Hans F. Sennholz

CONCESSIONS and GIVEBACKS

WHEN AFL-CIO officials meet they pass resolutions, hold press conferences, listen to speeches by political hopefuls, and condemn the administration. They give ringing endorsement to higher minimum wages, any and all jobs bills, more "dislocated" workers and youth programs, accelerated public works, public housing construction and rehabilitation, and the like. They call for Federal spending that is many times the amount spendthrift administrations could actually spend.

In their public pronouncements, labor leaders are as forceful and intransigent as ever. But in their contract bargaining with employers many are settling for smaller pay raises than at any other time in recent years. Some even consent to givebacks, that is, voluntary forfeitures of previously won benefits. Even in the citadels of unionism, the steel and auto industries, unions for the first time in history have agreed to reductions in hourly wages and fringe benefits. What may be even more significant, some unions are acquiescing in concessions on working conditions. A leading business journal called it a "quiet revolution in the nation's industrial sector, as labor and management agree to eliminate many long-standing and costly work rules in an effort to raise productivity and profits."[1]

Revolutions of any kind are the work of ideas and principles, and are achieved in the realm of thought before they are translated into action. A revolution of unionism must be visible first of all in the sphere of thought about unions, in publications and public pronouncements, in newspapers, journals, and books.

Dr. Hans Sennholz heads the Department of Economics at Grove City College in Pennsylvania. He is a noted writer and lecturer on economic, political and monetary affairs.

The leading textbooks in schools and colleges would have to revolt against popular notions about unions, and overthrow old suppositions. In particular, they would have to explode the prevalent notion that unions can improve the income and working conditions of their members without inflicting serious harm on other workers. They would have to show how union tactics and policies cause mass unemployment, especially among young workers and racial minorities, and inflict harm on the public, which consists largely of fellow workers. Short of such a revolution of thought it is difficult to fathom a revolution in labor union action and policy.

Tactical Retreats

Concessions and givebacks are alien concepts in the ideology of unionism. If it is true that labor is handicapped in its bargaining position, or even exploited by greedy employers, concessions and givebacks can only aggravate the situation; they are regrettable steps back in the long struggle against capitalistic oppression. Faithful unionists, therefore, treat them as tactical retreats that provide opportunities for regrouping and preparation for future counterattacks.

There have been very few retreats in recent decades. Governments throughout the nonsocialistic world lend strength and support to the union movement. Governments and unions are allies in interventionism the essence of which is the seizure and consumption of wealth. As it is the economic objective of both to take from people with higher incomes and give to those who have less, they act like teammates in a game of give-and-take. Labor unions deliver political votes to administrations that promise to be friendly and cooperative; the administrations in return create legal privileges and immunities for labor unions so that they may be more effective in their economic struggle. The U.S. government even took labor disputes out of the courts of law and placed such matters with a new Federal agency, the National Labor Relations Board.[2] It set the stage for unions to seize income and wealth from employers, consume productive capital, and cause goods prices to rise. It set unions free to strike against the rest of the people.

Despite all their legal advantages, labor unions may founder on the rock of reality. There are natural limits to the wealth that can be seized and distributed; there are margins beyond which the disastrous consequences of unionism can no longer be denied. There are limits to misinterpretation that would lay the blame for mass unemployment in unionized industries on witless and greedy employers or hapless foreign labor. Having reached the limits set by inexorable economic law, unions are forced to beat a retreat in the form of concessions and givebacks.

Depressions Are Lethal to Unions

Throughout union history nothing has been more damaging to the movement than economic depressions. They clearly reveal to anyone willing to see that labor unions cannot raise the wage rates of all workers seeking employment. During economic booms when prices are rising and wage rates are increasing, union agents are quick to take credit for the raises. They increase in prominence until a severe business depression causes prices to fall, wage rates to be cut, and unemployment to soar. They lose credibility when members lose their jobs. Before the days of generous unemployment compensation, chronic unemployment caused union members to desert their organizations in order to find work at market rates under market conditions. Labor unions foundered on the rock of economic depression.

To many Americans the 1981–1982 recession looked like a dreaded depression. By November and December 1982, unemployment kept more than 10.8 percent of workers idle. An estimated 11,987,000 Americans were jobless, which was the most since 1940. Another 6.6 million were reduced to part-time work, and 1.6 million were no longer looking for work. In 1982, more than 2.5 million workers exhausted their unemployment compensation.[3]

The economic recession was felt most keenly in the unionized industrial heartland, from the steel cities in Pennsylvania to most of the "smokestack" towns that line the rivers and lakes in the Midwest. In northern Minnesota, iron ore towns and ports suffered jobless rates in excess of 20 percent. In Michigan the rate rose to 17.2 percent; in the strongholds of unions it soared to multiples of that amount. The old industrial belt has become a "Rust Bowl," with ghost towns of rusting steel mills and empty machine shops. Mass unemployment is haunting the unionized industries.

