Labor Monopoly.
(1954)

(Information Bulletin #44
11/23/54)

THE POWER OF UNIONS

This material is prepared as background on

Issues in the News

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THE POWER OF UNIONS

This We Believe:

Americans have always distrusted excessive power in any hands. They specifically provided for a balance of power in the federal government by setting up legislative, executive and judicial branches. They also determined that all powers not specifically given the federal government should remain with the states and with the people. When business exercised monopolistic power, anti-trust laws were written to provide proper controls.

Today, there is an enormous concentration of power in the nation's labor organizations. This power is growing rapidly, and even now can result in practices which hurt the public interest more grievously than those engaged in by some business organizations before passage of the first anti-trust law in 1890. Yet abuse of union power is largely uncontrolled because labor unions have been held exempt from the anti-trust laws, and because other laws are inadequate.

The interest of all the people is above that of any segment or class in society. This basic truth should be recognized by application of the anti-trust laws to unions, as well as business, when unions use their monopolistic powers to hurt public and consumer interest.

(This discussion presents only some of the preliminary considerations in connection with the growing problem of union monopoly abuses. The subject is so complex that a complete discussion would be impossible here.)

1. How powerful are the big unions?

Unions virtually control certain industries so that strikes or the threat of strikes have slowed down and at times disrupted our national economy. Unions have gained what is in effect a monopoly control of workers in coal and some other industries. The power of unions over the coal industry was demonstrated a few years ago when the United Mine Workers was able to impose a three-day work week and many "memorial holidays," sharply restricting production and affecting prices which consumers had to pay for fuel. Four years ago, the Senate Banking and Currency Committee, after long hearings, found that "labor organizations wield a very far-reaching economic power over banking and credit, price and production controls, consumer prices, national stabilization and small business."*

Residents of many big cities have seen unions tie up public transportation, prevent delivery of merchandise, throttle shipping. Large areas have suffered from telephone strikes, and many communities have had their electric power and light cut off during labor disputes.

Moreover, union power is growing, not diminishing.

2. How does union monopoly power hurt the public?

When abused, this power in some cases can keep goods and services off the market, raise prices, and prevent the use of labor-saving devices.

Unions have added to the cost of new homes in many parts of the country by forbidding the use of such labor-saving products as ready-mixed concrete, plastic pipe, paint spray-guns and pre-glazed window sash and doors. Their argument that these products put men out of work ignores the fact that other men also are deprived of jobs when their products cannot be sold.

* The Economic Power of Labor Organizations, 81st Congress, 2nd Session, Report No. 1234, U.S. Gov't. Printing Office.

In some cities, unions have established price lists which more dairy companies must follow. If a company objects, it is faced with union boycotts, strikes or picketing. Unions in the laundry and clothing industries also have set up price lists which employers must agree to if they want to stay in business. Legal action against the unions has failed because present laws are not adequate to control this type of union activity.

3. What's wrong with price-fixing?

It is unfair to the consumer because it forces him to pay higher prices. In a free, competitive economy, the consumer determines prices. If he doesn't like the price of bread in one store, he can shop around until he finds the price he wants to pay. But if all bakeries get together to set a single price for bread, the consumer is helpless. This kind of an agreement among business firms is called a conspiracy to fix prices and is strictly forbidden by the anti-trust laws.

4. What are the anti-trust laws?

The original statute was the Sherman Act passed by Congress in 1890 to protect the public interest by maintaining free competition in interstate commerce. A "trust" was defined as a combination of corporations, partnerships or individuals in the same business acting as a monopoly to control the market. When competition had been eliminated, a trust was able to fix prices and otherwise act against the public interest. Public opinion, which in this country always has distrusted great power, whether in government, business or elsewhere, welcomed the Sherman Act. Today its wisdom is generally recognized. The term "anti-trust laws" refers to the Sherman Act and related laws passed since 1890.

