SPECIAL REPORT

THE BIG LABOR STRANGLEHOLD:
Killing Jobs & Hurting America

Human Events

Table of Contents

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THE BIG LABOR STRANGLE-HOLD: KILLING JOBS & HURTING AMERICA

The Rhetoric and the Record

by Carl F. Horowitz

Prelude: The Battle of Wisconsin

Some called it a riot. Others called it the world's largest slumber party. But whatever term best described the mass storming and occupation of the State Capitol Building in Madison, Wisconsin that began on Thursday, February 17 and lasted for three weeks, one thing was for certain: State and local government employee unions were directing the show.

Some 25,000 protestors, heavily consisting of union employees, were steadfast in their insistence that new Wisconsin Republican Governor Scott Walker drop his proposals to curb the power of public employee unions whose wage and benefit packages were putting his state at risk of fiscal insolvency. The hatred directed toward the new governor was palpable and extreme. Several demonstrators carried placards equating Walker with Adolf Hitler, moustache optional; others, perhaps in a bow to moderation, compared him to recently deposed Egyptian strongman Hosni Mubarak. Walker and the Republican legislators who supported him received numerous anonymous threats of bodily harm or death over the next several weeks. Union supporters held an outdoor rally in Madison numbering some 70,000 persons just two days after the Capitol Building takeover.

Enraging the demonstrators, and progressive activists nationwide, was that Walker wanted the Wisconsin legislature to approve certain labor initiatives, part of a larger effort to address a pending two-year $3.6 billion budget deficit. The plan would require state and local employees to: 1) contribute 5.8 percent of wages or salary to retirement plans, up from

Union protestors gather at the State Capitol Building in Madison, Wisconsin on February 17, 2011. *AP.*

zero percent for most employees; 2) pay for 12.6 percent of their total health care coverage, up from about 6 percent; 3) limit annual pay raises to increases in the Consumer Price Index, unless approved by voters; 4) forgo collective bargaining rights over benefits and working conditions, though not over wages and salaries; and 5) enter only into single-year contracts. The proposed law also would bar public-sector unions from deducting dues payments from paychecks and would require a union to undergo annual recertification to remain a collective bargaining agent.

As an austerity measure, the plan wasn't nearly as severe as it looked on the surface. It wouldn't apply to police, firefighters or state troopers. It would rule out the possibility of layoffs. It wouldn't affect existing contracts. And its benefit curbs still would leave public employees better off than their private-sector counterparts. "We're broke," said Governor Walker in an interview with MSNBC's Chuck Todd. "Like nearly every other state in the country, we have a major deficit."

Labor officials weren't convinced. They bitterly opposed the plan, knowing that attempts to reduce the size of government effectively functioned as threats to reduce the size of their own organizations. Democratic Party allies in the General Assembly and Senate detested the plan. In what could have passed for dark comedy, all 14 Democratic Senators, knowing they would be depriving their GOP colleagues of the legally required quorum on budget-related legislation, fled the state en masse that February 17. They initially decamped in Rockford, Illinois and then in locations unknown. Public school teachers also walked off the job. During that day, no fewer than 15 local school districts throughout the state, including Madison, shut down because so many teachers were attending the rally.

Republican lawmakers plowed ahead. On March 9, the all-Republican Senate passed a scaled-down version of the bill (minus budget-related provisions) by 18-1. The next day, the full Assembly approved the measure by 53-42. The unions and their allies, already having vowed to go to court, made good on their threat. They would be amply rewarded. On March 18, Dane County Circuit Judge Maryann Sumi issued a restraining order preventing the law from going into effect, triggering the return of the AWOL Democratic senators. She made the injunction permanent on May 26, claiming the GOP Senate had violated the state's Open Meetings Law by leaving insufficient time for debate. The administration promptly appealed to the Wisconsin Supreme Court, which on June 14, by a 4-3 margin, overturned the injunction and upheld the law. Union leaders fired back, leading a recall of six Republican senators who supported Governor Walker. The vote, held August 9, succeeded in only two instances, leaving the Senate (for the time being) in GOP hands by a slim 17-16 margin.

This strange saga remains a work in progress. But it demonstrates, as if anyone needed reminding, that reports of the demise of organized labor in this country have been premature. Moreover, it underscores how unionism, whether in the public or the private sector, when wedded to raw political power, can place an economy, and a polity, in jeopardy. Now that this country has a presidential administration bent on expanding government, at all levels and in unprecedented ways, the necessity of understanding the economics of unionism rarely has been greater.

Unions: On the Decline, Far From Dead

It has become the conventional wisdom that the heyday of unions in America is long over. Whereas unions at one time improved wages, benefits and working conditions for the working population as a whole, they (depending on one's views) overstepped their bounds or became complacent. Either way, they now face extinction. Popular Fox News Channel conservative talk show host Bill O'Reilly, a union man himself, stated during the Wisconsin showdown: "The cold truth is that unions are on the way out. High tech means big changes in the workplace, and labor protections are not needed as they once were. What we are seeing in Wisconsin is the beginning of a new attitude toward the American worker." On the opposite side of the spectrum, Stephen Lerner, a longtime radical operative for the Service Employees International Union (SEIU), stated several weeks later: "Unions are almost dead. We cannot survive doing what we do."

On one level, it is hard to argue. During the 1920s, less than 15 percent of the nonfarm working population in this country belonged to a union. Thanks to labor law's Magna Carta, the National Labor Relations Act (NLRA) of 1935, also known as the Wagner Act, and aggressive union organizing in its wake, this figure rose to more than 30 percent at the end of World War II, a level maintained with few interruptions through 1965. This Golden Age would give way to decline. By the mid Eighties, the figure had declined to under 20 percent. And the downward spiral would continue well after President Reagan departed office in 1989, eventually dipping below 12 percent; i.e., at or lower than pre-Depression levels.

In absolute numbers, union membership has remained fairly constant over the last couple of decades at around 15 million. But membership as a relative share of the working population – a percentage often termed "union density" – has experienced a precipitous decline. According to the Bureau of Labor Statistics, only 11.9 percent of all U.S. employees in 2010, or less than two-fifths of the density during the postwar decades, belonged to a union. Equally significant has been the gradual shift in membership from the private to the public sector. Whereas a mere 6.9 percent of all workers in private trade and industry in 2010 were union members, 36.2 percent of public employees belonged. Put another way, back in 1960 only 6 percent of all union members were government employees; in 2009, the first year in our nation's history in which public-sector union membership outnumbered private-sector membership, the figure was 52 percent – or 7.9 million vs. 7.4 million. Given public-sector unionism's recent display of strength in Wisconsin and other states (e.g., Indiana), this trend looms ominous.

Why is private-sector unionism declining? Plausible and commonly given explanations are: 1) the disappearance of the sorts of manufacturing jobs from which unions once drew their principal growth; 2) cultural globalization, which is oriented more toward individual than collective authority; 3) mass immigration from the Third World, newcomers from these nations being difficult to organize; 4) faster economic growth in states with Right to Work laws; and 5) dramatic industry-wide wage and benefit hikes in unionized industries such as auto, steel, leading to a competitive disadvantage with foreign producers. These trends are not going away anytime soon.

Neither, however, is unionism. If anything, the Wisconsin showdown may be the best recruiting tool unions across the nation have had in a long time. Taxpayers aren't likely to join, but then again, unions have never cared much for taxpayers, except perhaps when their own members have to pay taxes. Many workers, especially if they grew up in a union family, may find the union way of life attractive. And most importantly, unions continue to enjoy, as they have for decades, a host of monopoly privileges unavailable to other types of non-government organizations. This latter factor is of central concern in the next section, and indeed will be for the remainder of this report. For the harm that government-conferred union privileges do to our nation's economy and rule of law is very real.

Membership Has Its Privileges

The idea that labor unions in this country are creatures of legal privilege might seem strange on the surface. After all, isn't big business the real problem? Many major corporations recently have received billions, even tens of billions of dollars in federal bailouts – Fannie Mae, Freddie Mac, AIG, General Motors, Chrysler, Bank of America and Wachovia Bank are only some of the more dramatic examples of private enterprise relying on outside help to reverse the consequences of poor business decisions. Yet organized labor's bargaining advantages owe much to their immunities from rule of law. "(B) y privilege," wrote University of South Carolina law professor and union critic Thomas Haggard a few decades back, "I mean preferential treatment that flows from either exemptions, the non-enforcement of prohibitions, and/or affirmative grants of permission." It would be difficult to avoid excluding unions from this definition, then or now.

Skeptics may shake their heads, but understand this about unions: They don't view employers as their main rivals. This is not to say they don't denounce employers as exploitative, unreasonable or dishonest – indeed, they do it all the time. But their real enemies, insofar as actions speak louder than words, are workers within the same industry who decide against joining. For them, the nonunion worker is the competition, much as a woman sees other women, and not the man upon whom she has set her eyes, as the enemy. Texas A&M economist Morgan Reynolds explains:

(M)ost union intimidation is directed at uncooperative workers who do not feel that unions serve their interest. If managers and owners were the main antagonists of unions, we should expect unionists to assault them when they tried to enter their struck places of business instead of assaulting them and intimidating other workers trying to enter places of business. Labor disputes are basically conflicts between organized and unorganized workers, and also within the group of organized workers; they are not conflicts between capital and labor.

