted coal production while he negotiated for new contracts. If persistent strikes of this type continue to paralyze our basic industries, a renewed controversy will undoubtedly emerge between those who would outlaw industry-wide bargaining and those who would accept the practice and seek other solutions to large-scale industrial disputes. Moreover, whenever a more conservative Congress is elected, the issue will undoubtedly be raised with renewed vigor.

From the readings, it will be observed that trade union leaders, though by no means unanimous, are far more unified in their approval of freedom to bargain on an industry-wide basis than employers are in their opposition. Not a few employer groups have had long and satisfactory experience with this type of bargaining and would bitterly resent its abolition by legislative enactment. Other employers, however, are not only opposed to industry-wide bargaining but also look with scant sympathy upon all types of collective bargaining. Between these two extremes are the employers who accept trade unionism but who wish to bargain on a company-by-company basis.

The proposals for constructive alternatives to industry-wide bargaining are equally numerous and conflicting. The central issue raised by not a few of these readings is whether a strong trade union movement is compatible with the successful operation of a competitive system. This broader aspect of the topic has highly significant ramifications both in the economic and political sphere. To list only a few of these — Does industry-wide bargaining advance or impair the productivity of American industry? Does industry-wide bargaining raise wages to an excessive level, based upon monopoly power, or does it contribute to a more equitable distribution of income? Does industry-wide bargaining foster democracy in an industry or does it unjustifiably limit the power of the individual employer? Does the growth of strong national unions afford a greater equalization of political power or does it represent the entrenchment of a limited group that will promote legislation suitable only to its own interests?

The first group of readings brings the issue briefly and sharply into focus by presenting the conflicting statements of former Congressman Fred A. Hartley, Jr. and the Minority Report of the Senate

Committee of Labor and Public Welfare of the 80th Congress, headed by Senator Elbert D. Thomas.

This preliminary debate is followed by a survey of the current status of collective bargaining practices, prepared by the United States Bureau of Labor Statistics. Perhaps the greatest contribution of this survey is the demonstration of the great diversity of bargaining relationships in the United States.

The third group of readings begins with an article by Professor Leo Wolman of Columbia University in opposition to industry-wide bargaining. Wolman treats the problem as one of encroaching labor monopoly which has flourished under existing legislation and court decisions. Professor Richard A. Lester, Research Associate of the Industrial Relations Section of the Department of Economics and Social Institutions of Princeton University, contends that an unrealistic and erroneous conclusion has been drawn by using the term "labor monopoly" in a manner that is applicable to commodity markets. He recognizes that many problems have been created by the widespread growth of national unions but stands in firm opposition to the bills introduced in the 80th Congress by Representative Hartley and Senator Ball. Such legislation would, he feels, "foster union rivalry, instability in labor relations, and irresponsibility in organized labor."

The economists' discussion is continued with the testimony of Professor John V. Van Sickle of Wabash College before the Senate Committee on Banking and Currency and with an excerpt from the address by Professor Edwin E. Witte of the University of Wisconsin before the 1948 Conference on Industry-wide Bargaining at the University of Pennsylvania. Van Sickle lists specific reasons for abolishing industry-wide bargaining. Witte seeks to demonstrate the pitfalls which would follow its abolition.

The fourth group of readings includes representative statements by industrial and union leaders. Walter B. Weisenburger, Executive Vice President of the National Association of Manufacturers, expresses his faith in competitive enterprise and in collective bargaining relations between the individual company and its workers. Charles S. Craigmile of the Illinois Manufacturers' Association takes a more uncompromising position, which includes opposition not only to industry-wide bargaining but to the Wagner Act itself.

Since the bargaining relationships in bituminous coal have been particularly subject to Congressional attention due to recurrent strikes, the testimony of Tyre Taylor representing Southern coal and industrial interests is included. Taylor voices the need for legal curbs on the power of strong unions such as the United Mine Workers.

On the labor side, William Green of the American Federation of Labor, Philip Murray of the CIO, Walter Reuther of the United Automobile Workers, and John L. Lewis of the United Mine Workers oppose legislation limiting industry-wide bargaining. Green's testimony stresses the long and successful industry-wide collective bargaining relationships of the affiliates of his organization. Reuther and Murray, as CIO leaders, emphasize the growth of industrial concentration and contend that barriers should not be placed in the way of strengthening the offsetting force of organized labor.

In the testimony of John L. Lewis, a sampling is given of Lewis's views concerning the functioning of our economic system and the rights of labor under that

system. He affirms that the miners' union has improved living standards only by unified action in the face of bitter opposition. The drive against industry-wide bargaining is viewed by him as an effort of organized manufacturers to undermine the labor movement.

