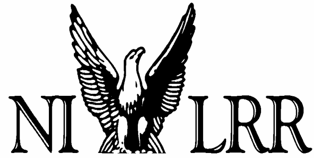

Why Are Workers Still Dangling in the 'Blue Eagle's' Talons?

Author:
Stan Greer

December 2006

NATIONAL INSTITUTE FOR LABOR RELATIONS RESEARCH
5211 Port Royal Road, Suite 510
Springfield, Virginia 22151
Tel: 703-321-9606
Fax: 703-321-7143
Research@nilrr.org
www.nilrr.org

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About the Author

Stan Greer serves as senior research associate for the National Institute for Labor Relations Research. Mr. Greer holds a bachelor's degree (1983) from Georgetown University in Washington, D.C., and a master's degree (1986) from the University of Pittsburgh.

About the Organization

The National Institute for Labor Relations Research is an organization whose primary function is to act as a research facility for the general public, scholars and students. It provides the supplementary analysis and research necessary to expose the inequities of compulsory unionism.

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* * *

Nothing here is to be construed as an attempt to aid or hinder the passage of any bill before Congress or any state legislature.

Executive Summary

Today, relatively few Americans remember that in 1933 Congress enacted legislation obliging businesses to form committees with their competitors to write "codes" prescribing the "rules of fair competition" for their industry. Businesses that refused to report how much they charged customers or charged less than was mandated by a code could be subjected to fines of up to $500 per "offense," with each day considered a separate offense.

The 1933 law, known as the National Recovery Act (NRA), was overturned by the U.S. Supreme Court two years later. But heavy-handed federal attempts to prevent "excessive" or "cutthroat" competition among American businesses continued for decades.

However, over the past 30 years government policies that attempt to dictate prices and marketing practices in domestic business have been thoroughly discredited and almost entirely dismantled.

Unfortunately, even today federal labor policy denies to the employee the right to choose his own agent or individually choose no agent in the sale of his labor services. Just as the NRA once authorized the creation of "industry committees," thus allowing some business people to dictate to others the prices and other terms under which they could sell their products, the National Labor Relations Act (NLRA) today authorizes union officials to seek and obtain "exclusive" bargaining power over all the front-line employees in a business or other federally-delineated "bargaining unit."

Is there any basis in logic or experience for rejecting business monopolies while promoting labor monopolies? A dispassionate look at the actual practices and preferences of American workers indicates that the answer is "No."

Introduction: 'NRA? Why, It's Better Than My Wedding Night!'

Once a popular economic or political nostrum becomes discredited, not much time passes before politicians and the media begin to pretend that nobody ever advocated it. Such is the case with Twentieth Century policies expressly designed to prevent "excessive" or "cutthroat" competition among American businesses.

From the 1930's until the 1980's, many influential Americans, including quite a few who were themselves in business, openly declared that sweeping federal government intervention was necessary to protect both domestic businesses and the public from what President Franklin Delano Roosevelt viewed as "unfair competition and disastrous overproduction."[1]

The Agricultural Adjustment (AAA) and National Recovery (NRA) Acts of 1933, the two most widely-heralded planks of the First New Deal, were respectively designed to cartelize American agriculture and industry. A key provision of the NRA obliged businesses to form committees with their competitors to write "codes" prescribing the "rules of fair competition" for their industry. A 1934 Brookings Institute study of the NRA noted that Section 3 of the act allowed the President to impose such codes himself "if he [should] deem it essential" in any trade or industry and enforce codes through business licensing requirements.[2]

Businesses that refused to report how much they charged customers or charged less than what was mandated by an NRA code could be subjected to fines of up to $500 per "offense," with each day considered a separate offense. New Jersey tailor Jack Magid was fined and jailed for "charging 35 cents for pressing a suit," a nickel less than the prescribed rate.[3]

Business people also frequently fell afoul of the National Recovery Administration, the agency set up to enforce the NRA, for offering customers superior service. In one infamous 1934 case, brothers Joseph, Martin, Alex, and Aaron Schechter, operators of the largest poultry slaughterhouse in Brooklyn, N.Y., were arrested for violating the "fair competition" code for the Live Poultry Industry of the Greater New York Metropolitan Area. Most of the 18 charges against the Schechters were related to their allowing wholesale buyers to pick their birds instead of forcing them to accept "the run of any half coop, coop, or coops, as purchased by the slaughter house operators, except for culls."[4]

Today, Americans of virtually all political stripes would be appalled by the NRA "fair competition" codes and the draconian measures taken to enforce them. But in the heady days of the early New Deal the codes briefly appeared to be wildly popular.