The unemployment rates would be even higher if they were to include all those workers who were dismissed or rejected in the past, but found employment elsewhere. A 17.2 percent state unemployment rate may actually amount to a 50 percent rate of union membership, to 75 percent of all present, past and would-be members, and to 99 percent of young people eager and willing to work but barred from employment by seniority rules. It is misleading to speak of a 17.2 percent rate of state-wide unemployment if it consists primarily of pockets of stagnation and decline in union strongholds.

Settlements with Concessions

Recessions diminish union bargaining power and impose wage restraints, which may even take the form of freezes and cuts in pay and benefits. The Bureau of National Affairs, Inc., a private research organization which monitors hundreds of wage settlements each year, counted 159 settlements with concessions in 1982 and 430 through most of 1983.[4] Union concessions are likely to be made only when senior members are vulnerable to job loss. When junior people are laid off or not hired, the senior members, who are the most numerous and therefore most powerful group in a union, usually continue to demand wage increases. Only when their own jobs are at stake because the employer is suffering dangerous losses or may move elsewhere, will senior members consider wage cuts.

A concession may be too little and too late for saving an employer. When union rates exceed unhampered market rates by several hundred percent, a concession of five or ten percent may not correct the situation. But this may be all the concession senior workers are willing to make. Being eligible for generous shutdown benefits and magnanimous pensions, they may prefer old-rate retirement benefits over cutrate wages. They may take militant positions and "no more concession" stands which, in the end, may destroy the very provider of the pensions.

Capital Consumption Demands Concessions

The wave of union concessions that swept through many unionized industries as a result of the 1981–1982 recession may be ebbing, but it is likely to return in the coming years of high unemployment. The continuing problems of capital consumption and declining labor productivity may exact additional concessions, especially in capital-intensive industries such as steel, autos, trucking, and the airlines.

The essence of virtually all economic policies is to take income and wealth from one group and give them to another. Economic programs are designed to confiscate and distribute; laws and regulations are passed to benefit the poor by taking from the rich. Government budgets propose to tax the rich and borrow from them in order to improve the economic conditions of the poor. Labor laws and regulations mean to raise wages or reduce the onerousness of labor by burdening employers. In short, the end of virtually all intervention is the consumption of productive capital.

The confiscation principle obviously depends on the existence of private incomes and fortunes that can be confiscated. As long as some individuals manage to accumulate productive capital and provide net additions per head of the population, the confiscation merely reduces the pace of economic progress. The situation becomes more painful, however, once the confiscation exceeds the capital formation and begins to reduce the amount of capital invested per head of the population. At that critical point every confiscatory measure visibly reduces the economic well-being of the masses whom it is supposed to benefit. New programs now have painful side effects, new entitlements inflict unexpected harm. New strikes work evil on the rest of the people. New business taxes cause wage rates to fall and unemployment to rise. Budgetary deficits consume productive capital and destroy jobs. As transfer expenditures can no longer be financed by "soaking the rich," they must be carried by the masses through lower wages, fewer jobs, and deteriorating living conditions. When that point is reached, further confiscation is inexpedient. It becomes advisable to beat a temporary retreat by making concessions. The givebacks reluctantly granted by the steel and automobile unions must be seen in this light.

Capital-Intensive Industries Are Favorite Targets

Capital-intensive industries always are the favorite targets for labor union assault. They may yield billion dollar returns on many billions of dollars of owner and creditor capital invested, which unions are ever eager to distribute to their members. An industry that earns millions and billions after taxes issues an open invitation for labor union attack. The automobile industry which at times may earn $5 billion or more is a perennial target. Unions simply ignore the fact that the return to owners may constitute but a marginal return on the capital invested. A $1 billion net return on $10 billion of investments may be barely sufficient when the market rate stands at 10 percent. If the rate should go higher while the company return remains at 10 percent or falls even lower, it would become "submarginal," that is, the company would lose productive capital to other investment opportunities and be forced to contract. There would be no new investments in modern tools and equipment because the returns no longer warrant the expenditure.

