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INSIGHT and OUTLOOK

a conservative student journal

Vol. V Number IV March, 1963

The Favored Class

LYMAN C. CONGER

In Defense of Free Unions

JAMES BLAIR

SPECIAL ISSUE on LABOR UNIONS

"When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks and balances of one government over another, and will become as venal and oppressive as the government from which it separated."

Thomas Jefferson

"The tyranny of the executive power will come in its turn, but at a more distant period."

Thomas Jefferson

INSIGHT AND OUTLOOK MAGAZINE

A CONSERVATIVE STUDENT JOURNAL

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Insight and Outlook is a journal of conservative and libertarian commentary published three times per semester by students and faculty members of the University of Wisconsin. It is supported entirely by advertising, and is distributed free to students.

Special Issue on Labor Unions

Labor Unions have come a long way since the days when they were struggling to organize workers in sweatshops and to get better and safer working conditions. Now, a quarter-century after the historic National Labor Relations Act, there is a growing consensus that labor union power has gotten completely out of hand. The recent closing of ports and the shutting-down of New York City newspapers have served to intensify the feeling that something must be done to curb union excesses. Toward the accomplishment of that "something," INSIGHT AND OUTLOOK herein presents this special symposium on labor unions. *The Favored Class*, by Lyman C. Conger, is a careful analysis of the legal sources of union power. Associate editor James Blair, in *In Defense of Free Unions*, explains the solutions offered by Liberals and Conservatives.

CAMPUS OUTLOOK

The Compleat Conservative

Many letters come to INSIGHT AND OUTLOOK from students who want to learn more about conservatism. They have that disquieting feeling that something is radically wrong with society, that old values have been turned upside down, and that the pat social remedies offered in the college classroom are merely symptomatic of the general illness. For many, INSIGHT AND OUTLOOK provides their first exposure to conservative rather than radical solutions to modern social problems. The editors would now like to suggest some additional sources whereby our readers can broaden their knowledge of conservatism and libertarianism:

1) *National Review*, a lively, crisply written weekly journal with a brilliant editorial staff, is must reading for the conservative who would be well-informed on current events. It is available at 35 cents the copy at most campus newsstands, or by subscription, $16 per year. Write the NR circulation office at 150 East 35th St., New York 16, New York.

2) *New Individualist Review* is a scholarly libertarian quarterly published by faculty members and graduate students at the University of Chicago. Its writing is fresh, urbane, and impious. Subscriptions are $2 per year, students $1. Write to NIR, Ida Noyes Hall, University of Chicago, Chicago 37, Illinois.

3) The Intercollegiate Society of Individualists (ISI) mails conservative and libertarian literature to interested students. ISI's publications deal with a wide range of topics: politics, economics, history, and philosophy. To get on their mailing list, write to ISI, 629 Public Ledger Building, Philadelphia 6, Pennsylvania.

4) The Freedom School is a unique institution dedicated to the libertarian philosophy of individualism. For the serious student who doesn't mind having some of his prejudices jolted, it offers a two-week summer course designed to reexamine the basic concepts of liberty and morality. Dissent in the classroom is welcomed. For prospectus and scholarship information write to Box 165, Colorado Springs, Colorado.

5) University faculty departments in the natural sciences where important controversies exist make it a practice to have on their faculty at least one articulate exponent for each major conflicting theory. For instance, the chemistry department retains faculty persons with divergent views on the structure of the atom. But this is not the case in the so-called "social sciences" where most faculties are notoriously one-sided. A certified collectivist pedigree is required for admittance into the entrenched academic fraternity. Students who desire a well-rounded education must therefore go beyond their course syllabi to find theorists of individual

It's No Time for Jacobins

New Tyrannies for Old

Through the measured tread of the centuries, Western Civilization has given birth to, and nourished, certain sublime ideas about the proper relationship of man to man. One of the foremost among these ideas is the concept of free and voluntary association by free men. This free association is so much a part of our heritage that we are scarcely aware it exists, even though the bulk of our institutions, ranging from giant corporations down to bridge and golf foursomes, are based upon it. No law compels us to work for a corporation against our will. When we associate with others, for any reason, it is because we have freely chosen to do so. And when others associate with us, it is because they have freely chosen to do so.

The importance of free association upon Western institutions cannot be overestimated. For example, the Western belief that every man is responsible to the best of his abilities for his own welfare, is predicated upon the assumption that he can associate freely with others. And the concept that each man is responsible for the development of his personal character and integrity is predicated on the assumption that he can dissociate himself from those whom he regards as undesirable. It is obvious that the more a man's freedom to associate is circumscribed, the less control he has over his existence.

Inherent in free association is the right of each party to join with others or disengage from others. Thus, there are just two ways by which the State can circumscribe voluntary association: it can enact laws which will compel certain people to remain apart from others in certain circumstances, or it can enact laws which compel certain people to associate with others in certain circumstances. Philosophically, the two are one and the same: they both traduce the right of each individual to associate with whom he wishes, when he wishes, and for the reasons he sees fit. In both cases the State circumscribes free choice. Certainly, therefore, if it is immoral for the State to separate people, then it is equally immoral for the State to compel association.

In the southern United States there are laws of segregation which delimit voluntary association. Not only do these segregation laws compel the separation of Negroes and whites in public places, such as beaches and swimming pools, but occasionally they reach deep into the realm of privately owned institutions as well, and thus compel the separation of the races in private bus terminals and railroad stations. Obviously, segregation laws not only limit freedom of association; they also limit the right of property owners to dispose of property as they see fit.