All union privilege, on some level, is the result of a successful attempt by a union and its allies in the legislative, executive or judicial branches of government to stifle the ability of nonunion workers to compete in the labor market. A union's primary objective is to prevent outside workers from offering their services more cheaply. Union leaders and members will be apt to sabotage an employer's operations only insofar as that employer hires nonunion workers.

Let us get specific. What are organized labor's privileges? Actually, there are many. And for the most part, they date back decades. Among the most important are:

Exclusive representation. Union democracy is a winner-take-all proposition. If a majority of workers at a particular site, company or industry vote in favor of representation by a particular union, all affected workers, regardless of whom they voted for (assuming they voted at all), must accept that union as their sole collective bargaining agent. This is the essence of monopoly bargaining. The great flaw of monopoly bargaining is that it assumes that the "majority-rule" principle of political democracy is readily applicable to presumably voluntary nonprofit organizations. Both the National Labor Relations Act (NLRA) of 1935 and the Railway Labor Act (RLA) of 1926 prohibit employees, acting as a minority, from either negotiating with an employer on their own or seeking separate representation by another union.

Forced-dues payments. As with exclusive representation, this is an example of a majority of workers in a nonprofit organization having legally enforceable power over a dissenting minority. In 28 states and the District of Columbia under the National Labor Relations Act (i.e., states without a Right to Work law), a union-negotiated "security agreement" can require a private employer to fire an employee who refuses to become a dues-paying union member or pay an "agency fee" in lieu of joining. Forced-dues requirements also apply in all states under the Railway Labor Act, on "exclusive federal enclaves," and in many states with public-sector collective bargaining laws.

Trespassing rights. Under the Norris-LaGuardia Act of 1932 and equivalent state laws, union organizers and demonstrators may trespass at will on an employer's property with full immunity from an injunction. Moreover, an employer's effort to prevent trespassing is likely to be in violation of NLRA "neutrality" statutes.

Ability to negotiate Project Labor Agreements. In a Project Labor Agreement (PLA), contractors commit themselves in advance to hiring union-only labor for large-scale construction projects such as stadiums, bridges, airports and highways. Unions have aggressively pursued this option since 1993 in the wake of the Supreme Court ruling authorizing it for the Boston Harbor cleanup. These agreements, which often are negotiated with the help of union-friendly politicians, can substantially inflate project costs.

Compulsory employer bargaining. Federal labor law makes it illegal for an employer to avoid requests for collective bargaining by a union. The employer not only must negotiate, but must do so in "good faith," a term subject to wide interpretation.

Exemption from prosecution for acts of violence. Labor unions in this country frequently engage in or threaten acts of violence for one overriding reason: They know they can. In its 1973 decision, U.S. v. Enmons, the Supreme Court ruled that union violence is exempt from prosecution under the Hobbs Act, the 1946 law making it a federal crime to inhibit interstate commerce by robbery or extortion. Additionally, many states restrict the ability of law enforcement officials to make arrests during strikes involving violence, trespassing or vandalism.

This by no means is a comprehensive list. Unions and/or individual members also: 1) are exempt from anti-monopoly lawsuits, thanks to the Clayton Antitrust Act of 1914; 2) are exempt from limits on political campaign contributions and expenditures; 3) have a right to keep their jobs should they go on strike; and 4) receive hundreds of millions of dollars each year in federal, state and local government funds for partisan activities, often under the pretext of "training" or "education."

Despite substantial opposition from organizations protecting employee liberty such as the National Right to Work Committee, the overall direction of labor law in recent years has been toward more, not less, monopoly privilege for unions. The central element in organized labor's political arsenal, so far unrealized, is a misnamed piece of federal legislation called the Employee Free Choice Act, or EFCA, which might well have become law by now were it not for Senate Republican opposition.

On the front burner for the last several years, congressional Democrats, unionism's chief political enablers, have been trying to make it ever more legally difficult for employers to oppose union organizing. EFCA, most crucially, would force private-sector employers to recognize a union as a sole collective bargaining agent if it managed over the course of an organizing drive to solicit card signatures from a majority of affected workers indicating a desire to join. This "card check" feature effectively would preclude an employer's request for a National Labor Relations Board-supervised secret-ballot election. In addition, the proposed legislation would establish a binding federal arbitration process stacked in favor of the union, should labor and management fail to reach an agreement within as little as 130 days of formal recognition of the union. And it would provide for enhanced penalties against any employer found guilty of interfering with a union organizing drive. EFCA, as legal scholar Richard Epstein argues, is not so much an expansion of pro-union provisions contained in NLRA as it is a radical redefinition of union organizing and bargaining.

Unions will continue to enjoy privileges so long as there is a strong undercurrent of public sympathy for unions as noble fighters for the oppressed of the earth. Their officials know how to turn this storyline to their own political advantage. But does it accurately reflect reality? The next section argues it does not.

Questioning the Union Orthodoxy

Whether union leaders seek to coerce by way of government-granted privilege or violent threat, inevitably they justify their actions as improving the lot of all working people, not just members. As such, non-joining workers amount to "free riders," enjoying union-won protections without paying for them. From here it is a short jump to the assertion that unions have a right to force membership, or at least financial contributions, upon reluctant workers. Back in 1985, future Clinton Labor Secretary Robert Reich, at the time a Harvard lecturer, rather famously asserted: "In order to maintain themselves, unions have got to have some ability to strap their members to the mast. The only way unions can exercise countervailing power vis-à-vis management is to hold their members' feet to the fire…Otherwise, the organization is only as good as it is convenient for any given member at any given time." Reich's words, brazen as they were, merely amplified what any union chieftain worth his salary and perks believes: Institutional survival and growth count; the desires of freeloaders don't.

With a conviction as predictable as it is passionate, labor leaders argue that without their voices, America would be a country where a greedy and privileged few, protected by "right-wing" public officials, exploit and intimidate multitudes of hard-working people. It was unions, they emphasize, that created America's engine of prosperity and freedom, especially during the period between World War II and the Reagan presidency, taming the excesses of rogue capitalism to ensure a decent level playing field for all. Andrew Stern, president of the Service Employees International Union (SEIU) during 1996-2010 and very recently a member of President Obama's National Commission on Fiscal Responsibility and Reform, for example, last year called organized labor "the greatest middle-class, job-creating mechanism that we have ever had in America that doesn't cost taxpayers a dime." Similarly, his one-time SEIU mentor, John Sweeney, president of the AFL-CIO during 1995-2009, stated in 2007 before a union audience in Philadelphia:

Our mothers and fathers built our unions and those unions became a counterweight to the excesses of the marketplace, a collective strength that helped assure them of an adequate slice of the wealth they helped create.

They knew that if they worked hard and played by the rules they could lift themselves up and they created the largest middle class, the most dynamic economy, and the most inclusive democracy in the history of the world.

Allies of organized labor also make this point. A report released a dozen years ago by The Century Foundation asserted: "Labor unions have been the single most important agent for social justice in the United States. They have played a vital role in originating a national debate over the sharing of the riches of economic growth, and they have been a leading force in opening up opportunity to all working people." Lawrence Mishel and Matthew Walters, economists with the progressive think tank, the Economic Policy Institute (where Mishel is now president), made much the same point in a 2003 EPI paper. "There is nothing in the extensive economic analysis of unions to suggest that there are economic costs that offset the positive union impact on wages, benefits and labor protec-

Caption. *AP*.

tions of unionized and nonunionized workers," they wrote. "Unions not only improve workers' benefits, they also contribute to due process and provide a democratic voice for workers at the workplace and in the larger society." Harvard law professor and born-again economic populist Elizabeth Warren, a special adviser to President Obama and until recently acting director of the new Consumer Financial Protection Bureau, recently stated in an interview that the American middle class has been under assault for a generation, and that unions are one of the few countervailing forces able to repel the assault. And Vice President Joe Biden had this to say at an AFL-CIO virtual town hall meeting in March 2011: "You guys built the middle class…The only people who have the capacity – organizational capacity and muscle – to keep, as they say, the barbarians from the gate, is organized labor. And make no mistake about it; the guys on the other team get it. They know that if they cripple labor, the gate is open, man. The gate is wide open. And we know that, too."

This report takes a much different view. While the standard union narrative carries emotional power, it is rooted in a lack of understanding of how labor markets – or indeed, markets of any kind – work. While unions can, and often do, provide economic advancement and social fraternity for members, it is highly questionable as to whether they increase the size of the overall working population or output per worker. All too often, they reduce them. Moreover, unions are peripheral compared to the real catalysts for improved living standards – think of scientific discovery, mechanization of production, rule of law, literacy and property rights. A nation's level of unionization, in and of itself, reveals little about whether the prerequisites for a large middle class are present.