In the grip of militant labor unions, many companies are prevented from earning a market rate of return on the capital invested. They tend to fall behind their domestic and foreign competition in technological efficiency and innovation, renovation and maintenance, which in the end may cast doubt on their survival. A few union concessions and givebacks may delay the decline, but do not prevent it.

Capital Mobility Imposes Restraints

Battered by a decade of economic stagnation and rising unemployment, many unions are forced to choose on a plant-by-plant basis between cutbacks, shutdowns and givebacks. Capital mobility between regions and communities is adding to the pressure. This is not to imply that employers learned to pull up their stakes and move to friendlier economic environments. Most business property may consist of fixed assets, tangible or intangible assets long associated with a given location. To move them is clearly impractical. But it may be advisable to close a plant and suffer a limited loss rather than face open-ended losses year after year. In fact, it may become imperative for the survival of an enterprise that loss-inflicting operations be discontinued, and profitable operations in other plants in other communities be expanded.

At times, enterprises with proven records of profitability are closed down because they are said to have lost their ability to compete. Such shutdowns, which seem to be as numerous as the loss-induced shutdowns, always infuriate union agents and public officials who condemn them for their "callous disregard of worker employment and community interest." But a cursory reflection often reveals that all such shutdowns of "profitable" enterprises involve only "submarginal" enterprises that are earning and expecting to earn returns substantially lower than market rates. A union shop earning 2 percent on the capital invested when the going rate of return is 15 percent may be closed if the retrievable funds can yield higher returns elsewhere. After all, the owners may be wary about continually losing 13 percent to union pressures and practices. They serve not only their own personal interests but also those of society by withdrawing productive capital from 2 percent uses and investing it in more urgently needed production.

There is new life in the deep South. The economic expansion rates in the South usually exceed those of the Northeastern and Midwestern manufacturing districts. But it would be a grave mistake to credit the South's good fortune to Dixie raids on Northern industry. The region's economic development is building on business profits and expansion of existing firms. Business seems to be more profitable in the South despite its greater distances to population centers and goods markets in the North.

An important factor of expansion is the "wage-advantage" of the South. Three features of labor cost are creating a competitive advantage over industrial production in the North. First of all, wage rates are generally lower because they may be market rates reflecting the true productivity of labor. They may be unimpaired by union coercion and institutional force. Moreover, there may be no union rules and contract restrictions that hamper management in its use of labor. Such rules and restrictions tend to raise labor costs far beyond any boosts in hourly wages. And finally, the attitude of labor may be more positive to personal exertion and effort. Labor unions always create an adversary relationship between worker and employer, which does not make for high labor productivity. The union member who just spent several weeks on a picket line, acrimoniously denouncing his employer and inflicting maximum harm, is unlikely to give him his maximum effort after the strike has been settled. Union labor usually is angry labor with long lists of grievances. Southern labor tends to be more peaceful labor, and its costs per unit of output may be significantly lower than the costs of angry labor in union strongholds.

Cost disadvantages in the old North cause firms to contract their operations or go out of business entirely. When the demise of an enterprise comes in sight there may be some bargaining about concessions and givebacks. In most cases it is too little and too late. The few senior workers who continue to be employed to the end may consent to a mere fraction of the cost reduction needed for keeping the plant afloat. But even if they were to consent to significant cost-cutting they would continue to view it, in union perspective, as a tactical retreat that affords opportunities for reorganization and preparation for counter-attacks. A giveback today may be the harbinger of a double-take tomorrow.

Mergers and Conglomerates

In the industrial Northeast plant closings are a familiar story. Conglomerates, which are corporations made up of a number of different corporations operating in widely diversified fields, are quick to close plants that are no longer competitive. They do not hesitate to pressure labor unions for concessions and givebacks.

The pressure springs from the conglomerate's need to earn maximum returns on the capital invested. The corporation probably was built on a mountain of debt at a time when inflation kept interest rates artifically low and corporate stock could be bought at bargain prices. To serve its debt and support the price of its stock, a conglomerate may impose minimum annual profit targets on its corporate divisions or subsidiaries. Managers who meet the targets may receive generous executive "perks"; those who fail may suffer early dismissal. Companies that continually fail to make the "hurdle rate" may be shut down.