For the most part, the liberals' response to segregation has been curious and shortsighted. Instead of seeking to enhance the neutrality of the State, and the tradition of free association (against which segregation ultimately offends), they have sought their remedy in State-enforced association. In some instances they have attempted to deny citizens the right to select their own business and social associates. They press, for example, for the passage of public accommodation laws which limit the free association of inn keepers, landlords, restaurant owners, and public transportation owners. And, at the University of Wisconsin, a liberalist body known as the Human Rights Committee strives for something akin to compulsory association in private social fraternities.

Now, there may be nothing sacred about the concept of free association, and it may be that the public weal is best served by limiting it, to some extent, just as society limits absolute free speech and free press through libel and obscenity laws. Certainly a feasible case can be constructed against permitting privately owned utilities and transportation companies to exercise absolute free association. The imperatives of the marketplace are excellent so far as they go, but perhaps they are not so powerful as to preclude the possibility that a bus company might refuse equal transportation to Negroes, or a telephone company might provide second-rate service to some districts. It should be remembered that a great many of our liberties are not in practice absolute, simply because man is an imperfect creature. If liberals believe that justice is best served by constricting the absolute free association of owners of quasi-public businesses, then so be it.

But if the liberals do wish to retreat from the ideal of absolute free association, let them recognize that fact and weigh it carefully. Much of the blessedness that we enjoy today stems directly from liberty; free association is not something to be lightly or frivolously abandoned or modified. Moreover, if liberals intend to promote something less than absolute free association, let them be consistent and recognize that other rights should not be absolute either, including academic freedom. There are points where free speech becomes libel; points where politics becomes treason.

Liberals might also bear in mind that there is danger in attempting to remedy the unhappy plight of the Negro without understanding, or heeding, the great principles involved in the problem. Too often, liberals see only the social injustice and fail to discover just what principle the injustice offends against. This failure to appreciate the underlying principle leads to an emotional Jacobinism *which simply rings in new tyrannies for old: compulsory association in the place of compulsory segregation.* It is precisely free association that minority groups often lack, and the cure for that cannot be found in denying the right of free association to majorities, too. Certainly, for example, no honorable Negro would want to gain his legal rights at the expense of others' rights. He does not want legal privilege; he wants equal rights. And yet if law spins a cocoon of privilege around him, *so that others cannot refuse to do business with him,* he possesses powers above and beyond those of ordinary mortals.

AETIUS

freedom and free market economics. Not even a socialist can expect to be taken seriously without first being acquainted with the ideas of Friedrich Hayek. As a service to students INSIGHT AND OUTLOOK publishes below a selected list of some 70 works of conservative scholarship.

The editors would like to recommend two books in particular. *Road to Serfdom* by Friedrich Hayek is a critical analysis of the basic concept of socialized economic planning, and is available in paperback ($1.50) from the State Street Co-op. *Economics in One Lesson* by Henry Hazlitt offers a readable introduction to classical economics through a systematic analysis of a number of common economic fallacies. This Hazlitt paperback is available on request from the Wisconsin Conservative Club, Box 688, Madison.

Communism and Foreign Policy

Bouscaren, Anthony T. *Guide to Anti-Communist Action.* (Regnery.)
Budenz, Louis F. *Techniques of Communism.* (Regnery.)*
Chambers, Whittaker. *Witness.* (Random House.)
Dallin, David J. *Soviet Espionage.* (Yale Univ.)
Hahn, W. F., and Neff, J. C. *American Strategy for the Nuclear Age.* (Anchor.)*
Hook, Sidney, *Marx and the Marxists.* (Anvil.)*
Hoover, J. Edgar. *Masters of Deceit.* (Holt, Rinehart and Winston.)*
Kissinger, Henry A. *Nuclear Weapons and Foreign Policy.* (Anchor.)*
Koestler, Arthur. *Darkness at Noon.* (Modern Library.)*
Buckley, William F., Jr. *Up From Liberalism.* (Regnery.)*
....., et al. *The Committee and its Critics.* (Putnam.)
Meyer, Frank S. *The Moulding of Communists.* (Harcourt, Brace, and World.)
Monnerot, Jules. *Sociology and Psychology of Communism.* (Beacon.)*
Moreell, Admiral Ben. *The Several Faces of Communism.* (ISI.)
Niemeyer, Gerhart, *A Student's Primer on Communism.* (ISI.)
Possony, Stefan T. *A Century of Conflict.* (Regnery.)
Staar, Richard F. *Political Dynamics of a Soviet Satellite.* (ISI.)
Strausz-Hupé, Robert, et al. *A Forward Strategy for America.* (Harper.)
....., et al. *Protracted Conflict.* (Harper.)
Wolfe, Bertram D. *Three Who Made a Revolution.* (Beacon.)*