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[1] James Bovard, "Cutthroat Competition and Dead Chickens," *Freedom Daily*, the Future of Freedom Foundation, April 1999.
[2] Bovard, *ibid*.
[3] *Ibid*.
[4] *Ibid*.

At a government-sponsored parade featuring Hollywood celebrities supporting the New Deal, Al Jolson, beloved singer and star of *The Jazz Singer*, the first feature-length movie in which sound was used to advance the story, was filmed being asked what he thought of the NRA. He replied: "NRA? NRA? Why it's better than my wedding night!"[5]

What seems most incredible in retrospect is that several major business-association spokesmen and heads of large corporations were among the loudest cheerleaders for the NRA. In May 1933, national Chamber of Commerce President Henry (Harry) Harriman lauded the NRA as the "Magna Carta of Industry and Labor."[6] In a draft version of a forthcoming law review article, Law and Economics Professor Michael L. Wachter of the University of Pennsylvania Law School, citing political scientist Donald Brand, notes:

> In short order, most of the major industries were covered by codes and the companies that belonged to associations with approved codes were allowed to display the Blue Eagle, which publicly advertised their good standing with the NRA.[7]

Business, Public Quickly Came to Loathe Blue Eagle Corporatism

The New Deal honeymoon ended within just a few months. In theory, a politically managed economy (which came to be known as "corporatism") in which they would not have to compete with one another on price appealed to many businesses that had suffered under the deflation of 1929-33. In practice, however, "no sooner had the [putatively] fair price been set, than cartel members started cheating on the price [i.e., lowering it] to gain additional customers and profitable volume."[8] Business people chafed at their loss of independence and revolted against Mr. Harriman and other business-association leaders who had welcomed the NRA.

Political liberals and even leftists also quickly became disenchanted with the price-fixing codes authorized under the NRA. They became concerned that the price increases resulting from industrial cartelization were wiping out any gains workers were making under other NRA provisions aimed at increasing wages.[9] After pro-New Deal GOP Sens. William Borah (Idaho) and Gerald Nye (N.D.) publicly denounced the National Recovery Administration and its prosecutions, the agency's head, General Hugh Johnson, asked the President to commission left-wing lawyer Clarence Darrow to investigate the charges.

In May 1934, Mr. Darrow flabbergasted Mr. Roosevelt, his personal friend, when he issued a scathing report, damning the NRA codes and their implementation with words like

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[5] Richard M. Ebeling, "When the Supreme Court Stopped Economic Fascism in America," *The Freeman*, October 2005.

[6] Michael L. Wachter, "Labor Unions: A Corporatist Institution in a Competitive World," *University of Pennsylvania Law Review*, forthcoming. August 28, 2006 draft is available online. The quote appears on p. 16, Footnote 76.

[7] *Ibid*, p. 13.

[8] *Ibid*, p. 13.

[9] *Ibid*, p. 14.

"monopolistic . . . grotesque . . . ghastly . . . oppressive . . . savage." Former New York Democratic Gov. Al Smith, Mr. Roosevelt's mentor and his party's highly regarded 1928 presidential nominee, denounced the NRA as "a vast octopus set up by government that wound its arms around all the business of the country, paralyzed big business and choked little business to death."[10]

The public as a whole turned out not to like the NRA any more than did business people, politicians like Mr. Borah, Mr. Nye, and Mr. Smith, or intellectuals like Mr. Darrow. Journalist Eugene Lyons, who returned to the U.S. in 1934 after a six-year stint in the Soviet Union, later recalled the mounting discontent with the NRA codes: "The Blue Eagle, symbol of the regimented industries, soon became the butt of radio and vaudeville humor and derisive cartoons that mirrored the popular confusions and dismays."[11]

