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EDITORIAL

A 3 PERCENT ESCALATOR

On December 22, the Carter Administration announced its "Christmas present"—the restoration of \$2 billion for social welfare programs to the President's proposed budget. This fiscal stocking-stuffer was intended to placate the groups in the Democratic Party who have protested Carter's earlier Scrooge-like slashes of C.E.T.A. and other programs.

After the President had emulated the born-again Ebenezer in the last-minute timing of the \$2 billion restoration (and the old Ebenezer in its size), he was then able to play Santa Claus to the Defense Department. On December 27, it was reported that the President would increase the defense budget by over \$10 billion for fiscal 1980. This was supposed to represent the fulfillment of the promise Carter made last May to the NATO allies that the United States would bump up defense spending by 3 percent over the inflation rate.

But wait a minute. As Alan Wolfe noted in these pages last February, the President pushed for the inflation-plus 3 percent increase in last year's budget. Wolfe pointed out that this 3 percent escalator clause was not merely a violation of candidate Carter's pledge to cut defense spending, it also reflected a policy of spending more on conventional weapons for American forces in Europe. That was the real NATO connection; the buildup of conventional forces, to which the 3 percent budget increase would go, was part of a "new" strategy of "flexibility"—the same conventional-forces doctrine that flowered in the 1960s and led us into Vietnam.

At any rate, whatever policy motivated the President's \$10 billion raise, it is an apparent promulgation of an Iron Law of ever-increasing defense spending.

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ANTI-UNION ALLIANCE

LABOR LAW REFORM AND ITS ENEMIES

THOMAS FERGUSON and
JOEL ROGERS

The defeat last June of the proposed Labor Law Reform Bill (L.L.R.B.) at the hands of an unprecedentedly broad coalition of business groups was a catastrophe for American labor.

By shattering the consensus on goals that has long guided much of industry and most of labor, the bill's demise heralds an end to the epoch of industrial relations that began in the later stages of the New Deal. By setting in motion powerful tides of interest and sentiment, it virtually insures a long period of turmoil in American society and politics. And by highlighting the inability of trade union leaders either to bargain successfully with a presumptively friendly Democratic Congress, or to exact major support from an Administration they helped place in power, the wreck of labor law reform forces the United States labor movement to face the fact of its own decline, and compels it, however unwillingly, to begin the protracted and painful process of measuring its aspirations against its capabilities.

Any number of statistics testify to the gravity of the situation. The percentage of the work force organized into trade unions has dropped steadily since the mid-1950s, standing now at a postwar low of 20.1 percent. Organizing drives mounted by unions are increasingly ineffective. While as late as the mid-1960s unions won 60 percent of representation elections, by last year their

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campaign against Thurmond. There has certainly been opposition, but not enough to offset the many services provided the black electorate by these two veteran politicians.

However, the political structure of South Carolina and Georgia has been open to blacks for some time. In Mississippi, where the percentage of blacks is the highest of any state in the union, the political situation is still relatively closed. There, one can see both the power and the fragility of the black political presence.

The Democratic Party of Mississippi has tried systematically to exclude blacks from its ranks. It has put up very few black candidates at the local level, and has repeatedly tried to deny black representation on the state delegations to the national conventions. Recognizing this policy, the national Democratic Party rejected Mississippi's regular delegation to the 1972 convention, and seated instead a more representative "loyalist" group of whites and blacks who had been elected in a series of county elections.

Since 1972, the selection process for Mississippi delegates to the national convention has been reformed, but the policy of exclusion remains an issue.

That was one of the factors that moved Charles Evers to run for the Senate this year as an independent. He won about 23 percent of the vote after a shoe-string campaign. The white Democratic candidate, Maurice Dantin, received about 20 percent of the black vote, but only enough white votes to collect 31 percent of the total. The Republican, an extreme conservative, won with 45 percent of the vote—virtually all of it white.

The effect of Evers's candidacy was to cut into the black-white alliance that a Democrat must have to win. If it is to prevent other similar debacles, the Democratic Party will have to open its ranks to blacks at all levels. For where the system is closed to them, they organize to undermine it.