Conservative and Libertarian Philosophy

Acton, Lord. *Essays on Freedom and Power.* (Meridian.)*
Bredvold, Louis I. and Ross, Ralph G., ed. *The Philosophy of Edmund Burke.* (Univ. of Michigan.)*
Evans, M. Stanton. *A Conservative Case for Freedom.* (ISI.)
Kirk, Russell. *Prospects for Conservatives.* (Regnery.)*
....., *The Conservative Mind.* (Regnery.)*
Kuehnelt-Leddihn, Erik von. *Liberty or Equality.* (Caxton.)
Meyer, Frank S. *Freedom, Tradition, Conservatism.* (ISI.)
Nisbet, Norbert A. *The Quest for Community.* (Oxford Univ.)
Stanlis, Peter J. *Edmund Burke and the Natural Law.* (Univ. of Michigan.)
Evans, M. Stanton. *Revolt on the Campus.* (Regnery.)
Goldwater, Barry M. *The Conscience of a Conservative.* (Victor.)*
..... *Why Not Victory.* (McGraw-Hill.)
Strauss, Lewis L. *Men and Decisions.* (Doubleday.)
LeFevre, Robert. *This Bread is Mine.* (American Liberty Press)
Mill, John Stuart. *On Liberty.** (Appleton.)
Nock, Albert J. *Our Enemy, the State.* (Caxton.)
Orwell, George. *1984.* (Harcourt, Brace.)*
Viereck, Peter. *Conservatism: From John Adams to Churchill.* (Anvil.)*
Vivas, Eliseo. *The Moral Life and the Ethical Life.* (Univ. of Chicago.)
Voegelin, Eric. *The New Science of Politics.* (Univ. of Chicago.)
Weaver, Richard M. *Ideas Have Consequences.* (Univ. of Chicago.)*
Wilson, Francis Graham. *The Case for Conservatism.* (Univ. of Washington.)

Constitutional Theory

The Federalist. (Modern Library.)*
Hayek, F. A. *The Constitution of Liberty.* (Univ. of Chicago.)
Kilpatrick, James Jackson. *The Sovereign States.* (Regnery.)
Morley, Felix. *The Power in the People.* (Van Nostrand.)
..... *Freedom and Federalism.* (Regnery.)*
Wilson, Francis Graham. *American Political Mind.* (McGraw-Hill.)*
Wright, David McCord. *Democracy and Progress.* (Macmillan.)

Economics

Bastiat, Frederic. *The Law.* (FEE.)*
Hayek, F. A. *Individualism and Economic Order.* (Univ. of Chicago.)
..... *Road to Serfdom.* (Univ. of Chicago.)*
Hazlitt, Henry. *Economics in One Lesson.* (FEE.)*
..... *The Failure of the New Economics.*
Mises, Ludwig von. *Planning for Freedom.* (Libertarian Press.)*
..... *Human Action.* (Yale.)
..... *Socialism.* (Yale.)
Peterson, William H. *The Wonderful World of Modern Economics.* (ISI.)
Robbins, Lionel. *Economic Planning and International Order.* (Macmillan.)
Röpke, Wilhelm. *A Humane Economy.* (Regnery.)
Smith, Adam. *The Wealth of Nations.* (Modern Library.)*
Wallich, Henry. *The Cost of Freedom.* (Harper.)

Education

Babbitt, Irving. *Literature in the American College.* (Regnery.)*
Barzun, Jacques. *The House of Intellect.* (Harper.)*
Bestor, Arthur. *Educational Wastelands.* (Univ. of Illinois.)
Coulter, Charles Wellsley, and Rimanoczy, Richard Stanton. *Education for What?* (ISI.)
Newman, John Henry. *The Idea of a University.* (Holt, Rinehart, and Winston.)*
Weaver, Richard M. *Education and the Individual.* (ISI.)

*Available in paper back.

Kudos from I & O

It is so seldom that events follow the precepts of the abstract concept of justice these days, that when such a rare event occurs we feel compelled to call attention to it, and to give our blessings (for whatever they are worth) to the people involved. Hence we wish to award the INSIGHT AND OUTLOOK Monthly Citation of Merit to U. S. District Judge Frank B. Ellis and to the Board of Administrators of Tulane University.

Two Negro students went to federal court to get a court order to force their enrollment at Tulane, a private university in New Orleans. Judge Ellis ruled that since Tulane was a private institution, it was not required to admit the Negro students. Our praise to Judge Ellis for his (nowadays) unpopular notion that private persons and private institutions have a right to manage their own affairs without undue interference from the government.

Less than a week after Tulane won its case in court, and had demonstrated that it didn't have to admit Negro students, the University's Board of Administrators announced that they would admit the two students in question, and also a Negro medical student — not because they had to by court order, but because they wanted to. Our praise to Tulane University for its unpopular (in the South) decision to admit qualified students without regard to race or color.

We predict that things will go more smoothly at Tulane than they did at the University of Mississippi.

Reception in Cuba

Our old pal, Fidel Castro, invited a group of pinko students to visit him over the Christmas vacation for an all-expense paid tour of Cuba. The U.S. State Department then announced that reprisals would be taken against students who accepted Castro's offer—fines and even prison terms were threatened. Some of the students indicated that they would go anyway, via Canada, and take their chances with the wrath of Rusk.

Now while we have little love for the bearded one, nevertheless we don't understand just how the State Department obtained the authority to hold a veto power over people's vacations. It would seem to us that people ought to be able to travel anywhere they please, subject only to the approval of the host country.

The strongest discouragement that the U.S. government ought to be able to give to a trip such as this is a warning that should Castro decide to give his visitors trouble, then the U.S. government would not come to their aid. That is, warn the students that we won't trade any tractors for their freedom if it comes to that.

Our own feelings, then, are that not only should the government have *let* them go, there should have been U.S. Marines in Havana to welcome them ashore.

WORLD OUTLOOK

And Good Riddance

From a platform at Yale University not long ago President Kennedy lectured the nation about economic "myths." It would, he said, be pernicious to retain in this century the economic system of our forebears. The modern world is to suffer no taste of the free economy and prosperity we once believed to be our heritage.