The fifth group of readings is generally concerned with experiences under industry-wide bargaining. This section commences with excerpts from a study of the bituminous coal industry by Waldo Fisher of the Wharton School. The preface to this study, prepared by Professor George W. Taylor of the University of Pennsylvania, is inserted since it succinctly states the difficulties encountered when the mining industry resorted to individual bargaining. Fisher's conclusion, while leaning toward industry-wide bargaining, is scarcely a strong endorsement. Richard A. Lester and Edward A. Robie survey the extensive experience of seven industries with national and regional collective bargaining. This study affords strong evidence for the affirmative case as does the statement of Almon E. Roth, President of the National Federation of American Shipping, concerning the shipping industry. Opposition to industry-wide bargaining is vigorously expressed by Charles E. Wilson, President of General Motors, C. Dickerman Williams, Vice President of American Locomotive Company, and Hugh H. C. Weed, President of Carter Carburetor Corporation.

The final selection was prepared by the Twentieth Century Fund, a research organization which canvassed the views of labor and management concerning the appropriate bargaining unit. This selection, by measuring the diversity in attitudes both in the ranks of labor and in management, appears a suitable conclusion to the readings.

The problem, dealing as it does with the conflicting aspirations of thousands of companies and millions of organized workers, is indeed one for which a satisfactory solution is urgently needed. The central issue is whether the nation should lend encouragement to the growth of industry-wide bargaining, whether the nation should seek to occupy a neutral role and allow bargaining relationships to work themselves out without governmental intervention, or whether the nation should limit the unit or area of collective bargaining.

[NOTE: The statement by John V. Van Sickle on p. xii is quoted from *Industry-wide Collective Bargaining and the Public Interest* (New York, 1947), p. 5, by permission of American Enterprise Association.]

The Clash of Issues

"The general adoption of industry bargaining makes for monopoly capitalism which can be nothing but a way-station on the road to socialism."

— John V. Van Sickle

"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."

— Leo Wolman

"Statutory limitation of labor agreements to a single locality is a direct attack upon the process of free collective bargaining. Any such attempt to confine collective bargaining to a specific area will turn back the clock of industrial progress."

— William Green

"Under national or regional bargaining, wage decisions are likely to be more sensible and far-sighted, taking into consideration the economic interests of the industry as a whole, than is the case where the wage pattern for the industry is established by a wage 'leader' or by local bargaining, with the union playing one firm against another."

— Richard A. Lester and Edward A. Robie

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FOUR STATEMENTS BY LABOR

INDUSTRIAL EXPERIENCES WITH INDUSTRY-WIDE BARGAINING

Representative Fred A. Hartley, Jr.:

CONGRESS SHOULD OUTLAW INDUSTRY–WIDE BARGAINING

. . . INDUSTRY-WIDE bargaining has long been the source of many undesirable conditions within both industry and labor.

The left-wing elements in the Congress have been most outspoken against what they term a "concentration of economic power" within industry. There is no similar outcry against an equal concentration of economic power when it is lodged in labor organizations.

I am equally opposed to both.

Whenever either labor or management places too much power and authority in the hands of too small groups of men, such groups tend to reduce every worker to the lowest common denominator and every business problem to the average.

As a result, agreements arrived at between such groups solve no specific problems and tend to satisfy no one since they are designed to meet average problems and average desires. Grievances arising from local conditions are a source of constant trouble, and tend to create contempt for the collective bargaining contract in many of the plants and shops covered by the master agreements.

Furthermore, and most important, industry-wide bargaining between economic giants seldom, if ever, considers the public interest.

In many industries labor costs are the largest factor in arriving at sale prices for products. Industry-wide bargaining on wages thereby removes differing wage costs from the area of competition and, in effect, stifles competition in that industry.

Wherever competition is stifled, the public suffers in the form of higher prices and inferior products.

I am well aware that one of organized labor's principal objectives is to remove wages from the area of competition, and their congressional spokesmen make a good case for this objective.

In one sense, it appears to be the contention of labor that competition on wages is but another example of the cold-blooded corporation approach to driving down the American standard of living.

This argument ignores the fact that this country is still based on a competitive economy. Admittedly, advocates of a controlled economy made great strides during the war in restricting management's freedom of action. Our experience to date indicates that it is far easier to impose such controls than to get rid of them.

Nevertheless, our economy is still a reasonably competitive one.