Many locally owned enterprises are coasting along on submarginal returns. They are easy prey to powerful national unions imposing their rates and rules. But such companies may be well endowed with real assets that make them worth more dead than alive. The local owners may be reluctant to close them and liquidate their assets because of the calamitous effects such a liquidation may have on employment and the community. While the local owners may hesitate, the conglomerate-owners usually do not. The company, therefore, is sold to a conglomerate that conducts the necessary operation. It closes the plant, liquidates the assets, and assigns the proceeds to more productive employment. It renders a valuable service to consumers and the public at large. As can be expected, local politicians and community leaders may be outraged about the "sudden" shutdown. When the company was besieged and tormented by a national union they probably relished the situation, watching in silence. When the torment finally draws to an end through shutdown, they come alive in a common denunciation of owners and managers.

Nothing foreshadows a shutdown like failure to reinvest. The equipment may be outmoded, the machinery worn out, and fixtures and fittings may be going bad. Union spokesmen have a ready explanation for the decline and eventual shutdown: the greed, folly, and shortsightedness of employers that keep them from reinvesting their profits. This is the most popular explanation in the centers of unemployment and economic decline.

"Incompetence" and "Greed"

As such ugly charges are rather rare in non-unionized industries, it appears that unionized industries are confounded by an extraordinary number of incompetent managers and greedy owners. But such a conclusion contradicts the fact that unionized industries recruit their managers in the very executive market that supplies all other industries. And the owners usually hold stock in other companies in other industries as well. If they fail to invest their funds in unionized industries while they continue to invest in other industries, with "greed" and "incompetence" being the same in all, the explanation must be sought in the only differential factor: the union shop itself. When the owners are suffering painful losses or, at best, are permitted to earn only meager submarginal returns, while the wages and benefits of unionized labor greatly exceed those of other labor, it is unreasonable to accuse the owners of greed and the managers of incompetence. But it is sensible to question the practices of the labor unions.

It is rather revealing to observe unions fume and fuss about the suggestion of small concessions and givebacks. But when operations are winding down or actually have ceased and the workers themselves have become the owners, with much state and community assistance, they usually seek a new beginning by drastically cutting labor costs. The worker-purchase, pulled together in panic and haste by the workers and their community, produces significant concessions and givebacks that were intolerable before the shutdown.

Weirton Steel Corporation, the largest employee-owned company in the U.S., is employing 7,100 workers with another 2,600 on layoff. The purchase of the steel works from National Steel, after National had announced that it would begin to wind down production, had one primary objective: to save employee jobs and the community of about 26,000. The concessions and givebacks granted to the new company were rather astonishing. The wage concession passed by the workers cut base wages to August 1982 levels, resulting in a total reduction of wages and benefits of about 20 percent. The new labor contract prohibited strikes and wage increases during its six-year duration, and rescinded the workers' claims to some $320 million in shutdown benefits, or some $40,000 per worker, to which they would have been entitled if the plant had closed under National's ownership. Moreover, the workers agreed to a purchase price of $193.9 million and the assumption of $192.3 million of existing debt, for a total of $386.2 million, or some $48,000 per job.[5]

In most instances of economic decline the workers neither own the funds nor possess a line of credit for borrowing the funds needed to purchase the firm that employs them. And even if they would manage to raise the required funds, their chances of success would remain minimal because the transition from a union shop mentality that is forever fostering inefficiency, to that of a viable partnership of owners, is rather substantial. But a great deal always depends on the quality of management retained by the worker-owned company for managing its affairs.

Foreign Competition

A large part of American unionized production is lying idle. Unemployment rates, no matter how calculated, are disheartening, exerting a powerful pressure for labor concessions and givebacks. But the agents of labor are ever ready to resist the pressure and lay the blame on the doorsteps of someone else.

When they do not flail at "incompetent management" or "greedy owners" they may lash out at "unfair" foreign competition and "exploitative foreign labor." Foreign competitors are not free marketeers, they affirm, but are nationalistic, mercantilistic enterprises overrunning American industry in the name of free trade. Therefore, it becomes necessary, so they argue, for the U.S. government to limit the rate of import growth in key industries, such as steel, autos, and machine tools. Government needs to protect the jobs of American workers.

Such arguments need to be refuted again and again. Surely, import restrictions may safeguard a few jobs for American auto workers, but inevitably destroy countless other jobs and depress the living standards of people around the globe. They invite retaliation and breed confrontation. They make matters worse. And yet, import restrictions continue to be most popular with union people because they promise instant relief to an industry facing tough foreign competition. By pointing at foreign conditions attention is diverted from domestic conditions. Domestic industries may suffer from new institutional barriers to production, such as higher taxation, more stringent regulation, or costly labor strife. Foreign industries may face no new production obstacles and, therefore, may enjoy relative cost advantages.