There are no doubt fine individuals in the labor movement, sincere in their desire to do well by members and play by the rules. But it is unions as institutions that concern us. And the main institutional reality of unions in this country is that decades of legally-sanctioned protection from competition has enabled them to restrict freedom for employers and especially for non-joining employees. The consequences often have been egregious. Much of the theft, intimidation, violence, strikes and slowdowns associated with unions, at bottom, are attempts to create or protect monopoly privileges. And it is those privileges that have enabled unions to enlist cadres of political activists to demand ever more government intervention in the economy – and more union jobs.

Union leaders, of course, vehemently deny that their organizations are monopolies. For them, corporations and Wall Street titans are the true beneficiaries of privilege. To an extent, the unions are right about the second part, though with a curious habit of downplaying their indignation if a Democratic Congress or administration is providing the favors. Yet it is undeniable that unions, as much as employers, protect their own interests first. Despite their lofty rhetoric on behalf of "the working man" and "working families," organized labor's main loyalty is to dues-paying members. No union is going to go to the mat on behalf of employees who aren't members, or worse (in its eyes), don't want to be. Even "good" unions – those that avoid the taint of corruption or violence – seek to coax non-members into joining, or in lieu of that, contributing time, money and votes. Their credibility with rank and file is on the line.

The standard union orthodoxy – America wins when unions win – has retained a tenacious grip on much of public opinion, even among people who don't really qualify as "Leftist." As unions are supposedly indispensable to society, their right to win and not simply to bargain, ought to be protected. Texas A&M's Reynolds explains why this view is hard to shake:

The key idea sustaining acceptance of adversarial unions, their techniques, and their government support is the belief that they help working people to get their fair share of the economic pie. Dignity in the workplace and better wages, hours, and other conditions are supposed to be the social benefits that unions deliver. Unions and their allies in academia, the press, and government bureaus constantly appeal to our best instincts, arguing that unions help the underdog. An articulate segment of opinion continues to believe in what is called labor's disadvantage, that popular if unverified inequality in bargaining power between labor and capital that unions allegedly remedy.

Unions play on this ingrained sensibility, pitting themselves as the champions of common folk, standing heroically against perfidious plutocrats plotting their dirty business from high-rise office suites. Because there is an element of truth here, and because so many people take and element or two to constitute the whole story, there is little option but to challenge it. It is first necessary, however, to develop an understanding of why unions exist and what they do.

Why Are There Unions?

Monopoly and Scarcity

Unions, boiled down to their essence, are cartels – that is, monopolies. They restrict entry of membership so as to raise the cost of their product, which in this case means labor performed in accordance with the wishes of an employer. But while business cartels are illegal, union cartels are not. And equally crucially, unions realize advantages in growth as well as in exclusion. More membership means more revenues and more political influence. Cries of "Solidarity!" echoing throughout labor convention halls would ring hollow indeed if those halls were nearly empty. Thus, unions are at once restrictive and expansive. On one hand, they want to keep out nonunion competition. On the other, they want to grow into a force of nature, the main reason, in fact, why organized labor for more than a decade has supported amnesty for illegal immigrants.

Unions, like all types of organizations, require that one must pay for benefits in order to receive them. And like all organizations, they have an "agenda." Firms in every significant industry have trade associations through which they lobby, publish and otherwise persuade government officials, legislators and the general public. So it follows that if the National Electrical Contractors Association is a legitimate entity, then so is the International Brotherhood of Electrical Workers. And if the National Association of Home Builders is legitimate, then so is the United Brotherhood of Carpenters and Joiners. Unions are entitled to a presumption of freedom of association to further their goals.

Unfortunately, the story doesn't end there. Unions do more than just invite and persuade workers to join. They also regularly compel them to do so insofar as they have the legal authority. In this, unions wield a veto power unique to nongovernmental organizations. Whereas a corporation, for example, has no standing authority to tell its employees that they must buy its products or lose their jobs, a union can force its members to choose between paying dues and looking for work elsewhere. Moreover, whereas corporations are subject to federal antitrust laws, unions are not. Price-fixing is illegal for businesses, not unions. And unlike corporations, unions pay no taxes.

From the standpoint of union officials, these are fair arrangements because employers hold the cards. The businessman's miserliness, if unchallenged, would lower living standards for everyone. And since employees presumably better their situation more through collective bargaining than through asking the boss directly for a raise or promotion, they ought to be beholden to organizations fighting on their behalf. Compulsion, in this view, is the price workers pay for prosperity.

The reality, however, is that the cards held by an employer are circumscribed by labor market conditions. Wages and benefits, however "low" they may be, are based on estimations of value that new or existing employees will lend the organization. Employees are paid according to the ability of an employer to find substitutes. The more time-consuming and costly the employer's search process, the higher the compensation he is likely to offer to valued workers. Scarcity is the central problem of human existence. Labor, like land, capital and management, requires a search in order to realize the best choice among competing alternatives. The employer, like the employee, in the end must take what he can find.

Exit, Voice or Loyalty

In a world without collective bargaining, an unsatisfied worker has three options: 1) negotiate directly with the employer; 2) stay and grumble if he doesn't get what he wants; or 3) look for another job. Suppose, however, that he can't get what he wants, can't find another alternative, and doesn't want to stay unhappy indefinitely at the same job. And suppose he notices that a sizable number of workers are thinking just like him. The chances are good that these employees want to stay, but also speak up. The vehicle for speaking up is called a union. This type of organization gives employees an opportunity to negotiate through chosen representatives, allowing workers to maximize their situation while remaining on good terms with their employer. *The root assumption of collective bargaining is that it delivers more for workers than individual bargaining.*

But shouldn't individual workers negotiate with an employer? The argument for unions, at least as voluntary entities, is that one-on-one bargaining doesn't work, especially in a large-scale work setting. Individuals, other than name-recognition "superstars" within a specialized field, have little or no negotiating leverage beyond what the market will bear. Moreover, the employer, if so inclined, might exact retaliation upon "complainers" or "troublemakers." Workers, aware of this possibility, may be unlikely to reveal their true preferences. Unions, by collectively articulating employee preferences, can eliminate inhibitions. Workers may resent their fate being in the hands of union bosses, but may see this misgiving as secondary to economic security.

Thus, unions at once seek to *autocratically control* and *democratically represent* labor, a phenomenon whose observation forms the basis for a definitive and heavily-debated reference work on the economic effects of unionism, Richard Freeman and James Medoff's *What Do Unions Do*? The authors, professors of economics at Harvard and research associates at the Cambridge, Mass.-based National Bureau of Economic Research (NBER), argued in that

1984 book that unions exhibit "two faces" of behavior: monopoly and voice/response, the first being bad and the second being good. The interplay between the two shapes contract negotiations and all other interactions between labor and management.

The authors, in the spirit of neoclassical economics, acknowledge that unions, in showing their monopoly face, seek enforceable advantages unavailable to non-members. The laws, regulations and court decisions that grant or reinforce monopoly power may misallocate resources, jeopardize national security (in the event of a strike), and lower productivity of labor and capital. Unions as a whole may benefit even if the larger society doesn't. But by showing its voice/response face, note the authors, unions empower workers who otherwise would remain silent or exit. Through collective bargaining, a union signals to management the discrepancies between what workers have and what they want. The goal is an enforceable contract. Just as a couple in a troubled marriage should have an alternative other than divorce (exit) and hostile endurance (loyalty), workers should have an alternative other than departure and grudging loyalty. As a representative "voice," unions effectively can play marriage counselor by getting each side to gain insight into each other's situation and arrive at mutually beneficial concessions.

While acknowledging the corrosive effects of monopoly-seeking, Freeman and Medoff conclude that the voice/response face is the defining one. "According to our analysis," they write, "in most settings the positive elements of the voice/response face of unions offset or dominate the negative elements of the monopoly face." On balance, unions benefit not just their members, but society as a whole. If unionism lowers social efficiency, they maintain, "It does so by minuscule amounts except in rare circumstances." Relative decline in the private sector, they argue, is mainly attributable to employer retaliation against union organizers and joiners, an assertion not borne by recent evidence. The main reason for decline, loath as union leaders are to admit it, is that most employees, if given a choice, prefer not to join or work a union. Fear of further decline is why unions are pulling out the stops to persuade Congress – so far unsuccessfully – to enact the Employee Free Choice Act. Their control over the labor market slipping, labor leaders sense their best hope for regeneration lies in expanding monopoly and dressing it up in the language of liberty. Unfortunately, monopoly creates inefficiencies.

The Impact of Unions on the Economy: Assessing the Evidence

Wages and Productivity

Unions, like other types of large organizations, are creatures of self-interest. Through the collective bargaining process, a union can negotiate a wage and benefit package for members that exceeds compensation levels for non-members in the same industry. If its leaders repeatedly demonstrate an inability to do this, members eventually either will elect new leaders within that organization, seek representation through another organization, or go without a union altogether. The competitive edge in compensation presumably enjoyed by union employees often goes by a term: the "wage premium." A substantial body of research over the years has attempted to quantify this advantage.