Competitive enterprise is one of the strongest forces in the world. Industry operated under a system of competitive free enterprise has achieved for American citizens the highest standards of

From *Our New National Labor Policy* by Fred A. Hartley, Jr. Funk and Wagnalls Company, 1948. Reprinted by permission.

living, the highest wage rates, and the shortest hours of labor of any nation.

If you love your country, you must embrace the historic competitive principle which has made our country great. If you say competition is ruthless and cold-blooded, you are, in effect, saying that America is ruthless and cold-blooded.

I don't believe that.

The first principle of statesmanship today for all of us should be to fight against any action by any economic group which tends to weaken the competitive forces which operate in our economy in any significant way. This is fundamental and goes far beyond considerations of labor law. I hope the Congress will be ever alert in recognizing this principle of statesmanship.

The original Hartley bill banned industry-wide bargaining in a comparatively simple fashion.

To begin with we limited the power of the National Labor Relations Board to certify the same individual as a representative of employees of competing employers. This prevents situations where the single head of a national union is designated as the sole bargaining agent to represent that union in its dealings with many individual employers.

To prevent injustice to small union locals situated closely together who might want to use a single representative in the interests of economy, we made an exception.

Under my bill, the NLRB could have certified a common representative for two or more union locals whenever such locals represented bargaining units of less than 100 employees and were situated within 50 miles of one another.

This limitation, you will note, placed the operation of an industry-wide system of bargaining on a voluntary basis. Whenever a union felt it was sufficiently powerful to proceed with its collective bargaining negotiations without recourse to the processes of the NLRB, it could then designate its own bargaining representative to deal with the employers on an industry-wide basis.

The employers, on the other hand, would be under no legal compulsion to bargain with such a representative, since he would not be certified by the government as a representative of the employees for the purposes of the rewritten National Labor Relations Act.

To forestall the inevitable criticism that such a legal provision would hamstring unions in their dealings with their international offices and other affiliated organizations, we provided that no restriction would be placed on such relationships unless the collective bargaining arrangements or other concerted activities between these groups were thereby subjected to common control and approval.

This formula was not a popular one, with either management or labor. Too many industries had become accustomed to industry-wide or area-wide bargaining to want to go back to collective bargaining at the plant level. Too many big jobs in both industrial and labor circles are dependent on a continuation of this practice.

I am frank to admit that I am not completely satisfied with this formula. It was a problem where we felt it would be better to make a start this way and see how it worked in practice. Those of us who sponsored the Taft-Hartley Act in both houses of Congress were determined not to fall into the way of thought that would hold the amended National Labor Relations Act as something sacred and all-sufficient and therefore not to be amended. On the contrary if our formula

for restricting industry-wide bargaining had worked to the disadvantage of the public, we would have been quick to amend the law.

During the debate on the House floor, another provision was added strengthening our restrictions on industry-wide bargaining.

This provision was proposed by Representative Kersten, a member of the labor committee. The provision made it an unlawful concerted activity for a group of employers to fix or agree to terms of employment through common control or approval whenever the employees were denied a comparable privilege.

This proposal wiped out any chance of industry-wide bargaining on any basis. While unions could have bargained industry-wide, provided they were willing to lose the benefits of NLRB support, employers would have been subject to antitrust prosecutions for similar action.

Of more significance than the restrictions placed on industry-wide bargaining were the provisions making an industry-wide strike unlawful.

While such legislation will not get at the root of many of the evils inherent in industry-wide bargaining as such, a complete ban against industry-wide strikes will weaken the economic power of a labor leader, even if he were in a position to negotiate as a representative of all the employees in an entire industry.

Furthermore, as we designed the original Hartley bill, the prohibitions against industry-wide strikes would apply to all labor organizations and their agents, regardless of their standing before the National Labor Relations Board. Consequently, those labor bosses who chose to ignore the NLRB would still have been covered by the prohibition.

In the original Hartley bill we defined an industry-wide strike as a "monopolistic" strike, as any "concerted interference with an employer's operation which results from any conspiracy, collusion, or concerted plan of acting between employees of competing employers or between representatives of such employees."

A "monopolistic" strike was further defined as an unlawful concerted activity. Unlawful concerted activities, in turn, were subjected to the Sherman Anti-Trust Act, by means of two amendments to the Clayton Act. Through another amendment, Norris-LaGuardia Act restrictions on injunctions were made inoperative in regard to such prosecutions.

The public has already suffered as a result of the omission of these particular provisions. I am convinced that such legislation, had it been enacted last year, would have saved the American people untold suffering and the loss of millions in production.

The coal strike in early spring [of 1948], for example, would have been impossible, unless John L. Lewis had been willing to expose himself to criminal prosecution under this law.