Obviously, the alternative to freedom is non-freedom. If we are to give up our old ways, our old freedoms, we must replace them with a system which is not free. That this is what Mr. Kennedy has in mind was revealed in his State of the Union and budget messages before Congress. On the one hand he wanted very sizeable tax cuts; on the other he wanted very sizeable increases in federal spending, producing, of course, a prodigious deficit. The economic theories of the British socialist Lord Keynes, currently in vogue among the President's advisers, predict that these fiscal measures will stimulate growth by putting, respectively, tax-saved dollars, government dollars and deficit-created dollars in the hands of consumers who will then spend them and stimulate production. Naturally if this ingenious system works, we should stop paying taxes and just let the government spend, spend, spend us rich—it's that simple. Unfortunately, it doesn't work. It's a myth, and we venture that the President knew that perfectly well when he suggested it.

Mr. Kennedy has other motives, motives which have been revealed countless times in his administration and which are not pleasant to contemplate. In a word, the President wants power.

The budget proposals Mr. Kennedy advanced were outrageous economically—but *to enormous political advantage*. He has promised the people tax savings *and* government-spent dollars—contradictories — and it is the unhappy lot of Congress to take one or the other away, accruing the blame for it with the people. This puts a political club in the President's hands, and he will not fail to use it. The result must be a substantial abdication of power by the legislative branch in favor of the executive — a process which has worked so well in the past, even for politicians less skilled than Mr. Kennedy, that some 90% of our laws, in the form of bureaucratic regulations, are now created in the executive branch. Mr. Kennedy gains other political advantages as well: his requests constitute an audacious inroad in the appropriations and legislative functions which rightfully reside with the people's representatives; he consolidates power in fiduciary handling; and he broadens his power over the economy.

That is, the power to rule us. The alternative to freedom is non-freedom—is governmental rule. Mr. Kennedy's philosophy is more than a threat to our freedom, it is an active destroyer. Let's get rid of it.

The Norse Can Have It

Recently the Madison *Capital Times* ran a series of editorials plugging government medicine for the United States by painting a glowing picture of the socialized medicine scheme used in Norway. Virtually every Norwegian, we are told, is delighted with that nation's system in which almost all doctors' fees are

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set at very low levels by the government, and then most of that is paid by the government.

For example, Norwegians can have a tonsilectomy for $4.20, of which the government pays $3.50. An abortion costs $7, of which the government pays $6.30. Most of the cost of hospital care is also paid by the government and all of this "free" medicine is in return for a premium of from 32 cents to $1.13 per person per week.

Of course to pay for this the government has to levy some modest taxes on the citizens. A Norwegian family with two children and an annual income of $4,900 would pay an income tax of $1,204.

Now let's compare this with a similar family in the United States. According to our 1040-A tax table the same size American family with the same income would pay an income tax of $398, i.e., less than one-third as much. Of course a direct comparison of tax burdens is not fair — to the U.S., that is. After all, one-half of the American's $398 is used to buy Polaris submarines and the like which are used to defend the American family and the Norwegian family.

The typical Norwegian doctor, we are told, earns under $5,000 per year (before taxes) and the tax rate is such that it is unthinkable for any Norwegian professional man to net over $15,000 per year. We feel that it is certainly humanitarian of the Norwegian government to provide medical care for all those people who can't afford to pay their doctor bills with the meager funds they have left after taxes.

Job Security at HEW

The Department of Health, Education and Welfare is only human, and you can't blame a fellow for wanting to keep his job, can you? Now, we the people have directed HEW to support illegitimate children, right? So to keep its job, HEW has to support illegitimate children, right? So it has to have illegitimate children around to support, right? So HEW actually has a vested interest in the production of illegitimate children, right?

Even if you are dubious about it, Health, Education and Welfare is not. It knows very well what its responsibilities to the people are. And it recognizes instinctively how to insure the continuing production of illegitimate children: first, break down social barriers against illegitimacy; second, offer incentives. Observe:

HEW releases a booklet entitled "Unmarried Parents — a Guide to the Development of Services in Public Welfare." Modern living practices, it enthuses, "seem to imply an acceptance in our society of freedom in sex relations outside of marriage." Perhaps so; but it is or ought to be another matter for HEW in effect to stamp such affairs "Government Certified Meat."

Note the incentive: "Perhaps the time is not too far distant when as a nation we will see births out of wedlock in terms of their deep significance [potential taxpayers?] for our society—and move ahead on a broad front to meet this challenge to our ingenuity and vision *for measures insuring a stable, satisfactory life for children and their parents.*" Translated from bureaucratese, that means, kids, run, do not walk, to the nearest bed, and Uncle HEW will pick up the tab.

The net result is that, when we give HEW a mandate to alleviate human suffering, *it must create new suffering.* The reason is simple enough: its existential urge is irresistible, and its existence depends upon people suffering. Such behavior is characteristic to all

bureaucracy without exception. Indeed, the more ambitious and efficient the bureau becomes in the discharge of its duties, the more efficiently it will produce suffering.

There is no way to convince a bureaucrat that his humanitarian function should ultimately be abolished, or to convince a bureau that its purpose should be the elimination of the reasons for its existence. But we the people could withdraw our mandate to, and support of, the bureaus, and reclaim the responsibility for our family's and our neighbor's welfare we so boorishly abdicated. With that act we will finally begin to serve the true imperatives of welfarism.

