Union Organizing and Staying Organized

Ken Gagala

Union Organizing and Staying Organized

Ken Gagala

Reston Publishing Company, Inc.
Reston, Virginia

Library of Congress Cataloging in Publication Data

Gagala, Kenneth L.
Union organizing and staying organized.

Includes index.
1. Trade-unions—United States—Organizing.
I. Title.
HD6490.072U643 1983 331.89'12'0973 82–25047
ISBN 0–8359–8064–2
ISBN 0–8359–8063–4 (pbk.)

10 9 8 7 6 5 4 3 2 1

Printed in the United States of America

Union Organizing and Staying Organized

Preface

My interest in union organizing was sparked as a child by the men and women of my family who endured the degradation of the "open shop" and participated in the tumultuous CIO organizing drives of the 1930's around Hamtramck and Detroit. Yet it was not until 1977 that I proceeded from the labor history books and the oral tradition of a family of Polish workers in America to an examination of contemporary union organizing. Part of my job at the time was to develop courses for the Cornell University Labor Studies Program, and the union activists participating in the program expressed a strong desire for a course on organizing, which accordingly would be for college credit and would need the sanction of academicians outside the confines of the program—no easy task, because it would be without precedent or even the availability of a contemporary book on organizing from a union perspective. Also, it might challenge the "neutrality" and "objectivity" which universities prescribe, often inconsistently.

With the assistance of Teamster organizer Vicki Sapporta, I contacted Walt Englebert of the Teamsters' Western Conference, who had taught organizing classes for the union. Walt quickly comprehended the situation and applied his considerable organizing talent to the problem. He suggested that he team-teach the course in point-counterpoint fashion with John Bodilly of Southern Oregon

State College, an extraordinary professor of management with over 30 years of corporate labor relations experience, including the negotiation of the first contract on behalf of Gallo Wineries with the United Farm Workers. In July 1979, John Bodilly and Walt Englebert taught what presumably was the first college credit course on union organizing.

Shortly afterward I came to the University of Minnesota's Labor Education Service, all the while continuing to gather information on organizing and expanding my investigation to include its counterpart, preventing decertification. In the Spring of 1981 I introduced a course on organizing and staying organized in the University's Union Leadership Academy, with the very capable assistance of two experienced organizers, John Robertas of the Teamsters and Marcus Widenor, formerly of the Ladies Garment Workers. Concurrently, I began work with individual unions on strengthening their external and internal organizing efforts.

The objective of this book is to improve the odds for unions in meeting the major challenge confronting them today: organizing and staying organized. It is a compilation and interpretation of information provided by union organizers, union activists, labor lawyers, union avoidance consultants, personnel administrators, NLRB representatives, and labor educators. While I alone bear responsibility for the errors of omission and commission, thanks are due to the following people in addition to the aforementioned: Joe Adler, Ray Bliss, Bob Bonacorda, Bill Bonifer, Bob Bouten, Floyd Child, Tom Coffey, Gene Daniels, Nancy Daniels, Tony De Angelis, Jeff Fiedler, Leo Gagala, Tom Hall, Bob Harbrant, Ann Herson, Pete Ingram, Art Jelinski, Sam Kaynard, John Kestler, Steve Klonouski, Les Krause, Bill Mackey, Karl Meller, Donna Mobley, Dan Parkhurst, Renas Parkhurst, Jan Radle, Dick Ross, Eddie Selden, Ann Thompson, Ellie Woller, and Joe Zymanski.

Special thanks are due to my wife, Pat, who typed the manuscript and provided valuable criticisms.

Contents

Exhibits

1

What's Wrong Today?

In 1945, at the end of World War II, about one out of every three American workers belonged to a labor union. Just ten years later, at the time of the AFL-CIO merger, the proportion had slipped to one out of four workers. And in 1978, only one out of five American workers belonged to a union.