The irony of this sort of negative power is that one would find it hard to prove that the average black citizen, who can vote for a viable party-sponsored candidate in South Carolina, gets a better return on his vote than does the Mississippi voter who backs an independent candidate sure to be defeated. The elected officials of South Carolina have proposed no programs to raise their state out of its poverty. It lags behind forty-six of the states in literacy and infant mortality. The party umbrella has been opened to shelter blacks, but very few innovative reformers have gained leadership positions. The net achievement of the Voting Rights Act seems to be that it has put some blacks in the ranks of leadership, but they have not used their positions to push for major reforms of the system. Rather, they have chosen to become part of the system that finally accepted them, even if that means trading votes to Thurmond for money to remedy specific problems in their communities. They are pragmatists, and that, to be sure, is better than nothing. But pragmatism will never shake the world. □

Labor Law

(Continued from Front Cover)

percentage of victories had plunged to 46 percent. Both because of membership discontent with union leadership and employers' increasingly sophisticated union-busting tactics, the number of proposed contract agreements rejected by rank and file has in recent years risen sharply, and unions now lose close to 80 percent of the growing number of decertification elections (which challenge the union's status as bargaining representative) and de-authorization polls (which challenge "union shop" agreements) conducted by the National Labor Relations Board. Right-to-work laws, already on the books in some twenty states, are being lavishly promoted by opponents of labor in at least six others, though a campaign in Missouri was defeated in the November elections.

No less unfavorable for unions has been the trend of public opinion. Various polls conducted while Congress considered the L.L.R.B. showed labor lagging far behind business in both public confidence and belief in its representative character. In addition, a majority of those polled felt that leaders of the larger unions wielded excessive power.

But aggregate indices such as these veil a more subtle aspect of labor's decline: the decay of its position inside the American party system. Although the unions' power within the Roosevelt New Deal coalition was probably less than most contemporary observers recognized, shared as it was with large numbers of investment and commercial bankers, representatives of a variety of high technology industries, and too many oil men to count conveniently, from 1935 onward they did exercise significant influence within Democratic circles.

But by the late 1950s labor's position within the Democratic Party had already begun to deteriorate. A year before the pivotal Presidential election of 1960, a Congress top-heavy with Democrats in wake of the recession-induced landslide of 1958 passed the sharply anti-labor Landrum-Griffin Act. Simultaneously the Republican business coalition of the 1950s began to splinter over the issue of free trade, which threatened major industries such as steel, textiles and shoe manufacturing, but was ardently promoted by the G.O.P.'s "Eastern Establishment" of bankers and multinationally oriented business firms.

When the right wing of the party, supported strongly by such protectionist and nationalistically inclined figures as National Steel's George Humphrey, textile magnate Roger Milliken, and independent oil men John Pew and Henry Salvatori, seized control of the G.O.P. in the early 1960s, a mass exit

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commenced of multinational (and, commonly, high technology) businesses from the Republicans to the Democrats. Their impact on the Democratic Party's foreign economic policy was immediately evident. With the Trade Expansion Act of 1962 and the Kennedy Round of substantial tariff reductions, the party reaffirmed its New Deal commitment to a liberally structured world economic order, providing for the free multilateral flow of goods and capital.

This was a disaster for labor, which was best organized in those older industrial sectors most threatened by international competition, and which experienced the flood of imports from Western European, Japanese and American-owned corporations abroad as a loss of union jobs. Nor was labor able to stem the flow of shops from the North to right-to-work states in the South. In 1965 the most heavily Democratic Congress since Roosevelt's second term declined to amend the right-to-work provision of the Taft-Hartley Act, and other Democratic Congresses of the period, despite routine election-year promises to labor, contrived to avoid the issue altogether.

With the return of a Democratic Administration in 1977, labor attempted once again to improve its organizing position by legislation. The A.F.L.-C.I.O. proposed a series of amendments to existing labor law whose general thrust was to speed up representation elections, increase penalties for the skyrocketing number of unfair labor practices committed by employers, afford unions access to employer premises to combat "captive audience" employer union-busting tactics, and grant the N.L.R.B. additional power in "refusal to bargain" cases, while increasing the size of the N.L.R.B. and streamlining the review process for regional Administrative Law Judge findings.

But the realignment of party elites that took such dramatic shape in 1964 had crystallized by the middle of the 1970s. The hegemonic element in President Carter's victorious coalition of 1976 was the free-trade oriented Trilateral Commission, not the ever more protectionist A.F.L.-C.I.O. And the defeat of the common situs picketing bill foreshadowed what was vividly illustrated by the fate of the Labor Law Reform Bill: When forced to choose between his big business and labor supporters, Carter would throw his weight behind the former.