Mending the Amendment

The Warren Court's anti-prayer decision of last June has triggered an assault which threatens to eradicate every trace of the religious institutions associated with public life. It seems Americans have grown too damn sophisticated to believe anything anyway, but it is never pleasant to contemplate the barbarian at the church door.

It is sadder still to observe that the barbarians are armed with little more than metaphysical stone axes. The Post Office Department sponsored a take-the-Christ-out-of-Christmas stamp design contest only to have the winning entry, an ugly wreath and candle affair, scored by Jewish leaders as "too Christian." A sick New York group has been lobbying to have banned all references to local churches from private real estate advertising. One Eugene Sawyer of Norfolk, Virginia is suing to have removed from the city's botanical garden a bronze statue of St. Francis of Assisi which was donated some months ago by a garden club, because the maintenance of the statue causes taxpayers to suffer "grievous losses by the expenditure of tax money." One hundred thirty-two "law deans and professors", none of whom represents a public university presumably, insist that the First Amendment *not be changed* to permit prayer in public schools.

What remains of our spiritual and intellectual heritage if Christ cannot be honored by a Christmas postage stamp and law deans believe the first amendment *prohibits* the free exercise of religion? That is, if our leaders and intellectuals not only fail to defend us from the heathen, but they openly side with, and even command, the attack?

It is time then for free and honest men to defend themselves, and the means for doing so are implicit in the form of the assault: the wall the Supreme Court tore down must be reconstructed. The first amendment must be *reaffirmed*, constitutionally, in its original and explicit meaning, as it stood nearly two centuries until the unimpeachable Warren Court stumbled into the picture.

In Defense of Free Unions

There are rising demands to do something about union power. Must the government regulate them, or can they remain free?

JAMES BLAIR

It should be evident by now that something is wrong with labor-management relations and with labor law in the United States. With crippling strikes paralyzing one industry after another, it should be evident also that in the near future more action will be taken by government in this field. The administration will not long sit back and preside over the destruction of the economy.

Basic Principles

At this point it is perhaps best to outline what a labor union can and cannot do from the standpoint of basic economic theory. A labor union can and should represent its members in bargaining with employers, and serve as a check on unfair and arbitrary action by the employer.

However, contrary to many popular misconceptions, labor unions cannot raise *real* wages for *all* workers; real wages are determined ultimately by productivity. If a union strikes and raises its own members' *money* wages, the gain is cancelled out (with the help of inflation) by the price rises which come as other unions raise their wages. One man's wage is, after all, another's cost.

Or, an individual union can force an increase in wages for its members at the expense of all other workers, who must pay that wage increase in higher prices. For it should be clear that if the workers in the X industry receive an increase in wages while producing no more than before, then, since there is no net increase in wealth involved, (i.e., there are no more X's after the wage increase than before) the additional money that the workers receive must have come from somewhere. They get more, so someone else gets less. The wage increase is very likely to be covered by an increase in the price of the products of X industry. In which case the people who buy the products of X lose what the workers have gained. When haircuts go up to three or four dollars, the barbers' gain is the customers' loss.

Hence the wage gains of the powerful unions come largely at the expense of the public, and in particular the non-unionized workers, who cannot force corresponding rises in their wages. It is the laundry workers, migrant laborers and others who must pay more for the products that they buy, but who cannot charge more for the services that they render.

This then is the economic consequence of excessive union wage demands, and is one result of the many special privileges that the present laws give to labor unions: the economic consequences, over and above the strikes, violence and gangsterism that sensationalize much of the news.

Now it would be somewhat dishonest at this point to proceed with the impression that inflation is due directly to the actions of unions in raising their wages. Inflation is due to an increase in the money supply, and of course labor unions don't control that—directly. Wage raises in our X industry without (or beyond) production increases would, in the absence of inflation, mean the people would buy fewer X's at the higher price charged for them, and the net result would be a decrease in production of X's, layoff of workers and increased unemployment in the X industry. Inflation is the politically popular way that the government tries to alleviate the unemployment caused by excessive wage demands by lowering real wages through the cheapening of money. The workers get more dollars but can buy less with each dollar, so their *real* pay is not increased, or at least not increased as much as the money wages.

The net effect of the excessive wage demands and government inflation through budget deficits is complicated and depends upon the relative extent of each. If inflation "kept up" completely with wage demands, the very large raises in money wages for the workers in powerful unions would correspond to moderate raises in real wages for these workers. These would come in conjunction with a lowering of real wages for most non-unionized workers and people living on relatively fixed incomes (i.e., old people on pensions, the retired, most schoolteachers, etc.). With no inflation, unemployment in the ranks of the members of the powerful unions would rise in proportion to the wages the workers demand. The actual situation today is a combination of these two cases: mild inflation mixes with steady to moderately increasing unemployment.

There are, I submit, two different basic approaches that can be taken to remedy the existing problems in present labor law, and since the decision has not yet been made, we would be wise to consider with care the paths which are open.

For lack of better terminology, I label the two approaches to labor law reform as "liberal" and "conservative" approaches. Although some persons normally considered to be conservative have indicated

their support of the liberal method, these names are selected since they correspond to the approaches one would logically expect to stem from contemporary Liberal and Conservative premises.

The Liberal Method

Liberals have been slow to recognize the problem of abuses of power by unions and for years Liberalism has taken the attitude that, if left alone, the problem would go away. Now, belatedly, prominent Liberals are joining in the chorus of voices demanding that "something be done" about union abuses.