5. Did the Sherman Anti-Trust Act originally apply to labor unions?

Yes. Although an attempt was made while the bill was still in debate to exempt labor organizations, the effort failed. This was clear indication that Congress intended the Act to apply to all aggregations of power, unions as well as business. This intent was recognized by the Supreme Court in 1908 when the Court ruled that a union boycott of an

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employer's products violated the Sherman Act. Unions then began a series of efforts to attain specific exemption from the Act culminating in the labor sections of the Clayton Act (1914). These sections said that unions were free to carry out the "legitimate objectives" of labor. Unfortunately, the law did not spell out what these "legitimate objectives" are, or state what labor activities would be illegitimate. Most authorities agree that better wages, hours and working conditions are legitimate objectives of labor, and that price-fixing, for example, is not a legitimate labor objective.

6. Are unions subject to the anti-trust laws today?

No. The only exception would be when a union takes part with an employer or with other parties in a collusive arrangement which, even without union participation, would violate the anti-trust laws. This lack of control over union monopolistic practices is the crux of the whole problem of union power, for it has permitted unions to act against the public interest.

7. Since unions originally were subject to the Sherman Act, why are they virtually beyond reach of the anti-trust laws today?

Largely because of the Supreme Court decision in U.S. V. Hutcheson, 1941. In this decision, the Court held that the Clayton and Norris-La-Guardia Acts reflected an intent by Congress to place unions beyond the reach of the anti-trust laws. The decision has been cited time and again by the courts in refusing to apply the anti-trust laws to unions. Thurman Arnold, former Assistant U.S. Attorney General, once said that the Hutcheson decision read the words "legitimate objectives" out of the Clayton Act. He meant that the effect of the decision was to give unions a free hand to seek other objectives beyond better wages, hours and working conditions.

8. What are the arguments against bringing unions under the anti-trust laws?

Originally, arguments against applying the anti-trust laws to unions were based on the unions' right to organize. In the 1920's when unions were relatively new, a union's bargaining power was directly proportional

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to its economic strength. It was argued that unless a union were free to organize, so far as possible, all employees in a given area, its bargaining power would be ineffective because an employer could replace union employees with non-union employees and so defeat the union. Many students of labor believed that unions, like public utilities, were natural monopolies and therefore should be exempt from the anti-trust laws.

9. Why are the arguments against bringing unions under anti-trust laws no longer valid?

Federal and state laws now fully protect the unions' right to organize and bargain collectively with employers for better hours, wages and working conditions. This right is fundamental to our national labor policy and is so recognized by the great majority of specialists in the labor relations field.

The Taft-Hartley Act, for example, requires an employer to recognize a union and to bargain with it when the union has been certified as the employees' bargaining agent. The law also assures to a union the right to act as exclusive bargaining agent for all employees, union and non-union, in the bargaining unit.

Therefore, arguments that labor unions should remain exempt from the anti-trust laws lest they lose their right to carry out legitimate objectives, are not valid.

10. Can the anti-trust laws curb the abuse of union monopolistic power without injury to legitimate union activities?

The answer is yes--unqualifiedly. The main purpose of applying anti-trust law to unions would be to forbid practices which hurt the public interest. The anti-trust laws are not intended to limit the essential purpose of unions which is to enable employees to bargain collectively with employers for better hours, wages and working conditions.

11. How could union monopolistic practices be curbed by the anti-trust laws without destroying unions?

Some students of labor law propose an amendment to the Clayton Act spelling out legitimate and illegitimate union activities. The proposed

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amendment would not disturb those union activities which are directly related to representation of employees in regard to wages, hours and working conditions. But union activities which are not related to these objectives and which hurt public and consumer interest, would be prohibited. These prohibited activities would include price-fixing, and the restriction of new products, such as paint spray-guns.

Proponents of this amendment say it would free many industries to give the consumer full benefit of new processes and products now banned by unions. Many costs, artificially sustained by enforced waste, would fall. Prices would be reduced and some new industries would be born.

12. What position has been taken by the Chamber of Commerce of the United States in regard to control of union power?

The Chamber has pointed out that "conspiracies in restraint of trade and monopolistic practices when engaged in by employers, have long been subject to the anti-trust laws and other legal control. Equality before the law and the public interest require the imposition of the same controls on these practices by labor organizations."