This was apparent from the start of last fall's Congressional session, when Carter and Senate Majority Leader Robert Byrd set their legislative agenda. They decided to shelve the L.L.R.B. until after the Senate approved the controversial Panama Canal treaties, an item of first importance to a phalanx of big banks and multinationals who feared the impact a rejection of the treaties might have on their Latin American investments. As Carter and Byrd well knew, voting twice for positions publicly identified (however outlandishly) as "liberal" would be too much to expect of some Senators who faced re-election campaigns. Whichever bill came up first would therefore

enjoy the better chance. In addition, Carter's and Byrd's decision gave the growing ranks of anti-union lobbyists (far more professional than their opponents) more time to mobilize support. By the time the L.L.R.B. finally came up in Congress, an army of new actors had been recruited for the struggle.

Business in America is not organized as a unitary state but operates rather along the lines of a federal republic. At the national level, salient and enduring cleavages separate big from small business. And within the big business group, critical distinctions in technological sophistication and degree of multinational orientation exist between sectors and among individual firms. Depending on the issue and specific arena of conflict, different sorts of coalitions form in the business community. The community's effort to organize itself in opposition to the L.L.R.B. provided a good illustration of how this process of coalition-building works in practice.

Organizations of small businesses such as James McKeivitt's 500,000-member National Federation of Independent Business, and the more powerful National Association of Manufacturers (N.A.M.) and United States Chamber of Commerce, whose primary operational constituency consists of small businesses, all opposed the bill from the start (although N.A.M. had to bring into line some Northeast concerns which felt that union successes in the South would help arrest Northeast industrial decline). So did a number of trade associations, including the Master Printers Association and, from the crucially important construction industry, the Associated Builders and Contractors (whose Butch Randall headed up the National Action Committee on Labor Law Reform) and the Associated General Contractors, in which the giant, privately held Bechtel is a major presence.

Also in action from the start, but operating somewhat apart from the other groups, was the National Right to Work Committee (N.R.W.C.), headed by Reed Larson, who has a long and generally successful history of fighting unions. He helped persuade Everett Dirksen to lead the floor fight against repeal of the Taft-Hartley 14(b) right-to-work provision in 1965-66, has been instrumental in promoting right-to-work laws in any number of states, and came to the L.L.R.B. debate fresh from beating the common situs picketing bill under both Ford and Carter. Employing a strategy a bit more sophisticated than he did some years ago, when the N.R.W.C. sold "Eat California Grapes" bumper stickers at the height of the United Farm Workers' grape boycott. Larson now advertises himself as yet another lobbyist for simple human rights. Using the computerized mailing lists of Richard Viguerie, his committee distributes literature and raises funds largely through direct mail and newspaper advertising, now accepted by prestigious liberal magazines and book reviews. (Disclosure of contributors to Larson's equally active N.R.W.C. Legal Defense and Education Foundation is the object of a suit by a consortium of unions, who claim that employers are laundering funds through Larson

to pay for their employees' anti-union lawsuits, a move that would be illegal under current labor law.) In the meantime Sears Roebuck reportedly made a hefty contribution to the N.R.W.C. while the battle raged over the L.L.R.B. (An article by Zachary Sklar on the N.R.W.C. and similar anti-union organizations will appear in the next issue of *The Nation*.)

Both N.A.M. and the United States Chamber of Commerce have taken on more staff and cultivated grass-roots organizing throughout the 1970s. The Chamber's "Action Call" on key pieces of business-related legislation now reaches a regular audience of seven million, while its 2,300 "Congressional Action Committees" of local businessmen are prepared to coordinate district pressure on legislators. The decision by N.A.M. and the Chamber in mid-1977 to cooperate in opposition to the upcoming bill probably marked a high point in the awareness and density of small business organization since the New Deal.

But what lifted the L.L.R.B. battle to historic significance was the struggle that took place on the heights of the American economy where, for the first time in decades, the largest American corporations allied with the small business community and committed major resources for a blitz against labor.

The center of deliberations leading up to this step was the Policy Committee of the Business Roundtable. The Roundtable, originally organized out of much less publicized groups such as the Construction Users League, and the so-called "March Group" (and with a Policy Committee that heavily overlaps the much more discreet Business Council), has grown since it was founded in the early days of the 1970's recession into corporate America's major high-profile public lobbying and consensus center. Unlike the American contingent on the Trilateral Commission, which is exclusively oriented toward multinationalism and free trade, the Roundtable membership represents both sides of the controversy over American foreign economic policy.