'You Know the Whole Thing Has Been a Mess'

After being found guilty on 18 counts of violating the Live Poultry Code and two counts of conspiring to violate the Live Poultry Code, the Schechter brothers appealed their convictions. Ultimately, the case made it all the way to the U.S. Supreme Court. And on May 27, 1935, a unanimous High Court ruled in favor of the Schechters, declaring the NRA unconstitutional. The opinion of the court, written by Chief Justice Charles Evans Hughes, declared that the NRA improperly delegated lawmaking powers to trade associations. Furthermore, the government "had exceeded its authority under the interstate-commerce clause of the Constitution," since the Schechter Poultry Corp. "purchased and sold all the chickens it marketed within the boundaries of the state of New York."[12]

In the wake of the *Schechter* (295 U.S. 495) decision, some Roosevelt Cabinet members advised the President to propose enactment of a revised NRA that might pass constitutional muster. But Mr. Roosevelt refused, telling Labor Secretary Frances Perkins: "You know the whole thing has been a mess. It has been an awful headache. Some of the things they have done are pretty wrong."[13]

White House and congressional support for corporatism hardly dissipated after *Schechter*. In the summer of 1935, Congress passed and the President signed the National Labor Relations Act (NLRA), which for the first time explicitly authorized labor unions outside the railroad and airline sectors to seek and obtain monopoly-bargaining power over all employees working in a federally-designated "bargaining unit." Just as business people were prohibited from selling their goods and services on terms other than those mandated by NRA codes between 1933 and 1935, unionized employees since 1935 have been prohibited from independently negotiating their pay, benefits, and working conditions with a manager or business owner.

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[10] Eugene Lyons, *Herbert Hoover: A Biography*, Doubleday & Co., Garden City, N.Y., 1964, p. 346.
[11] *Ibid*, p. 345.
[12] Ebeling, *supra*.
[13] John T. Flynn, *The Roosevelt Myth*, Devin-Adair Publishers, Old Greenwich, Conn., 1948, Chapter 5 (pagination unavailable).

The NLRA illicitly delegated lawmaking powers to labor union officials in a manner quite similar to the way the NRA had delegated such powers to trade associations. But instead of unceremoniously scrapping the NLRA as it had already done to the NRA, the Supreme Court began to dodge the delegation issue.

Apparently intimidated by Mr. Roosevelt's landslide 1936 re-election victory and the President's subsequent threat to "pack the Court" by increasing the number of justices from nine to 15, the Supreme Court let the NLRA stand. In the 1937 *Jones and Laughlin* case, (301 U.S. 1), the Court suggested that the "exclusive" union bargaining authorized by the NLRA was compatible with a worker's individual bargaining rights, and therefore there was no unconstitutional delegation. In 1944's *J.I. Case* (321 U.S. 332), the Court switched course and found that "exclusive" representation extinguished individual bargaining rights, while declaring that the constitutionality issue had already been decided seven years earlier, and did not need to be revisited. As one legal scholar has dryly commented, the "political core" of federal labor law "survived intact by virtue of a judicial sleight-of-hand."[14]

Post-*Schechter* corporatism was not confined to labor policy. In his forthcoming article cited on page four, Michael Wachter observes that "the abandonment of a formal corporatist structure did not coincide with a new era of free competition [among businesses]."[15]

In the late thirties, the federal government cartelized the trucking, airline, natural gas and electricity industries. More regulation was to come. And in each industry, rate regulation made it difficult or impossible for companies to lower prices. For example, for roughly four decades starting in 1935, recalls Dr. Wachter, if

> the Interstate Commerce Commission (ICC) determined that [trucking] rates were below its estimate of the full cost of the transaction, the new rates were denied. This prevented price competition which threatened profits . . . .[16]

The Seventies: When Ted Kennedy Stood Up For Market Pricing

Compared to the NRA's extravagant bid to manage pricing and other competition in virtually every type of business, the cartelization of key major industries proved to be very durable. But almost from the outset, it was clear to any rational observer that price-setting agencies like the ICC and the Civil Aeronautics Board (CAB) were hurting virtually all consumers as well as most of the businesses they regulated.