The Japanese seem to be superior at making autos, TV's, tape recorders, cameras, steel, machine tools, and other such products. American observers may point at lower labor costs or at Japanese government intervention as the cause of Japanese superiority. They are blind to the fact that the U.S. government may have handicapped American industries through costly production barriers. It may have imposed prohibitive taxes and expensive regulations, or may have consumed the necessary business capital through massive budget deficits.

Capital Shortages

Capital-intensive industries depend on the availability of capital. They prosper and grow where capital is coming to the market at falling rates; they stagnate or even decline where governments consume capital and cause interest rates to soar to prohibitive levels. Throughout the 1960s, 70s and 80s, the U.S. government suffered phenomenal budget deficits, which caused interest rates to rise to inordinately high levels. It cannot be surprising, therefore, that capital-intensive industries are laboring under growing handicaps. They are contracting in the U.S. while they are expanding in Japan. When General Motors Corporation must pay 15 percent on capital needed for the construction of a plant while Toyota can secure its capital at 8 percent, it should be obvious that Toyota rather than General Motors will build the modern plant. Toyota labor can expect increases in pay and improvements in benefits; American automobile workers must be prepared to grant concessions and givebacks in order to safeguard their jobs.

Deregulation

Foreign competition is not the only problem for unionized labor. The airline deregulation of 1978 and the motor carrier regulatory reform of 1980 unexpectedly put pressures on labor unions and the carriers that employ union labor. Since then hundreds of small commuter airlines and motor carriers have come into existence. It is significant that they all begin service with nonunion personnel, drawing their labor from the large number of unemployed pilots, drivers, and other skilled personnel on indefinite furlough from the unionized carriers.

Market wages and fringe benefits that are markedly lower than union rates and fringes, as well as freedom from restrictive work rules, give a distinct advantage to the nonunion newcomers. They may offer fare and freight rate discounts, which in turn cause an increasing proportion of passengers and freight to be handled by nonunion labor. Some unions may sense the pressure from nonunion labor and respond with significant concessions. Others may refuse to acknowledge the new situation. Trapped in patterns of the past, they do exactly what they always have done: seek higher wages and benefits for less effort and output.

The concessions and givebacks may be insufficient to cure American industry's problems. And yet, the energizing effects of deregulation together with the wholesome corrections prompted by the 1981–82 recession offer new hope. After fifty years of government regulation and union inhibition, many companies are enjoying their first breath of fresh air.

—FOOTNOTES—

[1]*Barron's*, March 7, 1983, p. 11.

[2]Roscoe Pound, *Legal Immunities of Labor Unions* (Washington, D.C.: American Enterprise Association, 1957), p. 21 *et seq*; Sylvester Petro, *The Labor Policy of The Free Society* (New York: The Ronald Press Co., 1975), pp. 129–131.

[3]*Business Week*, January 16, 1984, p. 23.

[4]*Facts on File*, World News Digest, New York, N.Y., September 30, 1983.

[5]*Pittsburgh Post-Gazette*, September 24, 1983, p. 1.

Ridgway K. Foley, Jr.

IN THE NAME OF PROTECTION

LIBERTY falters by reason of the cumulative effect of myriad little follies, each in itself relatively insignificant but in concert producing a resounding crescendo of slavery. Tiny assaults on voluntary action tend to lull us to sleep or at least inaction. No one wishes to deal with the insubstantial or the inconsequential. Nevertheless, each inroad into our freedom fuels and serves to justify succeeding constraints as mankind becomes mesmerized into acquiescence to tyranny.

Consider a case in point: An impending attack upon a proposal to return the sale of airline tickets and the conduct of the travel agency business to the marketplace. The *Oregon Motorist* (January-February, 1984; p. 2), a bimonthly newsletter of the Oregon Section of the American Automobile Association (a cooperative of motor vehicle drivers designed to provide emergency service and tour planning) devoted three columns to the perceived "confusion and irritation" sure to follow if the Civil Aeronautics Board proceeds "with this disastrous plan" to "decontrol" the sale of airplane tickets. Under a banner headline entitled "AAA Opposes Deregulation Plan Threatening Air Travel Convenience," the Oregon AAA staff warned that "this order will mean that virtually anyone can operate a travel agency or dispense airline tickets . . . without the current safeguards" provided by protective law.

The astonishment displayed in the article at the very thought of an unplanned and uncontrolled market

Mr. Foley, a partner in Schwabe, Williamson, Wyatt, Moore & Roberts, practices law in Portland, Oregon.