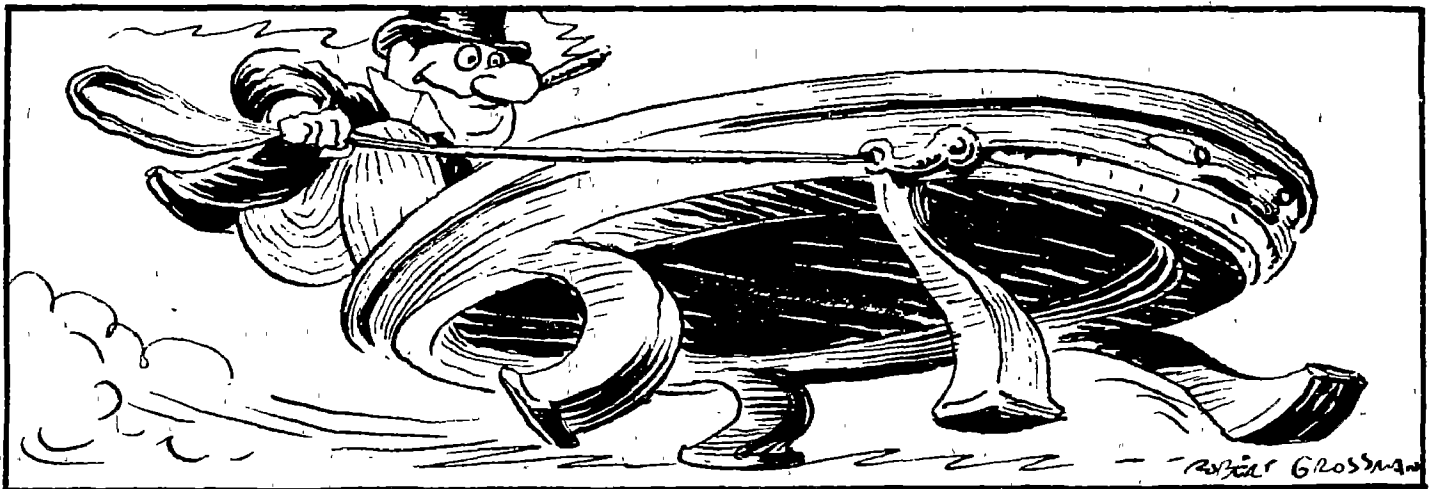
All belligerents in the great labor war of 1978 recognized the critical role the Roundtable would necessarily play, and pressure on the organization to commit itself was intense. A bloc of big firms on the Policy Committee pressed for a quick decision to join

N.A.M. and the Chamber in opposition to the bill. Prominent among these were firms relying on unskilled labor, like Sears Roebuck, as well as firms in mass production industries, such as Firestone and Goodyear, that are under pressure in the current world recession. Most of the chemical companies urged a strong position against the bill, in part out of anxiety about their own work force, but also because they depend on industries like textiles which use large quantities of chemicals and are threatened by unionization. And of course the steel companies favored a strong stand against the bill, with Bethlehem donating the full-time services of industrial relations vice president J.J. O'Connell to the National Action Committee's own policy committee.

Nevertheless, another important segment of the Roundtable was initially skeptical about a major attack on the bill, and favored neutrality. Firms like I.B.M. and A.T.&T. that operate with ultra-high technology (and hence comparatively low direct labor costs), saw no pronounced gain for them in defeating the L.L.R.B. With the probable exception of Shell, oil companies, although certainly worried about an extension of union activity in their industry, seem to have opposed a harsh public position. Although busily engaged in the flight south from the unions (recently slowed somewhat by agreements to turn over some of the new plants to the U.A.W.), heavily unionized firms like General Motors did not wish to spark a class war, and so temporized at the start. And other firms, notably General Electric and Du Pont, frankly argued that the benefits of big business-big labor collaboration outweighed the costs, even during a world recession.

Organized labor made some attempt to exploit this division within the Roundtable. Its spokesmen repeatedly held out the carrot of cooperative labor relations. Unions inveigled the steel industry, for example, with a provision in the bill banning "stranger picketing" of the type rampant earlier this year in the coal fields—a measure that would, incidentally, subordinate union rank and file to headquarters.

Labor also brandished the stick. Earlier this year, some unions threatened to remove their pension funds



from banks whose personnel sat on the boards of corporations renowned for their hard line toward union organizing. Reportedly, representatives of labor reminded the major banks on the Roundtable Policy Committee of this episode early in the Roundtable deliberations. And though diffusion of electronic processing equipment has de-skilled a significant proportion of bank work and thus made it more vulnerable to unionization, the big banks maintained a low profile throughout the struggle. (By contrast, the American Banking Association, dominated by small banks, lobbied against the L.L.R.B. from the beginning.) Finally, labor seems to have brought special pressure on Ralph Lazarus, chairman of Federated Department Stores and a Policy Committee member, who also chose to stay on the sidelines.