The main reference for research on the wage premium is the late labor economist H. Gregg Lewis, who taught at the University of Chicago and later at Duke. In 1963, Lewis came out with a book, *Unionism and Relative Wages in the United States*. Analyzing 20 empirical studies, he estimated that union wages on average ranged from 12 to 16 percent higher than nonunion wages in comparable industries. In a 1986 follow-up book, *Union Relative Wage*

Effects, Lewis examined nearly 200 studies conducted during 1967-79. His finding was much the same – the wage premium averaged about 14 to 15 percent. The largest advantages in private industry occurred in skilled and/or physically risky occupations such as mining, printing and building trades; the smallest advantages could be found among garment, textile and shoe workers.

A number of labor economists have concluded that the union advantage, at least in private industry, has deteriorated over the past few decades. More to the point, by raising wages in the face of union pressure, a firm, regardless of point in time, doesn't necessarily become more competitive. To insist otherwise is like saying that raising grades improves academic achievement. It is easy to assume the cause-effect relationship that higher wages lead to more

Members of the Machinists Union and other labor organizations demonstrate against budget cuts Friday, April 8, 2011, at the Capitol in Olympia, Wash. *AP.*

productivity. After all, both have increased over the years, right? Yet the reverse relationship may be much more significant. As Reynolds puts it, "(H)igh wages are not the *cause* of successful economic activity; they are the result of successful economic activity." And as Henry Hazlitt asserted in his classic primer, *Economics in One Lesson*: "Unions, though they may for a time be able to secure an increase in money wages for their members, partly at the expense of employers, and more at the expense of non-unionized workers, *cannot, in the long run and for the whole body of workers, increase real wages at all.*"

This ought to be intuitive. Look at it this way: Everyone wants to make more money at what they do. Yet if employers, in response, were to raise wages and benefits indefinitely without any regard to the effects, eventually they would go out of business or severely downsize. More than one union has been oblivious to the consequences strong-arming employers into costly, long-term concessions. And they have paid, as well as exacted, a price. The United Auto Workers' drop in membership during 1979-2009 from 1.5 million to 355,000 in no small measure was due to the union intimidating General Motors, Ford and Chrysler into making unsustainable health care and retirement contributions. And now that the union has a large equity stake in GM and an even larger one in Chrysler, they are revving up the aggression. UAW President Bob King recently pledged $60 million in union funds for pressuring foreign carmakers into entering into union contracts at U.S. plants, generally located in Right to Work states. And he is vowing to join human-rights, religious and environmental groups to publicly brand non-complying companies as human rights violators.

An employer has a natural inclination to expect a return on an investment, whether in land, capital or labor. The employer knows that if union representation can raise wages 15 percent above market level, that won't necessarily make his company 15 percent more productive or profitable. Freeman and Medoff, after combing through government and industry data bases, plus various published studies, understood this as well. Yet they concluded that unions generally raise productivity, even if that is not necessarily their ulterior motive:

Our most far-reaching conclusion is that, in addition to well-advertised effects on wages, unions alter nearly every other measurable aspect of the operation of workplaces and enterprises, from turnover to productivity to the composition of pay packages. The behavior of workers and firms and the outcomes of their interactions differ substantially between the organized and unorganized sectors. On balance, unionization appears to improve rather than to harm the social and economic system…our analysis shows that unions are associated with greater efficiency in most settings, reduce overall earnings inequality, and contribute to, rather than detract from, economic and political freedom.

A number of studies also have viewed the economic impact of unions on the firm, industry or economy as favorable, or at any rate, minimally unfavorable. They generally advance at least one of three arguments.

One rationale is the union as "rational actor." Union demands, in this view, don't jeopardize employer solvency. Though unions seek maximum compensation for members, their demands inevitably will stop short of putting the plant, firm or product line at risk of closing. Moreover, by raising wages and benefits, they improve morale and productivity. Unions implicitly take to the negotiating table the immortal words of American Federation of Labor founder Samuel Gompers: "The worst crime against working people is a company which fails to operate at a profit." Harvard's Freeman, along with University of Minnesota labor economist Morris Kleiner, matched business and Current Population Survey data sets, and found little evidence that unionization raises the risk of employer insolvency. Michigan State University labor economist Dale Belman in an early-Nineties article concluded that unions, by virtue of sharing in employer decision-making, increase productivity. The highest productivity gains were in manufacturing (19 percent to 24 percent), construction (17 percent to 38 percent) and furniture (15 percent).

Another argument for unionism is the "threat effect." By raising wages and benefits in unionized companies, unions effectively raise them in nonunion firms as well. To achieve this kind of clout, however, union density in a given industry has to be high. The Economic Policy Institute's Lawrence Mishel, in his University of Wisconsin Ph.D. dissertation, calculated that nonunion establishments in industries with union densities from 40 percent to 60 percent and from 60 percent to 80 percent paid a respective 6.5 percent and 7.3 percent more than nonunion establishments in low-membership industries. Princeton University's Henry Farber likewise found a positive threat effect. Using data sets from the Seventies through the mid Nineties, he found that the average nonunion worker in an industry with at least 25 percent union density realized 7.5 percent higher wages as a result of the presence of unionization.

Still another rationale for union activism is the "equalization effect." Unions, proponents say, raise wages for everyone, but most of all for the least-skilled workers. Implicitly, unions perform a tax-free form of income redistribution. That this egalitarianism comes at a cost, though not necessarily through taxation, is a separate issue. But unions can perform a redistributive function. Princeton University economist David Card, for example, found that the union wage premium is the highest among workers in the bottom income quintile. And labor economists Barry Hirsch and Edward Schumacher, after reviewing the empirical literature, likewise concluded that the wage premium is greatest for the lowest-skilled workers, a tendency they called "universal."

These and other studies favorable to unionism, however, typically exhibit one or more of the following difficulties. **First**, there is little, if any, way of quantifying how unions, by giving a voice to workers, actually benefit productivity. Union bargaining may well improve pay and morale, but at the same time it may introduce inefficient work rules and discourage merit-based compensation. The assignment of value to certain benefits according to fixed standards is very much a matter of conjecture – and whose conjecture prevails. **Second**, these studies fail to take into account the fact that union pressure raises the marginal cost of labor to an employer, thus giving managers smaller resources with which to operate. This is the case even if a union does raise productivity. The most unionized industries, feeling less competitive pressure, have less incentive to do the things that raise productivity. **Third**, studies showing a positive union effect have a selectivity bias. Productivity data, by definition, include only those firms that survive union pricing and work rules; conversely, they exclude non-surviving, usually smaller firms.

Beyond these problems are the many studies casting doubt on claims that unions aren't at odds with productivity. Even a labor economist sympathetic to Freeman and Medoff, Barry Hirsch, now at Georgia State University, has concluded that unions significantly inhibit profitability. Unionism, he argues, functions as a tax on company earnings in cases where wage increases aren't matched by productivity gains. "My assessment of the U.S. evidence is that unions have, at most, small positive (but variable) effects on productivity insufficient to offset the substantial compensation gains, thus leading to lower firm productivity," he writes. "Unionization is associated with lower investment in physical and intangible capital and slower growth. Because union effects are the joint product of union and management interaction, workplace outcomes vary with the labor relations environment."

As the next sections suggest, this is a rather restrained critique of unionism as a net social plus. Others are more pronounced.

The Economic Impact of Unions: Output Differences by State

States often differ widely in the laws, policies and programs that affect their business climate. If the "monopoly" face of unionism is at least as pervasive as the "voice/response" face, one would expect job growth and productivity to be greatest in states with relatively low levels of union membership. A sizable body of empirical research supports this view.

A 50-state study released this year sponsored by the U.S. Chamber of Commerce and performed by law firm Seyfarth Shaw LLP and consultant Navigant Economics concluded that unions act as a drag upon economic growth. The researchers, after collecting data on 34 specific employment and labor policies grouped into six categories and spanning the period 2002-08, developed an Employment Regulation Index (ERI). The index measured the impact of regulation on economic growth on a scale from one to 100, with one representing the least possible government control and 100 representing the most. The states with the lowest ERI scores, observed the authors, had the lowest unemployment and highest business formation rates. "(I)f all states were to improve their (business) climates to the level discussed in this report," they concluded, "the nation as a whole could generate the equivalent of more than seven months of private-sector job creation (at the current rate), and increase the rate of new business formation by more than 12 percent." *States do best where union membership and political influence are low*. Put another way, if the most coercive (i.e., union-friendly) states were to adopt policies of the least coercive states, the economy would be performing at pre-recession levels.

A report by Ohio University economists Richard Vedder and Lowell Gallaway a decade ago yielded a similar set of outcomes. The authors developed a regression model of the impact of factors favoring unions, concluding that they caused substantial "deadweight loss" in Gross Domestic Product during 1947-2000. "What our simulations reveal is the powerful effect of the compounding over more than a half-century of what appears at first glance to be small annual effects," the authors observed. "An even more dramatic statement of the economic cost of unions is provided by cumulating the lost income and output over the entire 54-year period under consideration. The result exceeds *$50 trillion* (1992-1994 prices), a breathtaking total."