However, it seemed that no member of Congress who was in a position to stop the federal government's price-fixing was interested in doing so, until Massachusetts Sen. Ted Kennedy (D) finally stepped up to the plate in 1974. For many Americans who weren't around

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[14] Howard Dickman, *Industrial Democracy in America*, Open Court, LaSalle, Ill., 1987, p. 282.
[15] Wachter, *supra*, p. 19.
[16] *Ibid*, p. 19.

back then, or were too young to follow politics, or whose memories have faded, this may seem astonishing. Throughout his career, Mr. Kennedy has been a zealous foe of individual freedom in labor markets. And he has only occasionally supported individual freedom for business people and consumers. But when then-Harvard Law School Professor Stephen Breyer, now a U.S. Supreme Court justice, called Mr. Kennedy's attention in the spring of 1974 to how the CAB was, inadvertently or deliberately, helping a handful of airlines strangle the competition and keep fares high, the Massachusetts liberal firebrand temporarily became a free marketeer![17]

With Professor Breyer now on his staff, Mr. Kennedy began a series of hearings in the fall of 1974 that gave operators of small "charter" airlines an opportunity to get sympathetic media coverage for their complaints about the CAB. If federal bureaucrats were permitted to force them to raise their prices, it would "put them out of business," they contended, "leaving the market to the higher-priced scheduled carriers."[18]

The hearings made British charter airline entrepreneur Freddy Laker -- who was trying to get permission to sell New York-London tickets for $125 -- a household name. In his often humorous testimony, Mr. Laker lampooned the political interventions of then-giant carriers like PanAm and TWA and rejected in principle government price-fixing of airline fares:

> We are now suffering from a disease I call "PanAmania." Because of "PanAmania," people seem to have lost their senses out of a concern over what will happen to Pan American and TWA and British Airways. . . . [T]he high-cost carriers . . . do not like competition. They don't want it, they don't do it among themselves.
>
> If a man has the money and he wants to fly with a certain airline at a certain price, he should have that right and that privilege. If he has not got any money [to speak of], and he wants to fly on Laker Airways, he should have that privilege as well.[19]

Mr. Kennedy's hearings on the impact of CAB policies on consumers and charter airlines continued into early 1975. That June, his Subcommittee on Administrative Practice and Procedure issued a report denouncing CAB efforts aimed at protecting "the industry at the expense of the consumer" and urging "freedom to fly new routes and an end to price regulation."[20] Longtime free-market advocates praised their new ally. Mr. Kennedy, said *The Wall Street Journal* editorial page, was "crusading for less government regulation and more marketplace competition . . . with considerable impact and success."[21]

However, the Republican presidential administration of Gerald Ford was less impressed than the *Journal* editorialist. Though tepidly supportive, Mr. Ford insisted on taking a piecemeal approach with regard to Mr. Kennedy's efforts to deregulate airplane routes and fares.

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[17] Adam Clymer, *Edward M. Kennedy: A Biography*, William Morrow and Co., Inc., N.Y., 1999, pp. 227-30.
[18] *Ibid*, p. 229.
[19] *Ibid*, p. 229.
[20] *Ibid*, p. 236.
[21] *Ibid*, p. 237.

Mr. Kennedy and his allies chose not to compromise. And on October 15, 1978, Congress finally adopted a measure providing for the flat-out abolition of the CAB by 1985. Even before Democratic President Jimmy Carter signed this bill into law nine days after Congress approved it, "dozens of airline representatives were lined up outside the CAB's office waiting to file requests for new routes under the new law."[22]

The passage of the Airline Deregulation Act of 1978 helped pave the way for a host of other free-market reforms during the last half of the Carter Administration and the first term of Mr. Carter's GOP successor, Ronald Reagan.

As Dr. Wachter's forthcoming article notes, 1978 was a "watershed year" for the utility industry as well as airlines,

> bringing both the Public Utilities Regulatory Act, which allowed independent electricity producers to enter the electricity generating market, and the Natural Gas Policy Act, which excluded new gas pipelines from existing controls.[23]

In 1980, Congress adopted and Mr. Carter signed the Staggers Rail Act and the Motor Carrier Act, which effectively broke up the government-imposed railroad and trucking industry cartels, although the ICC was not abolished until 15 years later. Just minutes after Ronald Reagan took the oath of office in 1981, he deregulated the price of oil, which had been controlled since 1972.[24] The deregulation of telecommunications industry investments and prices began with the Reagan Justice Department's break-up of the government-protected ATT monopoly in 1981, and has proceeded, albeit very slowly and with periodic retreats, ever since.