In August 1977, reportedly amid threats by some of the small business organizations to boycott big businesses that wavered, and complaints from the lower ranks of the firms that favored neutrality, the Policy Committee voted 19 to 11 to move actively against the bill rather than stay neutral. On the losing side were General Electric, Du Pont, Federated Department Stores and, in all probability, I.B.M., A.T.&T., Citibank, Chase, General Motors, Mobil and most of the other oil companies (save Shell).

The Roundtable then closed ranks with N.A.M. and the Chamber on the National Action Committee. In the end, even G.E., which had been perhaps the most vigorous defender of neutrality, sent plant managers to lobby against the bill at the height of the debate. Fraser Associates handled publicity for the Roundtable on the bill, and McGuinness and Williams, whose Labor Policy Association had previously acted for Roundtable members on labor affairs, were retained as counsel.

As the bill moved toward a vote on the Senate floor, lobbying and bargaining were intense. Paneloads of businessmen flooded Washington, business launched a nationwide press campaign of canned editorials and advertising, and much grass-roots organizing was attempted by both sides.

Although President Carter had been involved in the bill's formative stages—during which he had insisted on removing a projected 14(b) repeal provision that labor wished to use later as a bargaining chip—he for the most part kept out of the campaign to enact the L.L.R.B. Responsibility for White House lobbying was delegated to Vice President Mondale and Labor Secretary Ray Marshall, men whose strongly pro-labor backgrounds deprived them of much leverage with anti-labor Senators. Carter, so adept earlier at mobilizing Senate support for the Canal treaties, quietly allowed his newly acquired reputation as a skilled negotiator to dissipate.

By the time of the June filibuster, all the interest groups were aligned, but the bill was in tatters. Several important provisions had disappeared, including the heavy compensation clause for employees found victim of unfair labor practices (of special signifi-

cance to small businesses unprepared to pay such fees), and many features of the procedure to accelerate representation elections. As bargaining over specific parts of the bill extended debate for a period longer than that afforded any other major piece of labor legislation in the nation's history, the crucial question became whether the filibuster led by Senators Hatch, Helms, Lugar and others could be broken.

The forces opposing the bill retained a remarkable cohesion, which was only in part an achievement of ideology. When Sen. Howard Baker, a leading unannounced candidate for the 1980 G.O.P. Presidential nomination (and who would like to run as a free trade advocate), flirted with the idea of casting his vote for cloture, Senator Hatch applied strong pressure. Working closely with the National Right to Work Committee, Hatch coolly dispatched a letter, on Senate stationery, outlining the current status of the bill to every 1976 G.O.P. contributor. This move, along with earlier criticism he had received from the Citizens for the Republic (legatee of the residual \$1 million war chest of Citizens for Reagan), kept Baker in line. The National Right to Work Committee alone mailed its constituents more than fifty million pre-printed postcards attacking the bill. Reportedly, six million of them were mailed back to the Senate Office Building, and by the end of the spring, nearly every postcard maker in the East had been bought out.

As the filibuster continued, Carter, under tremendous pressure from labor, was finally forced to move. Blandishments apparently held out by Carter to particular Senators as incentives for a cloture vote included sugar import concessions to Chiles of Florida and Long of Louisiana, a revision of Administration land settlement policy in Alaska to that state's Stevens, and an Ambassadorship to Belgium for Sparkman of Alabama, who was retiring.

As swing Senators held out for amendment of one or another of the bill's provisions, labor lobbyists consistently overestimated the number of cloture votes they really had in hand. Byrd's own more pessimistic tallies proved to be correct on this score, for after six separate votes the bill was eventually scuttled, amid promises from Long to attempt a compromise in the next session, albeit for a drastically enfeebled bill.

This ended the first disastrous act of a performance that labor had envisioned as calling back its old appreciative audience. The likelihood that any of the initiatives an increasingly nervous labor movement has pursued since the defeat of the bill—the renewed efforts by many unions in support of protection; an attempt by others to replay the early 1960s by promoting another liberal internationalist as President in 1980; the drive by some to caricature the mid-1960s by renewing coalitions with church groups, minorities and assorted "public interest" lobbies, or the campaign now being mounted by others for a shorter work week—can save the situation demands a more thorough analysis than we can venture here. We will, however, address these matters separately, in a future issue. □