In separate state-by-state calculations, Vedder and Gallaway concluded that high levels of union membership cause firms over the long run to locate, relocate or expand in low-membership states. Union members constituted an average of 18.88 percent of the work force in the nation at the start and end of the period 1964-99, well above the low of 5.3 percent for North Carolina. Had union membership for the U.S. reflected the North Carolina rate, the increase in per capita GDP would have been 16.89 percentage points higher. Additionally, Vedder and Gallaway estimated that for every four workers who join a union there is one additional person who can't find work. About 80 percent of the adverse effects of unionization were manifest in lower work force participation (including active job-seeking); the other 20 percent were manifest in higher unemployment rates.

Winthrop University economist Lou Pantuosco also has conducted state-by-state research on the relationship between union membership and company productivity. In a 2001 article using panel data on 48 states during 1978-94, he and colleagues Darrell Parker and Gary Stone concluded: "We find that unions adversely affect unemployment rates and the growth rates of gross state product (GSP), productivity, and population, while increasing the rate of wage inflation. The impact on the employment growth is negative but not significant." In a more recent study co-authored with Rollins College economist William Seyfried, Pantuosco evaluated the impact of private- and public-sector unions on four measures of state economic activity – wage inflation, unemployment, productivity and economic growth – during 1992-2005, comparing them with comparable data for 1983-96. They concluded:

Our results for the 1992-2005 period…indicate that public unions have no discernible effect on economic growth while private unions have a negative effect on economic growth. This result differs somewhat from the earlier period in which public unions were found to have a small positive effect on economic growth (in the fixed-effects model) while private unions had little discernible effect. Furthermore, a significant difference was found between the impact of private and public unions, with the former having an adverse effect on the performance of the economy…In the study of the 1983-96 period, public unions exhibited no effect on unemployment while higher rates of private unionization resulted in increased unemployment.

Alluding to Freeman and Medoff, the authors concluded: "These results provide little to no support for the claim that unions are 'beneficial to the economy, in many ways.'"

Research by University of Minnesota economist Thomas Holmes indicates that a state's favorable business climate generates job growth, most significantly, in counties bordering a state with an unfavorable business climate. This, he argues, is indicative of a pattern of business location or expansion across state lines within the same labor market area. Using the existence or absence of a Right to Work law as a proxy for business climate, Holmes calculated that manufacturing employment in border (or "first-tier") counties in pro-business states constituted 25.3 percent of total private-sector employment in 1992, compared with 19.3 percent for first-tier counties in anti-business states. Even more telling, during 1947-92, the number of jobs grew by 88.5 percent in first-tier counties on the pro-business side, as compared with 62.6 percent on the anti-business side. Businesses, in other words, respond favorably to Right to Work laws in deed and as well as in word.

The Economic Impact of Unions: Capital Displacement

Another type of impact study measures the degree to which labor substitutes for capital investment, the latter being the principal engine of economic growth in a competitive world. A common view among economists is that the union wage premium acts as a tax on labor, and in response, employers, whether or not made more efficient, cut back on hiring. But there is alternative view as well: Unionized employers, if reluctantly, cut back on planned capital outlays, whether for plant capacity or research & development (R&D), labor having "captured" the investment. A substantial body of research indicates the latter consequence is heavily at work.

Barry Hirsch, for example, concluded in a 1991 report based on data for 1968-80 among 500 publicly-traded manufacturers that a unionized firm, controlling for various factors, on average had 6 percent less direct investment in tangible capital than did comparable nonunion firms. Allowing for the (indirect) profit effect increased this figure to 13 percent. For intangible capital (R&D), unionization lowered a firm's direct investment by 15 percent and total investment by a little more still. In a separate earlier study, Hirsch, along with colleagues Robert Connolly and Mark Hirschey, using measures of union density at the industry rather than the firm level, found that unionized firms respond to unionization by reducing R&D spending and (unintentionally) earning lower returns on R&D. A firm whose share of union employees rises from 20 percent to 50 percent, all other things held equal, decreases R&D spending relative to expected levels.

Bruce Fallick (Federal Reserve System) and Kevin Hassett (American Enterprise Institute) analyzed how a firm alters its level of capital expenditures in response to a union victory in a certification election. Drawing from National Labor Relations Board case files, the authors concluded that a vote for certification, holding various factors constant, amounted to a 30 percent hike in the corporate income tax. A successful certification election, they wrote, would decrease a typical firm's investment-to-capital ratio by about .04 the following year.

Other studies over the years support the argument that unionism forces substitution of labor for capital. Stephen Bronars and Donald Deere (Welch Consulting), sifting through data for 1970-76 on publicly-traded companies, discovered that a 35 percent rise in a company's union density is associated with declines in investment of 8 percent in physical capital, 51 percent in R&D and 36 percent in advertising. In a separate analysis, Bronars and Deere, with Federal Reserve Bank of New York economist Joseph Tracy, compared performance between union and nonunion firms during 1971-82. They found that a 50 percent rise in a company's ratio of union-to-total employees caused decreases in R&D spending by 18 percent to 25 percent; annual sales growth by 1 percent to 4 percent; annual employment growth by 3 percent to 6 percent; and profits by 8 percent to 20 percent. And for good measure, a study led by University of California, San Diego economist Julian Betts concluded that Canadian industries whose union density grew from 0 percent to 42 percent experience a drop in R&D spending by 28 percent.

Summary

Estimating the true effect of unionism on economic decisions and conditions inevitably is fraught with uncertainty. The studies cited in the previous sections used various data bases and assumptions about behavior of unions, firms and industries to arrive at their conclusions. But it is reasonable to assert that unions, especially in states and industries where they represent large numbers of workers, inhibit economic performance. And the empirical literature cited above is by no means compre-

Caption. *AP.*

hensive. The report now turns toward why unions continue to derive large amounts of revenue and power even as they account for a progressively smaller share of workers in private industry.

Power Through Politics

The More Government, the Better

If unions are experiencing a decline in their representation of the private-sector labor force, the question thus arises: How have they continued to wield so much influence on the economy? The answer is not so much their maintenance of monopoly advantages per se as it is their use of these advantages to build an enormous infrastructure of political activism. Union leaders want large-scale government economic intervention as well as stronger unions institutionally. For as the role of the State expands, it follows that public-sector employment expands, and with it, the ability of unions to negotiate favorable terms. After all, politicians who favor more intervention tend to be union supporters and thus are prone to political capture. Union leadership more than ever requires political skills. *Politically astute union officials are the ones who have the greatest impact on the economy.*

Unions always have thought politically even back when the strike threat carried far more weight. Some 50 years ago United Auto Workers President Walter Reuther asserted, "Labor's victories at the bargaining table are threatened every other year at the ballot box." He knew, as did his fellow union leaders, that an ability to deliver maximum contracts for rank and file depended on support from elected officials at the federal, state and local levels. Whether the goal is maximizing bargaining and organizing capacity or expanding government involvement in the economy, unions know that political power makes for institutional viability. The UAW practices what it preaches, too. The union spent $13.1 million during the 2008 election cycle, virtually all of it on the Democrats. The investment paid off. As president, Barack Obama quickly commandeered the financially-troubled General Motors and Chrysler into bankruptcy, giving a union-sponsored health care trust fund respective 17.5 percent and 55 percent stakes in the companies, while routing a combined $65 billion in taxpayer funds toward the two companies (GM got $50 billion). Whether taxpayers will get their money back depends ultimately on whether company share prices meet their intended targets. So far, they haven't.

Democratic Party Adjuncts

Almost all unions support Democrats. It is the Democratic Party that best articulates union interests, excites union passions and implements union-supported programs. Unions, in turn, are positioned and eager to bankroll their election campaigns. According to the nonpartisan Washington, D.C.-based Center for Responsive Politics, 92 percent of all union campaign donations since 1990 have gone to Democratic Party candidates and organizations. Law professor and Fox News Channel commentator Susan Estrich, herself a Democrat, stated not long ago that her party wouldn't even be able to pay for their headquarters were it not for organized labor. Sen. Ted Kennedy, D-Mass., the driving force behind proposed mandatory card-check legislation until his death in 2009, summarized his union affinities this way: "The way you spell Kennedy is L-A-B-O-R and don't you ever forget it." Republicans usually provide a counterweight, but not at the same level of intensity as the Democrats' support for unions. Senate Republicans, for example, have filibustered card check legislation, but they consistently have avoided a debate much less a vote on proposed national Right to Work legislation, allowing a procession of bills to languish.

Union officials use political process to expand the public sector, and not just advance member interests. A larger public sector, all things held equal, means more union employees. Whether representing public- or private-sector workers, unions typically are on the side of expanded government control and subsidization on every domestic issue, from plant closings to housing subsidies to public education. Back in 1978 AFL-CIO President George Meany declared, "Every piece of social welfare legislation in the last two decades carries a union label." That statement was not an exaggeration then; it would not be one today. In the Nineties, historian Ronald Radosh observed, "More and more, the one constituency group with money for Democrats is the one they have been counting on since the FDR era: the AFL-CIO."