Consequently, the liberal politician, always alert to the National Interest, is now preparing to "do something" about the excessive abuses of unionism: he is prepared to do the only thing he knows to solve *any* problem — to impose greater government control.

Senator Jacob Javits (R-N.Y.), on *Meet the Press* January 6, 1963, indicated that the solution to our extensive strikes lies in greater government control of labor-management bargaining. The Liberal mouthpiece *Newsweek* speaks approvingly of compulsory arbitration (Jan. 7, 1963, page 41). Eric Sevareid hints that the President should give the labor barons of the New York printers strike the same treatment that Big Steel got. From each side come demands for the government to force labor-management settlements "in the public interest," and to outlaw strikes which threaten this public interest.

It is important to remember, when listening to these pleas, that when the administration acts, it is likely to interpret this public interest as being the administration's interest; that compulsory arbitration is a nice way of saying government-dictated terms, which means ultimately government-dictated wages, prices and working conditions; and that outlawing strikes "against the public interest" could be the outlawing of all strikes, since any strike can be shown to harm the public.

The liberal idea of big monopolistic unions regulated by even bigger governments is the path to the destruction of unionism — not in name of course, but in fact. "Unions" would remain but would serve, not the workers, but the State.

The Conservative Approach

In much popular thought Conservatives and unions are seen as representing as natural a pair of opponents as say, cowboys and Indians or cops and robbers. It is my contention that, on the contrary, conservative ideas in the field of the trade union movement are in the long run best interests of unionism, and that, paradoxically, it is Liberalism, in its desire to "help," unions, that is laying the foundations for their destruction.

As is usually the case, the conservative approach to the problems of unionism is more indirect than

the liberal one, and is based on understanding and acting on the causes of the problems rather than merely attacking the symptoms.

Corruption and abuses in unions today are a necessary consequence of the current laws. Compulsory unionism sets up the situation where large numbers of people are paying dues into unions who don't really want to belong to a union and who are not really interested in the union — an open invitation to the gangster elements.

In addition, under the Taft-Hartley Act, the government, in effect, establishes monopolies by conferring unions representing a mere majority *exclusive* power to bargain for *all* the workers in a given unit. Monopoly power, in labor unions as in industries, leads to abuse and harms the public.

The conservative alternative to big unions subordinated to even bigger government is competitive unions analogous to competitive industries and for reasons paralleling those favoring competitive industries rather than government-chartered monopolies. In short, Conservatives advocate a return to common law practices in the place of the special privileges granted in labor laws, and where necessary, anti-trust action against monopolistic unions just as if they were industries.

Competitive industries are kept relatively honest because, if the customer is not pleased with the quality or price of a commodity from one producer, he can get it from another. Competition serves as a check on abuses without government regulation or controls beyond the establishment of general ground rules, the enforcement of contract, and the prohibition of fraud.

In a similar manner, if workers were free to join a union or not, or to leave a union which they felt was not representing them well and to join another which they felt would serve them better, then the unions would be more likely to be kept honest. In addition, a union could not extract exorbitant wages from the public if faced with competing unions in the same industry, any more than a company can demand exorbitant prices in the face of competition. Abuses and corruption would be held in check without government regulation and control of the unions.

Contemporary labor laws, as well as most contemporary ideas on labor unions, are far out of date, being based on a time in the distant past when unions represented the "little people" struggling against the giant robber barons of industry. It is time to bring the laws and the ideas up to date with the realities of the day.

The Favored Class

The law has given special privileges and immunities to labor unions that are shared by no other group

LYMAN C. CONGER

In the basic document of our American freedom, the Declaration of Independence, our forefathers said

> We hold these truths to be self-evident, that all men are created equal . . .

Of course, our forefathers did not mean that all men are biologically equal in height, weight, physical strength or mental ability. But what they *did* mean was that all men were *equal before the law* — that everyone had the same rights and privileges under the law, and the same duties and liabilities under the law. That there was no *favored class,* given special privileges under the law or exempted from its duties and liabilities.

That was the basic premise of our government and one to which we adhered throughout the years when we grew from thirteen struggling colonies to the greatest and most powerful nation on earth.

But we've departed from that basic principle of our government. All men are not equal before the law. We now have favored classes with special privileges and with special exemptions from the duties and liabilities imposed by law upon less favored mortals.

The most flagrant example of a favored class is labor unions and their officials. Note that I say "labor unions and their officials," not "labor." When we examine these privileges and immunities we will find that most of them are in derogation of the rights and privileges of the individual workman.

Instead of "labor" being given additional rights, the individual workman now has two bosses, his employer and the union. And the second boss, the union, often not only exercises more control over him than the employer, it claims rights that employers never dreamed of claiming. For example, unions claim the right to direct his activities, not only as a workman, but as an American citizen, to tell him how he must vote, and what political activities he must or cannot engage in.

The establishment of union officials as a favored class has come about step by step, partly through legislation but mostly through biased administration—by administrative and judicial legislation under the guise of "interpretation". Legislation by Congress has been given a meaning never dreamed of by Congress, and expanded far beyond its intended scope, e.g., preemption.

Because this creation of a favored class has come about gradually, few realize that it has happened. And almost no one realizes the shocking extent to which it has progressed.

Dean Roscoe Pound, in his excellent treatise on *Legal Immunities of Labor Unions*,[1] has pointed out some, but by no means all, of the immunities which unions and their officials enjoy.