Is Competition Good For Business People, But Bad For Workers?

Today, virtually no elected official, academic or journalist anywhere in America still claims that businesses need to be protected from "cutthroat" or "unfair" domestic competition, or that the public interest is served when government furnishes such protection. And, as Dr. Wachter observes, "no major anti-trust scholar now advocates that antitrust laws be overhauled so that competing firms could restrict product market competition so as to generate monopoly profits."[25]

Business regulation itself, of course, has hardly fallen out of favor. Businesses today must comply with countless thousands of often costly environmental regulations. On Election Day this fall, six states opted to increase the minimum wage businesses are required to pay

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[22] *Ibid*, p. 275.
[23] Wachter, *supra*, p. 27.
[24] Thomas DiLorenzo, "Cheney's Energy Socialism," posted on the Ludwig von Mises Institute web site, August 1, 2000.
[25] Wachter, *supra*, p. 35.

willing workers. Over the past couple of years, many states have considered legislation that would, for some or all businesses, set a floor for the share of revenues allocated for employee health benefits. And, of course, measures designed to protect American businesses from allegedly unfair international competition retain high support in both major political parties.

The fact that government price fixing has fallen completely out of favor even as other government intervention in the economy has relentlessly increased, with only an occasional pause, shows the impact of the protests of independent-minded business people against corporatism going back to the Schechter brothers and many others during the 1930's.

Overwhelmingly, American businesses today are willing to assume the risk of losing out to competitors who offer cheaper and/or better products in exchange for having the opportunity, free of government intervention, to offer the cheapest and best products themselves. The 21st Century consensus is that price and quality competition are in the long run good not just for consumers, but for the vast majority of businesses as well.

With only rare exceptions, businesses today are no longer dangling in the Blue Eagle's talons.

However, the very corporatist policies that have over the past 30 years been repudiated with regard to business by presidents of both parties, Congress, and the courts, and today are mourned by practically no one, remain fully in force with regard to employees. Although the NLRA has been amended several times since it first became law more than 70 years ago, its basic provisions promoting the cartelization of labor in the private-sector economy remain in force today.

Just as the NRA once authorized the creation of "industry committees," thus allowing some business people to dictate to others the prices and other terms under which they could sell their products, the NLRA today authorizes unions to seek and obtain "exclusive" bargaining power over all the front-line employees in a business or other federally-delineated "bargaining unit." When officials of a particular union declare to the NLRB that they want exclusive-bargaining power over all the employees in a particular unit, the NLRB may hold an election to determine if a majority of employees support the union. If so, the union is automatically granted exclusive-bargaining status. If union officials secure the employer's acquiescence, then the NLRA also allows them to obtain exclusive-bargaining power without an election, simply by collecting signed union cards from a majority of the employees in the unit.

Dr. Charles W. Baird, a noted classical economist and now an associate dean at California State University, East Bay, succinctly explained how exclusive union bargaining works in a 1984 monograph on federal labor law:

> It is important to note that a union that acquires exclusive bargaining agent status represents all employees in the bargaining unit. It represents those employees who want the winning union to represent them, but it also represents those employees who want to be represented by some other union as well as those employees who do not want to be represented by any union. Each employee who does not want the representation services of the winning union loses the right to select his own agent in the sale of his own labor services. He cannot even represent himself. The basic axiom of natural rights theory, the

> axiom of self ownership, is thrown out the window. Dissident employees no longer fully own their own labor. Full ownership implies that a worker individually can choose his own agent or even individually choose to use no agent in the sale of his labor services.[26]

Of course, employees who are not currently unionized remain free to sell their labor services on their own terms.