Labor officials expect results and these days are getting them. The election of Barack Obama as president in 2008, if not a gift from heaven, was something close to it. Obama from the start has been a highly partisan union supporter. In his campaign tract, *The Audacity of Hope*, he wrote: "So I owe these unions. When their leaders call, I do my best to call them back right away. I don't consider this corrupting in any way."

The Democratic primary campaign at times appeared to be a race for gaining union favor. Obama, then a senator from Illinois, who had told the Service Employees International Union he would "paint the nation purple with SEIU," secured the union's endorsement early in 2008. His main rival, Sen. Hillary Clinton, D-N.Y., gained the endorsement of the American Federation of Teachers; the exterior of AFT headquarters in Washington, D.C. during primary season could have passed for Clinton campaign headquarters. Whoever won would have serious IOUs to organized labor. Obama knew his benefactors had expectations. In a published statement in August of that year – Obama had secured the nomination by then – the AFL-CIO executive council called upon Congress to enact a massive fiscal stimulus program to offset state and local government budget shortfalls:

The AFL-CIO strongly supports stimulus funding to states and localities for counter-cyclical relief, including: 1) revenue-sharing flexible grants; 2) enhanced federal match for state food stamp administration; 3) restoration of funding for child-support enforcement; 4) expanded unemployment insurance; 5) increased administrative support for UI and employment services; 6) housing crisis emergency needs; 7) funds targeted for the education of at-risk (Title I) and special needs children (IDEA); 8) efforts to ensure continued access to higher education (Pell Grants); and 9) funding for ready-to-go infrastructure improvement and repair projects.

The labor federation would not have to wait long for payday. In February 2009, the Democratic-majority Congress, at President Obama's strong behest, passed a $787 billion fiscal stimulus plan (i.e., the American Recovery and Reinvestment Act) heavily mirroring the AFL-CIO wish list, though with tax cuts for qualifying individuals and families.

Much of the pot of federal aid would be portable to union contractors, Obama having laid the groundwork several weeks earlier. On January 30, the president issued three executive orders that: 1) prohibited federal contractors from receiving reimbursement for any costs incurred in opposing a union organizing drive; 2) required contractors to offer continued employment to offer continued employment to workers already on the job as employees of a predecessor; 3) forced contractors to post conspicuous notices in the workplace notifying employees of their rights or risk losing their contract. A week later, on February 6, President Obama signed another order "encouraging" the use of Project Labor Agreements on federal or federally-funded construction projects of at least $25 million, effectively overturning a 2001 order by President Bush.

As unions support ever higher levels of domestic spending, they have proven themselves advocates of higher taxes to support that spending, especially where government agencies themselves are employers. More than once, their advocacy has produced victory. In Arizona, for example, the Arizona Education Association, an affiliate of the National Education Association (NEA), successfully lobbied the legislature in 2009 to retain a $250 million-a-year statewide property tax. That year in Maine, affiliates of the NEA, the Service Employees and the Teamsters teamed up with the Maine Municipal Association to defeat a ballot initiative to limit the growth of government spending. And in Oregon, public employees unions provided the lion's share of funding for two January 2010 ballot initiatives ("Measures 66 and 67") that authorized a combined $733 million tax hike on households and businesses enacted by the legislature and signed into law the previous year by then-Governor Ted Kulongoski - the unions won, with each measure passing by a 54-46 percent margin.

When it comes to federal taxes, of course, unions never miss a beat in calling for high (or at least higher) taxes, so long as the burden falls upon "the rich," a category seemingly referring to anyone who lives comfortably and doesn't belong to a union. AFL-CIO blogger James Parks observed immediately following last year's elections: "The Bush tax cuts never came close to living up to the promise that they would create jobs – we actually lost private-sector jobs under the Bush administration. Extending the tax breaks for the wealthy also would add billions to the national deficit." And this April, as the federal government headed toward a possible shutdown, AFL-CIO President Richard Trumka let loose this populist barrage:

What does the Republican leadership in Congress really want? Well, this week they showed their cards. They want a massive cut in tax rates for the wealthy and for Wall Street, and they want the middle class and the poor to pay for it in various ways, including higher health care costs and hidden tax increases…

Working people expect our elected leaders to fight for the middle class and against government of, by, and for the rich, and not to be bullied by the protectors of the privileged and powerful. It is morally obscene to dismantle programs critical to the economic security of the middle class and the poor while proposing eviscerating budget cuts that cost jobs for working people without asking the wealthiest Americans and Wall Street to pay more.

As if "the wealthiest Americans" don't work themselves – or would have gotten wealthy in the first place had they been soaked with taxes!

Trumka and other union officials, of course, know it takes money as well as fulminations to win the day. That's why organized labor is at the front lines of Democratic Party fundraising. Since 1989, fully 11 of the top 20 PAC election donors have been unions. During the (two-year) 2008 election cycle, unions and their political action committees spent more than $400 million on preferred candidates and party organizations, almost all Democrat. And that does not include hundreds of millions of dollars more on "in-kind" expenditures such as phone banks, mass mailings, voter education projects, and media campaigns. Unions and Democrats have a symbiotic relationship: When one gets stronger, so does the other.

Repaying Favors: The Case of Health Care Reform

Union-supported political office-seekers, if and when elected (and re-elected), remember their benefactors. Major case in point: the new health care law, formally known as the Patient Protection and Affordable Care Act, strong-armed into existence by leading congressional Democrats (especially Senate Majority Leader Harry Reid, D-Nev.) and signed by President Obama on March 23, 2010. The law was very much a product of backroom negotiations between top union and White House officials. Then-Service Employees President Andrew Stern functioned as a lobbyist all but in name during that time. The Democrats, knowing who their allies were, were happy to oblige.

The law provided a grab bag of favors for unions. A major element was Section 1102, or the Early Retiree Reinsurance Program (ERRP), designed to encourage employers not to drop health coverage before the law takes full effect on January 1, 2014. Authorized at $5 billion, ERRP subsidizes state governments, companies and unions committing themselves to providing health insurance for employees who retire between ages 55 and 64; i.e., before they become eligible for Medicare. As union members generally are more likely than nonmembers to retire early, the provision represents an implicit wealth transfer to unions and unionized employers. An interim report issued March 31, 2011 by the Department of Health and Human Services indicated that national and local unions received much of the $1.3 billion in ERRP funds distributed from June 2010 to March 17, 2011. The United Auto Workers Retiree Medical Benefits Trust was by far the largest recipient at $206.8 million. Corporate recipients, typically unionized, included AT&T ($140 million), Verizon ($91.7 million), General Electric ($36.6 million) and General Motors ($19 million). Huge sums also went to union-driven state retirement systems, the leaders being the Public Employees System of Ohio at $70.6 million, the Teacher Retirement System of Texas at $68 million and the California Public Employees Retirement System (CalPERS) at $57.8 million.

The health care law also exempted union members from taxation on high-end ("Cadillac") health plans until 2018. That political gift was the result of a closed-doors sweetheart deal worked out in January 2010. Unions were alarmed that members might have to pay a proposed 40 percent excise tax on plans exceeding the proposed cost thresholds for individuals and families. Union officials, led by AFL-CIO President Richard Trumka, hammered away for 15 or more hours in White House negotiations to obtain the exemption. Total cost savings for union enrollees: $60 billion.

This scenario has been played out for any number of types of social legislation. It is no different for education, infrastructure or social services. Major government programs carry a union label. The lesson is clear: Democratic politicians seeking support for social welfare legislation know that whatever they want, it has to pass muster with labor chieftains. Otherwise, it's "no go."

The Special Case of Public-Sector Unions

Why Public-Sector Unionism Is Different

If unions increasingly have turned to politics to rebuild their bargaining power, then the aggressive growth of public-sector unionism is a particularly onerous consequence, and cause, of politicization. It cannot be repeated enough that government-employee union membership now exceeds union membership in the private sector. Public-sector union membership for the first time in U.S. history in 2009 exceeded private-sector union membership, accounting for 52 of all union members. Back in 1960, public-employees unions accounted for a mere 6 percent. Nor can it be repeated enough that overall government employee compensation well exceeds pay in the private sector, a discrepancy heavily driven by union negotiation. In December 2010, private-sector employees received an average of $27.75 per hour in total compensation, of which 70.8 percent consisted of wages and salaries and the other 29.2 percent consisted of benefits. The average for state and local government employees was $40.28 per hour, of which 65.6 percent were wages and salaries and the other 34.4 percent were benefits.

A half-century of government employee union growth has paralleled the growth of government itself. To understand why this is no coincidence is to understand why public-sector unions, *by their nature*, are unique.

There are three built-in advantages public-sector unions enjoy over their private-sector counterparts.

First, public agencies don't risk extinction. Incumbent officials may be tossed out by the voters and public agencies may resort to private contracting, but the agency's functions will continue to exist, even with a reorganized bureaucracy. And once a union organizes workers, the workers usually stay organized. This is a situation quite unlike the private sector, where uncertainly rules the day in considering business start-ups and expansions. Foreign competition, by definition, is not a factor as it is in business. And since all businesses start out nonunion, unions have to pour extra effort into organizing employees at a new company.