Pound's treatise was limited to the "immunities" of Labor Unions; he hasn't dealt with the many *special privileges* which give them vast power, not only over the economy and employers, but over the workmen they are supposed to represent.

They all add up to a shocking total of bias and favoritism under the law never before known in our history and alien to our basic philosophy of government.

Let us consider some of those privileges and immunities.

I. Exclusive Representation

Most important but most frequently overlooked, among the special privileges of union officials is the right of *exclusive representation*: the right to represent *all* employees of an employer even though *they do not want to be represented* — to make a *binding contract* for them even though they do not agree with the contract. Thus the union is given a monopoly to represent all of the employees of an employer and often of an entire industry.

Many who are concerned about union monopoly power overlook this basic source of that monopoly. Having a monopoly over the employees of a particular employer, it is only a short step to a monopoly of the employees of an entire industry.

When we consider this monopoly power of exclusive representation we find that it is a violation of the fundamental principles of agency. Can you name any other situation where an agent is empowered to represent a principal who does not want to be represented? In theory, unions are the agents of employees. But, under existing law, you can't deal with the principal, you can deal only with the agent.[2] And you can't even inquire from the principal as to whether he agrees with the way his agent is representing him.

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The Favored Class was a lecture presented by Mr. Conger at the University of Wisconsin on March 21, 1962, at the invitation of the Law School Conservative Club. He was introduced by the club's president, Anthony V. Cadden, L.L.B., a former associate editor of INSIGHT AND OUTLOOK.

Those who have studied the law of agency know that, in other matters, you deal with an agent at your own risk. You must assure yourself that he is authorized to act as agent, and that the agent is acting within the scope of his authority — that he is representing his principal and not acting for himself. But if you are an employer dealing with a union you are prohibited from *even inquiring* about these matters.

In the Borg-Warner case,[3] the employer demanded a contract provision that a strike might be called only after a secret ballot vote by the employees involved. It was held that this was an unfair labor practice and a refusal to bargain. An employer may not assure himself that a union is actually representing his employees' desires and not its own interests.

The employees supposed to be represented have been deprived of the right to control the action of such representative. Certainly such an important action as a strike should be taken only if the employees involved desire it.

But a union can call a strike not supported and even opposed by its membership, and there is nothing that the employer or anyone else can do about it. It is therefore an unfair labor practice for an employer to demand that his employees have the right to decide for themselves whether or not to strike.

In the case of the strike which the UAW called against Kohler Co. a Senate investigation disclosed that *less than a third of our employees* voted for the strike. This is the reason for the mass picket lines at Kohler and the violence and vandalism. The UAW officials knew full well that the majority of Kohler employees did not support their strike. They would not stay out voluntarily, they had to be *kept* out by force and violence. It is an axiom that when mass picketing, coercion and violence occur in connection with a strike it is because the strike is to benefit the union, not the employees—that it is the union and not the employees that want a strike. It is not necessary to use force and violence to keep men out when they want to strike and would stay out voluntarily.

Unions have special prerogatives not given to other agents or representatives in still another respect. If you appoint an agent, you have a right to revoke his agency if you're not satisfied with the way he is representing you, unless, of course, he has acquired rights as against you. Also, you may not be able to revoke rights which others have acquired because of his authorized actions. But you can prevent him from acting further. But not so with a union.

Congress and the public were sold the Wagner Act (this is the National Labor Relations Act of 1935 which established the National Labor Relations Board [N.L.R.B.]) on the basis that it was to give employees more freedom: they were to

have representatives of their own choosing. But it took little time for a biased labor board to decide that so called "stability" of collective bargaining was more important than the freedom of choice of employees.

If a union is chosen as a representative it remains a representative for at least a year, and even longer if it gets a long term contract with the employer. It may no longer represent a majority of the employees: they may have changed their minds, there may have been such a change of personnel that a majority of the present employees never chose the union, it may be that not a single present employee ever chose the union; nevertheless it remains the representative for at least a year.

The theory that employees were to have a free choice of their representative lasted just long enough to sell Congress and the public on the Wagner Act. It was promptly ignored in the administration of the Act, and the N.L.R.B. announced that the real purpose of the Act was to *promote* unions. The bureaucrats decided that employees *ought* to want to be represented by unions; therefore, they *must* be represented. The Act has been administered, not to give employees a free choice, but to force unions on them as well as on employers.

In theory the Wagner Act gave employees the right to choose the particular union they wanted to belong to. Many employees decided that they wanted a union, but that they wanted one that they would control—one that would serve their own interests and not the ambitions of some national union official for more power and prestige. So there was a great growth of independent unions.

But the N.L.R.B. decided that employees *ought* not to want an independent union, that they *ought* not to want a union that was not antagonistic to the employer, that the only truly independent union was one operated on the Marxian philosophy of class conflict and the principle that the interests of employer and employee were in irreconcilable conflict. So they ruthlessly wiped out independent unions by blatantly applying different standards of law to them than to other unions.

Congress tried to correct this in the Taft-Hartley Act but it was a case of too little and too late. Today the term "independent union" is used to designate not a truly independent union but one not affiliated with the AFL-CIO.

Today, under a law passed to give employees freedom of choice, how much choice would you have as to what union you wanted to belong to,

or whether or not you wanted to belong to any union, if you were an auto worker, steel worker, construction worker, truck driver or, in fact, in almost any industry?