During the 80th Congress I again made an effort to get these monopolistic strike provisions enacted into law. I was not successful. But such legislation is inevitable, so long as the leaders of organized labor persist in industry-wide strikes, particularly strikes paralyzing national industry and threatening the welfare of our country. . . .

United States Bureau of Labor Statistics:

COLLECTIVE BARGAINING WITH ASSOCIATIONS AND GROUPS OF EMPLOYERS

MOST of the examples of industry-wide bargaining in the United States are the product of generations of experience, and as a rule the employer-union relations in these industries have been remarkably stable and peaceful. In the pressed or blown glassware industry, one of the branches of glass and glassware having national bargaining, no major strike throughout the industry has occurred since collective bargaining began with an employers' association in 1888. Similar conditions have prevailed in the pottery industry since 1922. The 1946 contract between the National Automatic Sprinkler and Fire Control Association and the United Association of Journeymen Plumbers and Steamfitters (AFL) is a revision of the original agreement of 1915; and the 1946 agreement between the Anthracite Coal Operators and the United Mine Workers of America (AFL) is a compilation of resolutions, revisions, rulings, and decisions dating back to 1903. Bargaining on an industry basis exists in the elevator installation and repair, installation of automatic sprinklers, pottery and related products, stove making, and wall-paper industries, and in coal mining.

Agreements covering all the employers in an industry within a geographic region are somewhat more numerous than those having application throughout an entire industry. Even more numerous are the instances in which associations or groups of employers are dealt with on a city-wide or metropolitan area basis. . . .

Few of the examples of collective bargaining on an industry, geographic, or city basis occurred in the mass-production industries, although a single agreement in the automobile industry, for instance, may cover many more employees than an association agreement covering every employer in an industry or trade within the same city. In mass-production industries, trends are developing toward standardized conditions in large segments of industries through corporation-wide collective bargaining. The efforts of unions are directed first toward bringing all the plants of a given large corporation, regardless of geographic location, within the scope of a single agreement. An example is the corporation-wide bargaining between the Ford Motor Co. and the United Automobile, Aircraft and Agricultural Implement Workers of America (CIO). Notwithstanding the great number of workers affected, corporation-wide bargaining differs widely from multi-employer collective bargaining which is the subject of the present study.

From Bulletin No. 897 of the United States Department of Labor, Bureau of Labor Statistics.

another and force capitulation to their demands.

This would create a situation where the weakest member of an industry would set the standard for the others.

Because numerous employers are covered by a single collective-bargaining agreement, less time is lost in the bargaining process. Settlements are made simultaneously for these employees rather than on an individual employer-by-employer basis. Industrial peace is achieved in one step, rather than over a prolonged period of time. Bargaining with hundreds of individual firms for the same things is both wasteful and unfair to both sides.

Many small employers lack the skill in bargaining and research facilities available to unions. A ban on associations of employers combining for the purpose of pooling their knowledge and resources in collective-bargaining negotiations would impair the bargaining power of employers.

Industry-wide agreement on wages protects wage standards from being undercut by lower-wage areas and lower-wage employers. By the same token, industry-wide bargaining may save individual employers from being singled out as wage leaders in their respective industries. A ban on such agreements would result in separate agreements with individual locals. Many firms control or own subsidiary plants in districts outside an immediate geographic area. Such firms would have to negotiate agreements with numerous local unions in widely scattered localities — a task that would unavoidably become snarled up in wage differentials and eventually would revive the old cutthroat competition and the law of the jungle between company and company, between area and area.

Barring joint activities of local unions and reducing the function of international unions to that of an advisory body should, in fairness, require the same treatment for corporations with plants scattered widely over the country.

The charge is made that industry-wide bargaining leads to industry-wide strikes which threaten the public welfare. We should like to emphasize that it is not the character of the bargaining which brings about major strikes, but the organized joint refusal of that industry's employers to meet the union's demands. Under company-by-company bargaining, employers would try to drive standards down to the level of the lowest in the industry, and unions would seek to attain the level of the highest, and the result would be an epidemic of strikes throughout the various units of the industry.

A ban on industry-wide bargaining would minimize the role of the international union and prohibit it from exercising its authority to intervene in strikes of its affiliates; and prevent it from employing its prestige in its own industry for moderation and restraining counsel.

In order for the Senate fully to realize the potential impact of a ban on industry-wide bargaining by large geographical areas, we call attention to a study recently prepared by the Bureau of Labor Statistics which shows the extent of bargaining in specific industries with associations and groups of employers.*. . .

* [Reproduced on page 6. Ed.]

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