Second, government services typically are legal monopolies or something close to them. A public-sector union thus often is a monopoly twice over – first, by the fact of its exclusive representation rights, and second, by the lack of competing service providers within the same jurisdiction. As taxpayers, people generally have a lot less ability to choose than as consumers. They may move to a nearby jurisdiction (especially for the schools), but doing so still remains a far more complicated affair than changing brand names.

Third, public-sector unions know that their base pay and benefit demands are highly unlikely to price their members out of the market. The cost can be recovered in the form of higher taxes, fees and fines – i.e., out of the pockets of others. In the private sector, however, even the most aggressive unions are cognizant that if they push too hard, they may push themselves out of a job. Yes, governments can impose austerity plans to keep labor costs down. But as we have seen in Wisconsin and other Midwest states this year, such actions, even if surviving a court challenge, carry high political and even physical risks.

The most trenchant critic of public-sector unions, Rutgers University labor economist Leo Troy, views these organizations as emblematic of the "New Unionism," which reinforces the New Socialism. Under the New Socialism, he explains, government owns an increasingly large share of national income rather of the production process. Social spending, not social ownership, is the goal. And the New Unionism, unlike the old, he argues, induces public employee unions to serve as adjuncts to the agencies for which they work. That puts them in competition with each other as well as with their respective employers, especially because economic growth is not central to the survival of public-sector employees. In his 1994 book, *The New Unionism in the New Society*, Troy noted:

Even when it becomes the dominant wing of organized labor, the New Unionism itself would be too weak to create the New Society. However, in the tradition of pressure and special interest groups in a pluralistic society like America, it is able to wield enormous influence in supporting and expanding income redistribution. Politically, the New Socialism is a political paradigm comprising the New Unionism, the dominant liberal wing of the Democratic Party, and various other left-liberal special interest groups. It is a combination of 'grass-roots coalitions of labor with other community groups…to…generate a broad-based social reform movement.'

Such words, in retrospect, virtually predicted Obama's election as president. And as we have seen in the previous section, Obama is a man who rewards his allies.

It is precisely because public employee unions are connected to legalized monopoly force – i.e., government – that their right to collective bargaining is geared toward not only expanding union power but toward expanding the size and scope of government as well. Unlike in the private sector, public-sector unions have the leverage to threaten the order of entire communities, states and even the nation by withholding labor, especially in the area of public safety. Having little or no private-sector competition, these labor organizations don't have to worry about pricing their demands out of the market. Elected officials, fearing voter wrath, all too often capitulate rather than downsize or risk traumatic service disruptions, knowing their successors bear the consequences. Strikes may be illegal, but if the employers are reluctant to fire the strikers, who will?

Government and unions, in this context, effectively sit on the same side of the negotiating table, even if they appear to be miles apart in contract talks. As City College of New York political scientist Daniel DiSalvo notes: "In the private sector, the wage demands of union workers cannot exceed a certain threshold. If they do, they can render their employers uncompetitive, threatening workers' long-term job security. In the public sector, though, government is the monopoly provider of many services, eliminating any market pressures." Management and union, the first reluctantly and the second aggressively, thus work against taxpayer interests.

How Public-Sector Unions Grew

It wasn't always like this. In fact, until about 50 years ago, the prevailing view was that public-sector employees have no right even to collectively bargain, much less strike. The idea of compelling a government agency to bargain with a union amounted to an undermining of popular sovereignty. For decades, even organized labor and its allies recognized as much. President Franklin D. Roosevelt believed it "unthinkable and intolerable" for government employees to engage in collective bargaining. In 1955, the year of the AFL-CIO merger, George Meany, president of the new federation, declared, "It is impossible to bargain collectively with the government." And in 1959, the AFL-CIO Executive Council declared: "In terms of accepted collective bargaining procedures, government workers have no right beyond the authority to petition Congress – a right available to every citizen."

The situation changed rapidly during the Sixties and beyond, when one by one, states passed laws to allow or require collective bargaining. Until Wisconsin – fittingly enough – broke the ice in 1959, not a single state had either type of law. By 1984, fully 28 states did, with 24 of them of the mandatory type. These statutes, spurred in part by President Kennedy's landmark Executive Order 10988 in January 1962, proved crucial in generating contracts and raising membership. In one study, prominent labor economists Jeffrey Zax and Casey Ichniowski found that changes in state collective bargaining laws accounted for nearly all of the increases in membership in five public service areas in over 10,000 agencies around the U.S. during 1977-82. Collective bargaining also provided the main incentive for employee walkouts. In 1958, there were only 15 strikes against government employers; in 1980, that total had risen to 536. It was President Reagan's firing in 1981 of illegally striking air-traffic controllers that reversed the tide.

Politics Is the Name of the Game

As public-sector unions depend on thinking politically to win concessions, they have become political advocates of the first rank. Indeed, their financial contributions and endorsements can make or break election campaigns, and indirectly, the degree of government intervention in the economy. The American Federation of State, County and Municipal Employees (AFSCME), with 1.6 million members, for example, donated around $90 million to congressional candidates, overwhelmingly Democrat, during the 2010 election cycle. That figure, which excluded party contributions, was up from $19 million during 1997-98. And as with other unions, it may rise even more rapidly in the wake of last year's U.S. Supreme Court ruling in *Citizens United*, which loosened restrictions on corporate, union and nonprofit campaign spending. AFSCME political operations chief Larry Scanlon doesn't hide the fact of his union's clout: "We're the big dog," he noted during the campaign last fall. "But we don't like to brag." The dog has been barking for a long time. Victor Gotbaum, chieftain of AFSCME's powerful (and corrupt) District Council 37 in New York City during 1965-87, stated in 1975 during the city's fiscal crisis: "We have the ability, in a sense, to elect our own boss."

The two main teacher unions, the National Education Association (3.2 million members) and the American Federation of Teachers (1.5 million members), also have become adroit operatives for the Democratic Party, supplying many of its lobbyists, media specialists and convention delegates. NEA's political division, UniServ, employs a staff whose size exceeds those of the Democratic and Republican Parties combined. This kind of clout assures the flow of government aid. The federal stimulus legislation in particular authorized about $100 billion to aid in teacher recruitment, retention and effectiveness, saving what advocates claim are a half-million jobs. "It's fair to say the Democrats would be nowhere without them," remarked University of Virginia political scientist Larry Sabato of the NEA and AFT. "(T)hey not only have the money and the muscle, they also have a positive public image from representing teachers that much of labor lacks." Myron Lieberman, a critic of the teacher unions who once upon a time represented them at the negotiating table, likewise has noted: "The most hopeful development relating to the NEA/AFT is that they have become a political issue. More precisely, their political role can no longer be obscured by cant about the 'bipartisan' or 'nonpartisan' nature of public education." In May 2011, the National Education Association, sensing an advantage in an early start, formally endorsed Obama for re-election.

Union activism also has driven much of Medicaid, especially at the state level. Funding for the low-income health care program, enacted in 1965, has exploded since. Forty years ago, in Fiscal Year 1971, federal Medicaid outlays were $3.4 billion. Those were the days. The figure rose to $14.0 billion in 1980, $41.1 billion in 1990, $117.9 billion in 2000 and $272.8 billion in 2010. The combined federal-state figure for Fiscal Year 2010 exceeded $400 billion. Total program spending rose over the past decade by an average annual rate of 7.3 percent, about twice the increase in overall state spending and three times the rate of inflation. State taxpayers are especially bearing the brunt. Whereas in 1990, Medicaid on average accounted for about 12 percent of state government spending, that figure is now 21.8 percent. And thanks to certain provisions in the union-supported health care overhaul, it's going to be even more expensive because the law, once fully in operation in 2014, will cover a projected half of the 32 million additional persons eligible to receive health insurance.

Labor officials don't appear at all troubled by the fiscal implications. Last July, for example, after Congress passed yet another round of enhanced unemployment insurance, but minus an attached Medicaid expansion, AFSCME President Gerald McEntee was highly displeased. "Republicans continue to block emergency aid for state and local governments, funding that the majority of U.S. governors have specifically requested, and almost half have factored into their state budgets," he remarked. "Without this funding, nearly a million more jobs will be lost in the private and public sectors." Perhaps McEntee was unaware of the possibility that job losses have been due in part to the rapid expansion of public aid. In other words, each new dollar of "emergency" government spending effectively represents a dollar of potentially foregone job-creating private investment.

States in Peril

It is the states, especially the most unionized, that are most in harm's way. New York, which spends more on its Medicaid program than any state and where 73 percent of all state and local government employees are unionized (again, the highest figure in the nation), is headed for a train wreck. Here, organized labor, time and again, has blocked proposed spending curbs. Several unions, especially Service Employees Local 1199, with some 300,000 health care workers, mostly in the New York City metropolitan area, showed their skill in launching media campaigns to discredit cost-cutting proposals in the eyes of an undecided and often fearful electorate. When Republican Governor George Pataki, for example, vetoed $1.3 billion in Medicaid spending in 2006 – a small portion of the entire Medicaid budget – the union, along with the Greater New York Hospital Association, launched a series of television attack ads, the most famous of which depicted a woman racing toward a hospital carrying a sick child only to discover that the emergency room doors are locked. The over-the-top campaign worked. Pataki's popularity took a dive, and Service Employees Local 1199, led by then-President Dennis Rivera, persuaded the governor to forgo most of the reduction.