While in 1955 unions won two out of three union authorization elections conducted by the National Labor Relations Board (NLRB), they lost more elections than they won between 1975 and 1980. Between 1968 and 1978, a 200 percent increase occurred in the number of NLRB-conducted decertification elections in which organized workers decide whether or not to continue union representation. In 1978, unions lost 74 percent of the decertification elections conducted.

The names John L. Lewis, Jimmy Hoffa, and George Meany are synonymous to most people with the concept of a "labor movement." However, the unions they once headed no longer dominate their respective industries.

In 1974, 70 percent of the nation's coal was produced by members of the United Mine Workers of America. During World War II, John L. Lewis could stop the production of war material by pulling the miners out of the pits. In 1982, only 44 percent of U.S. coal production came from union-organized mines and the proportion is dropping fast.

The International Brotherhood of Teamsters, for many years the nation's largest labor organization, has experienced a drop of 400,000 members and the union is struggling to maintain its domination of the interstate trucking industry established by Jimmy Hoffa.

For twenty-five years after the AFL-CIO merger, George Meany, a former plumber from the Bronx, served as labor's spokesman. Meany had a particular affinity for the seventeen building trade unions in the federation. In 1973, about 30 percent of the nonresidential construction in the country was non-union while in 1982 60 percent was non-union. The June 1979 cover of *Fortune* magazine hailed the development with the headline "How the Contractors Broke the Union's Grip."

What happened?

THE "RIGHT-TO-WORK" EFFECT

Union membership, where is it? Seventy-five percent is concentrated in ten states. New York has more union members than eleven Southern states including Texas. Population and jobs are moving to the South and the West—the "Sun Belt"—and most Sun Belt states have so-called "right-to-work" laws which prohibit unions from negotiating "union shop" clauses in contracts. Union shop clauses require workers represented by unions to maintain union membership and, consequently, to pay for the services rendered by unions through dues and initiation fees.

The effect of "right-to-work" laws on the financial ability of unions to conduct drives to organize new members is substantial. In 1977, 21.5 million workers were covered by collective bargaining agreements, while only 19.3 million workers belonged to unions. This translates into one out of every ten workers enjoying the benefits of union representation without contributing to the cost of operating unions.

States with low proportions of union membership encourage the exodus from states where the bulk of the union members live with advertising slogans like "Virginia Is Not Only a Right-to-Work State, It's a Want-to-Work State." Virginia Governor John Dalton called the law prohibiting the union shop "the single most beneficial statute in bringing in new industry to the state." "Right-to-work" is more than a law that prohibits mandatory union membership, because

it keeps unions small, weak, and disorganized. Hourly industrial wages in Virginia, for example, rank 17 percent below the national average—a very crucial problem, because twenty states have "right-to-work" laws.[1]

Political power is also shifting to the Sun Belt. As a result of the 1980 census, most of the heavily unionized states lost seats in the U.S. House of Representatives, while states with low proportions of unionization gained seats.

CHANGING JOB STRUCTURE

In addition to jobs shifting to the Sun Belt, the types of jobs in the U.S. economy are changing. Manufacturing jobs in industries such as automobiles, steel, rubber, and electrical appliances are declining. These traditionally unionized industries are being adversely affected by automation and foreign competition. In contrast, growth is occurring in service industries such as medical care, food service, banking, and insurance.

Between 1959 and 1979, the number of white-collar workers increased by 20 million, while the blue-collar work force increased by only 10 million. There are about 49 million white-collar employees, yet only a little over 7 million are organized. If they are to grow, unions must adapt to the changing structure of the economy.

BREAKING AND STRETCHING THE LAW TO PREVENT UNION ORGANIZATION

Congress passed the National Labor Relations Act in 1935 with the intent of stopping the violence surrounding union organizing campaigns by granting workers the opportunity to choose whether or not to be represented by unions through secret ballot elections conducted by the National Labor Relations Board. Employers are not to discharge or otherwise discriminate against workers desiring union representation. The intent of the law, however, can be subverted by employers who want to prevent union organization of their employees.