But the object of both the long-defunct NRA and the still-in-effect NLRA is to provide would-be monopolists with the means to extinguish the individual economic freedom of other parties who might otherwise engage in "unfair" competition. The principal difference is that the NRA, though it encouraged union organizing, explicitly authorized only business monopolies, and not labor monopolies, whereas the NLRA restricts the individual worker's liberty, and leaves businesses' pricing and other marketing policies alone. Another significant difference is that the NRA at least didn't add insult to injury by forcing independent business people to pay dues or fees to the industry committee that fixed their prices and marketing practices. Under the NLRA, workers do suffer this added insult – unless they are employed in one of the 22 states with Right to Work laws banning compulsory union dues and fees.

The implicit message of current federal policies, therefore, is that competition among American businesses is a public good, but competition among American workers is dangerous and needs to be curtailed. The question is: Is there any basis in logic or experience for rejecting business monopolies while promoting labor monopolies?

'I'm Willing to Take The Risk to Get The Bigger Rewards'

Some proponents of selective corporatism in labor markets may contend that business people's psychology is radically different from that of employees.

This is a familiar argument. Business people, it is said, are willing to risk being outcompeted in exchange for the chance to be a smashing success. Employees value security above all. Perhaps there was once a kernel of truth in this claim. But it certainly has no factual basis nowadays.

According to the U.S. Labor Department, over the 12-month period ending in August 2006, a whopping 23.4% of employees voluntarily left their jobs. The private-sector voluntary turnover was an even higher 26.5%.[27] And a nationwide survey taken early this year by the

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[26] Charles W. Baird, *Opportunity or Privilege: Labor Legislation in America*, Social Philosophy and Policy Center, Bowling Green (Ohio) State University, 1984, p. 49.

[27] Nobscot Corporation, "Latest BLS Turnover Rates For Year Ending August 2006," October 11, 2006 press release.

New Jersey-based consulting firm Compensation Resources Inc. found that "the desire for better opportunities and increased responsibilities" is the top reason why employees quit.[28]

It may seem incredible that more than one in four private-sector employees voluntarily switched jobs over the course of the past year, but this figure jibes perfectly with the oft-cited fact that today's average employee will change jobs seven or eight times over the course of his or her career. And other survey data targeting employees in general, not just those who recently quit, reveal that they place a very high value on being granted the opportunity to excel.

A 2005 nationwide survey of employees by the famous firm Zogby International asked respondents to choose which of two options better expressed their sentiments:

A. I do not feel secure in my present job and would be willing to take reduced pay and benefits if I could find something more secure.
B. I know I could get a different job with more security, but I'm willing to take the risk to get the bigger rewards.

Just one in five employees indicated he or she was willing to take a pay cut in exchange for greater job security. More than half preferred to take risks for bigger rewards. (The rest either refused to choose or were undecided.)[29]

The fact that monopolistic unionism routinely prevents employees from being rewarded through pay increases, promotions or other incentives for performing better than their coworkers is a significant factor behind the declining popularity of unions with private-sector employees. As far back as 1984, a nationwide survey conducted by pollster Lou Harris for AFL-CIO officials reported that nearly 60% of nonunion workers "characterized unions as stifling individual initiative." And 45% of union members said the same.[30]

Do freedom-loving employees know what's economically good for them? There's ample reason to believe they do. For example, between 1979 and 2004, the share of private-sector employees who have an exclusive union bargaining agent fell by nearly two-thirds. Meanwhile, "the proportion of American households with inflation-adjusted incomes below $75,000 fell by 10.1 percentage points, with the largest drop coming in the number of households earning less than $35,000."[31] Part of the vast improvement reflects the rise of two-income families, of course. But the share of households with real incomes over $75,000 has continued to rise since the mid-1990's, even though the share of married couples with both spouses in the workforce has declined slightly since then, from 55.7% to 54.5%.[32]

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[28] Business & Legal Reports (BLR), "Turnover Rates Rise, Different Reasons for Leaving Cited," May 31, 2006 press release.
[29] Christian W. Peck, "The Attitudes and Opinions of Unionized and Non-Unionized Workers Employed in Various Sectors of the Economy Toward Organized Labor," Zogby International, prepared for the Public Service Research Foundation, August 2005, p. 16.
[30] The Harris survey for the AFL-CIO is cited in Leo Troy, *The Twilight of the Old Unionism*, M.E. Sharpe, Inc., Armonk, N.Y., 2004, pp. 36-37.
[31] James Sherk, "Shared Prosperity: Debunking Pessimistic Claims About Wages, Profits, and Wealth," Heritage Foundation Backgrounder No. 1978, October 16, 2006, p. 2.
[32] U.S. Department of Commerce, *Statistical Abstract of the United States: 2006*, p. 394 (Table 588).