In an effort to close an overall $10 billion deficit, new Governor Andrew Cuomo has proposed a 2 percent cut in Medicaid funding and an increase in patient copayments. He may succeed, but that is mainly because of the concessions he made to SEIU Local 1199, which included a wage floor for home health workers, substantial rollbacks to proposed cuts to nursing homes and personal care, and an overhaul of the home care industry in ways favorable to union growth. "We are proud that working people were able to play a role in proposing innovative solutions and thoughtful reforms that protect patient care," remarked union President George Gresham. Translation: Whatever Local 1199 wants, Local 1199 gets.

New York's greatest challenge, however, may be meeting public-employee pension commitments. A study released last December by the Manhattan Institute's Empire Center for New York State Policy indicates that pension liabilities, largely driven by union negotiation of special eligibility tiers, are threatening to undermine the state's economy. Over the next five years, tax-funded annual contributions to the New York State Teachers' Retirement System (NYSTRS) and the New York State and Local Retirement System (NYSLRS), respectively, will more than quadruple and more than double. The report gives a grim diagnosis: "While New York's two state pension systems officially are deemed 'fully funded,' we estimate that NYSLRS is $71 billion short of what it will need to fund its pension obligations, and that NYSTRS has a funding shortfall of $49 billion, based on valuation standards applied to corporate pension funds."

It's no better next door in Pennsylvania. Combined pension liabilities for state employees and teachers exceeded $20 billion as of 2010. That sum is expected to increase during the next few years to over $55 billion. Initially, school district retirements costs will rise by more than 70 percent; close to half the burden will be borne by property owners and the remainder by state government. Municipal pension plans are hurting badly as well; Philadelphia has just 45 percent necessary to pay for future obligations, while Pittsburgh has only about a third.

It is in California, with nearly one-eighth of the nation's population, where the consequences of unchecked public-sector union power have been most advanced. The state, which now spends $21 billion on services for illegal immigrants, is facing a budget deficit of $25.4 billion for the coming 2011-12 fiscal year. Democratic Governor Jerry Brown, who took office this January, is calling for $12 billion in new annual taxes to avert major service cuts, a proposal that was defeated at the polls last year. Public agencies now are paying suppliers in IOUs. And the state's three public-employee pension funds face an estimated $535 billion shortfall over 16 years, noted a recent Stanford University study. This by necessity will crowd out other spending considerations. David Crane, an aide to then-Governor Arnold Schwarzenegger, stated in late 2010: "This year we're spending 10 percent less on higher education than we did 10 years ago, parks and recreation 40 percent less, environmental protection 80 percent less, while spending on pensions is *up* 2,500 percent."

Unchecked public-sector unionism has been a major culprit. Back in 2005, Gov. Schwarzenegger gave strong backing to a series of ballot initiatives to rein in public spending and the public employee unions that benefit

ABC union employees on strike in Burbank, California. *AP.*

from it. Opposition from teachers, nurses and other public-sector unions was fast and furious. Their dues-funded expensive campaigns swayed enough undecided voters to defeat each measure by a substantial margin. Schwarzenegger never fully recovered from the experience, though he did manage to squeeze some concessions from the unions during the budget battle in his last year.

The problem isn't limited to a few states. Union activism has accelerated the day of reckoning across the nation. As a whole, union pension plans are more prone to underfunding than other types of plans. And public-sector plans are driven heavily, though not exclusively, by union contracts. A report released last year by the Pew Center on the States estimated that states and participating localities faced a collective $1 trillion gap in promised retirement benefits; only $2.35 trillion in assets were available to cover $3.35 trillion in accumulated long-term liabilities as of the end of fiscal year 2008. And that was just *before* the stock market collapse.

Perhaps now one can grasp the necessity of Wisconsin Governor Scott Walker's "draconian" measures to curb the power of public-sector unions and the irrationality of the fury with which union activists and other protestors have responded. Rather than raise taxes, Walker preferred to address the budget gap by going after factors that drive spending. Public-sector employees, knowing their interests were threatened, responded with mass political mobilization, in the act revealing their role as adjuncts to the Democratic Party, especially those legislators who fled the state. In Wisconsin, as in the rest of the nation, the New Unionism is implacably hostile to any attempts to restrain its growth. Oblivious to the fiscal disarray its advocacy has brought about so far, public-employee radicalism likewise is oblivious to the prospect of collapse. If such a calamity comes to pass, the result may be the ultimate taxpayer-financed bailout.

The Prospects for Unionism Under Liberty

Unionism, in theory, is a beneficial undertaking. It enables workers to better their lives without fear of intimidation by employers. And regrettably, some employers do intimidate. But equally to the point, so do unions – with legal immunity, too. Indeed, by using the State to achieve on their behalf what they might not on their own, it is fair to say that all unions, in practice, intimidate. The overriding principle should be this: *Unions should have the right to exist and organize, but should not be legally vested with any power to coerce others into joining or otherwise providing support*. There is nothing particularly radical about this view. Among those advancing it have been some of the 20th century's most eminent economists. The late W.H. Hutt, for example, often noted that "union power" is another way of saying government-granted privileges. Society has a duty, he argued, to curb these privileges if evidence indicates they have been abused by their beneficiaries. Yet he was not "anti-union." Shorn of monopoly power, Hutt conceded, unions would have a constructive role to play:

"Collective bargaining" would, however, presumably come to mean that union managements would begin to act entrepreneurially on their members' behalf, finding better paid employment for "underpaid" members, or jobs with better prospects. Any worker may be held to be "underpaid" if his earnings are less than he could command elsewhere if he were better informed. Unions would have the expert task of taking the initiative in these circumstances.

Nobel Laureate F.A. Hayek likewise wrote: "Everybody, unless he has voluntarily renounced it, ought to have the right to join a trade union. But neither ought anyone to have the right to force others to do so." Indeed, this view well predated the 20th century. Nearly two centuries ago David Ricardo argued that government's role in resolving labor disputes should be limited to impartial enforcement of contract, tort and criminal law.

The long-term trend in this country, despite periodic reversals, unfortunately, has been away from voluntary unionism and toward compulsory unionism. It says much about today's state of affairs that one of President Obama's appointees to the National Labor Relations Board, Craig Becker, during the Nineties advocated forcing all workers to belong to a union of some sort, a view he has not disavowed. Yet moving toward market-based unionism is still possible. Indeed, for nearly a decade it was a reality in New Zealand. That country's Employment Contracts Act, enacted in 1991, gave each employee the freedom to decide whether to be represented by a union and whether to negotiate with an employer, individually or collectively. The result: rising real economic growth, more jobs, lower unemployment rates – and significantly smaller union membership. A resurgent Labor Party repealed the law in 2000, in the process undercutting union officials' claims that they place the welfare of their country over that of their own institutions.

Voluntarism can work here, too. But instituting it would require repealing the legally-sanctioned privileges described earlier this report, and even more crucially, blocking passage of the Employee Free Choice Act, whose card check, forced arbitration, and enhanced unfair labor practices sanctions (against employers) have everything to do with *denying* an individual worker's freedom of choice. Unions, of course, will fight tooth and claw to retain all existing competitive advantages and institute new ones. From their standpoint, they represent the noblest aspirations of working men and women. Using all methods at their disposal, legal or otherwise, to bring recalcitrant workers into their fold is part of their ceaseless struggle for social justice. They also will work to expand government, which as a consequence, expands the size and influence of public-sector unions. Looked at another way, the best way to keep public-sector union intimidation at bay is to reduce the size of government itself.

If organized labor leaders have made their peace with capitalism, it is at best an uneasy peace that damns with faint praise. In speeches, writings and interviews, unions equate their traditions with those of America. It is "the rich" and their political enablers, they emphasize, who are out of the nation's mainstream. A competitive market, for them, is a dangerous relic of a bygone era whose periodic reappearances signal a national emergency. Former SEIU President Andrew Stern, speaking before a gathering last June of the (George Soros-funded) progressive nonprofit group, the Campaign for America's Future, provided classic fireworks. "America needs a 21st century economic plan because we now know the market-worshipping, privatizing, deregulating, dehumanizing American financial plan has failed and should never be revived," he declared. "It has failed America and everyone that works here."

Such a summation may be a real crowd pleaser, but it is dishonest all the same. "Market worship" is a straw man. What commonly is called the market is the complex interaction of decisions by every person capable of influencing supply and demand – that is to say, everyone. Capitalism is no more a proxy religion than it is an ideology. It should be seen instead as an acknowledgement of the inevitability of voluntary human exchange, given scarce resources and competition for them. If unions, stripped of government-granted privileges, discover that they must compete harder to attract and retain members, they should accept this as a price to pay for life in a free society. Otherwise, they risk losing further favor with the workers whose interests they purport to champion.

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