A blueprint for dodging unionization is outlined by a manage-

ment consultant specializing in the construction industry: If an election is likely to occur, the employer should attempt to delay the election. "If it is near the tail end of a (construction) job, and you are not going to be in the area again, there will be no election."

After the NLRB certifies a union as the bargaining agent for a group of workers, the employer is required by law to "bargain in good faith" with the union. For the consultant, this is no obstacle; "It doesn't mean you sign an agreement." An employer can make inadequate offers until a strike occurs; "You goad them into a strike." If a strike occurs, the employer is advised to bring in strikebreakers.[2]

There is strong evidence that significant numbers of employers are following the blueprint for avoiding unionization and that the plan works. If an employer and union agree to have the NLRB conduct an election as a "consent" election, balloting occurs rather quickly. But if the employer files objections to the election, balloting is delayed. In 1962, 46 percent of all NLRB elections were conducted as consent elections, but in 1977, only 9 percent were consent elections. In 1962, 11 percent of all NLRB elections were completed in the same month that the union requested the election and 59 percent in the month that followed, but in 1977, only 2 percent occurred in the month of filing and only 40 percent during the following month. Delays mean election losses for unions. When the election occurs in the same month as the request, unions win 59 percent of the elections. When the election is delayed six months, unions win only 46.5 percent of the elections. Winning the election does not mean that employer resistance stops. There is a 20 percent chance (one out of five) that the union will never secure a collective bargaining agreement with the employer![3]

In 1979, unions filed over three times as many unfair labor practice charges (alleged violations of the laws governing labor relations) against employers as they did in 1968, while the number of NLRB elections increased by only 10 percent. The charge most frequently filed is unlawful dismissal of an employee for union activity. By firing union activists, employers can succeed in frightening other workers into avoiding the union. If found guilty of unlawful discharge, the penalties imposed by the law (usually reinstatement with back pay) are not likely to deter employers determined to avoid unionization and, more importantly, are unlikely to reduce the level of fear among workers at unorganized workplaces. because final set-

tlement of discharge for union activity cases can be dragged through the courts for years. Unscrupulous employers view the penalties as the cost of a license to kill unions.

An example of how the law operates or, more properly, fails to operate is the twenty-four year struggle between the Textile Workers Union and Milliken and Company. In 1956, the company closed a textile mill in South Carolina to avoid unionization. The NLRB and the U.S. Supreme Court found the employer guilty of dismissing workers for union activity in order to discourage unionization at its other plants. Finally in 1980, the union, employer, and NLRB agreed that $5 million should be divided among 427 workers who lost their jobs and the survivors of 126 workers who have died since 1956. The approximate $10,000 per worker settlement is little consolation to workers who were too old or otherwise unable to get another job since 1956. For Milliken, the $5 million settlement is a wrist slap; its annual sales are an estimated $2 billion.[4]

Between 1963 and 1976, J. P. Stevens Company was forced to pay $1.3 million in back wages to workers illegally fired for union activity. This is less than 25 percent of what the company would have had to pay if the union had been successful at organizing and had negotiated a one cent per hour wage increase for all Stevens employees.[5]

Violating the law pays dividends with no relief in sight for unions. In 1980, the NLRB awarded $33 million in back pay to discharged workers, double the previous highest year.

BREAKING AND STRETCHING THE LAW TO DECERTIFY UNIONS

Under the law, an organized employer is not to promote a union decertification. However, the intent of the law can be dodged. A management consultant, tells how: "The decertification campaign is as wide as your imagination. Here are a few do's and don'ts. You can't write an anti-union speech, but you can tell a 'loyal' employee how to write one. Don't tell such an employee, 'I want you to file' a decertification petition. Tell him he has a right to file. Don't tell him you will pay for his going to the NLRB, but 'wink' at him so that he knows you will 'make it up.' "[6]