In short, today there is no plausible excuse of any kind for continuing to refuse to grant the individual American employee the same freedom to sell his or her labor to a willing employer that businesses have long had to sell their products and services to willing customers.

Time to 'Schechterize' U.S. Labor Relations

As was noted above, in the 1930's and 40's the U.S. Supreme Court missed opportunities to apply to the NLRA the logic of its *Schechter* decision overturning the NRA. During the same era, the Court also sidestepped the question of the constitutionality of the pro-union monopoly 1934 amendments to the 1926 Railway Labor Act (RLA).[33]

But the Court's failure to act when it should have, decades ago, presents no obstacle to action by Congress today. Congress retains and should exercise the authority to "schechterize" labor relations by removing the provisions from the NLRA and the RLA that authorize exclusive union bargaining and replacing them with language providing that unions shall bargain contracts and handle grievances for their voluntary members only. Schechterization would also mean repeal of all federally-authorized forced union dues and fees.

<u>For nearly 30 years, there has been a consensus against government-supported cartels in business – a pro-free market consensus so broad that it includes Teddy Kennedy</u>. For Congress to continue to support the cartelization of labor despite the sea change in federal policies towards business is not by any plausible interpretation "pro-employee." Rather, for as long as Congress leaves workers dangling in the corporatist Blue Eagle's talons, it will send the message that economic freedom and independence are important only for employers.

[33] See Edwin Vieira, Jr., "Poltroons on the Bench: The Fraud of the 'Labor-Peace' Argument for Compulsory Public-Sector Collective Bargaining," *Government Union Review*, Vol. 18, No. 3 (1999), esp. pp. 9-18, for an account of how the Supreme Court avoided ruling on the constitutionality of the RLA's exclusive-bargaining provisions.

NATIONAL INSTITUTE FOR LABOR RELATIONS RESEARCH
5211 Port Royal Road, Suite 510 • Springfield, Virginia 22151 • 703-321-9606 • www.nilrr.org • research@nilrr.org

THE PROBLEM

Organized labor has had a profound economic and political impact on the institutions of American power. Yet the far-reaching ramifications of that impact are largely unknown to the public. Academic interest in labor unions and labor relations is at its lowest point in decades.

While there has been a notable proliferation of private interest groups in recent years, none has exposed the excesses of America's union establishment from an academic perspective. Consequently, not enough light has been shed on one of the few remaining forms of tyranny left in America: compulsory unionism.

THE NEED

Labor policy in America has not reflected the will of its citizenry for decades because Big Labor's support in the academic community has allowed it to control debate. As a result, labor unions have not been subjected to the same degree of scrutiny as their counterparts in the corporate world.

In many cases, the interests and concerns of Americans who support the right to work without compulsion are ignored for lack of an academic support structure. Freedom of association has diminished because its proponents frequently are without the analysis and research necessary to effectively make their case.

Obviously, there is an urgent need for an organization that will draw together scholars and economists to perform objective and revealing research into the practices of America's labor unions. The National Institute for Labor Relations Research is such an organization.

THE PROGRAM

1. The Institute's primary function will be to act as a research facility for the general public, scholars and students. It will provide the supplementary analysis and research necessary to expose the inequities of compulsory unionism.

2. It will publish monographs, brochures and briefing papers designed to stimulate research and discussion with easy-to-read summaries of current events. The Institute will also conduct nonpartisan analysis and study for the benefit of the general public.

3. It will render aid gratuitously to individuals suffering from government over-regulation of labor relations and will provide educational assistance to those individuals who have proved themselves worthy thereof.

It is high time that self-interested union officials be confronted with the facts on how their brand of unionism has failed to improve general conditions for workers. With an intensive program of study and education, the National Institute for Labor Relations Research intends to do just that.

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