The preamble of the Wagner Act states that its purpose is to avoid and minimize industrial strife. Judged by its own statement of purpose the Act has been a gargantuan failure: It has not minimized industrial strife; it has created and fomented it. Strikes are now three and four times more numerous then before the law was passed.

II. Mandatory Contract

Another special privilege given to union officials is the right of mandatory contract. Is there any other instance where a person is compelled by law to make a contract whether he wants to or not?

If you make a contract with me and I prove utterly irresponsible, violate the contract repeatedly, you can revoke the contract or at least refuse to renew it when it expires. But not if I'm a union. No matter how irresponsible a union is or how often it has broken its contract, an employer is required by law to make a contract with it.

If an employer is compelled to make a contract with Walter Reuther, he is told in advance that Reuther considers it a "living contract". In plain simple English that means that Reuther will live up to it only as long as he considers it to his advantage to do so. Whenever he chooses he can demand that you change the contract, and strike your plant if you refuse.

Some employers have sought to protect themselves against union irresponsibility by requiring that the union file a performance bond or be amenable to suit for breach of the contract. The N.L.R.B. holds that this is a refusal to bargain and an unfair labor practice.[4]

Hence an employer is not only compelled to make a contract that will bind him but he is prohibited from taking any practical steps to assure himself that it will also bind the union.

III. Compulsory Unionism

Unions have another power not given to any other supposedly voluntary organization: the power to force people into membership.

No church or religious organization has the power to force people into membership under pain of losing their livelihood. The Red Cross, Boy Scouts, Y.M.C.A. and the countless voluntary organizations which serve the public interest have no such power, nor has any Chamber of Commerce or business organization this right of compulsion.

We hear attempts to justify union power under the principle of "majority rule". But majority rule is a principle that applies to a government, not to a supposedly voluntary association. It is, of course, true that the officers of a voluntary organization may be elected by a majority vote. But any member is free to leave the organization any time he is sufficiently dissatisfied with it.

It is only government and unions which have the power of coercing people into accepting and paying for their services whether they want them or not. Only government should have the power of taxation and many of us would be happy if there was more of a limitation there. The governmental power of taxation ought not to be given to unions or to any other association.

Union favoritism has gone to such an extent that unions now blandly claim that they *are* governments. Let me quote from a brief by the A.F. of L. in a case in the United States Supreme Court:

> The worker becomes a member of an economic society when he takes employment . . . The union is the organization or government of this society . . . It has in a sense the *powers and responsibilities* of a government.

and, quoting further:

> We can summarize the nature of union membership as a common *condition of employment* in an industrial society by again comparing it to citizenship in a political society. Both are *compulsory upon* individuals.

That is the way many unions are acting; not as representatives of workingmen but as governments over them—compelling compliance with their decrees and exercising the power of taxation. Over three-quarters of present union members are covered by contracts calling for the union shop or some other form of compulsory unionism. Unions are clearly no longer voluntary associations.

The basic philosophy of the union shop is that the workman is incompetent to decide for himself how he should be represented.

When you hear the so-called "free riders" argument advanced in favor of the union shop, remember two things:

First: Representation of nonmembers is not a *duty* forced on unions. Exclusive representation is a *power* that they *sought* and obtained — a power possessed by no other association or representative. Just suggest that unions be relieved of this duty, which they claim is so onerous, by returning to the law as it was before the Wagner Act—that unions have the right and the duty to represent only those who *want* to be represented — and see how many union officials will agree.

Second: The basis of the "free rider" argument is that unions are so clearly beneficial that no one has any right to question it. It may be a racketeering union or a Communist-dominated one, nevertheless it must be *assumed* that it benefits its members. No workman has any right to decide for himself whether he is actually benefited. Those who exercise their right to make up their own minds not to belong to a union are no more "free riders" than one who is kidnapped and put aboard a bus for California, where he doesn't want to go, is a "free rider" because he refuses to pay for the ride.

The theorists and unionists refuse to recognize that there are workmen who believe that the union has not benefited them.

Consider this example:

You get a job in a shop and are put to work on a machine. On the machine next to you is John Doe, hired two weeks before you were.

You get some wage increase through the union bargaining, but you notice that prices go up due to inflation and you can't see that you are better off in terms of real wages.

But you see an opportunity. There's another machine that pays considerably more money but requires more skill to operate. You work hard, do a good job on your machine and give a superior performance. You go to vocational school nights and learn to run that machine that you have your eye on.

John Doe soldiers as much as he can. He does just enough to keep from getting fired. He doesn't go to vocational school, he spends his nights in the tavern.

The job on the machine finally opens up. You think you deserve it and apply for it.

But your employer tells you: "I'm sorry but the union has forced us into a strict seniority contract. We know that you're a better workman than John Doe, we know that you could run the machine better than he will, but he has two weeks more seniority, so he gets the job."

Would you think that you had been benefited or injured by the union's representation? Do you think anybody has the right to tell you that you are too stupid to make decisions for yourself and that you must be *forced* into paying for representation?

IV. Board to Serve Their Interests

One of the most important special privileges of unions is that they have a governmental board, the N.L.R.B., to serve their special interest. It is a board having quasi-judicial powers and exercising legislative powers. No other group is so favored. As Dean Pound has said:

> It may be said that as the labor organizations have the National Labor Relations Board and like administrative agencies in the states to look after their interests, special administrative agencies are likewise set up for all important interests. For railroads and transportation companies there is the Interstate Commerce Commission; for banks, banking commissions in all the states; for financing organizations and agencies the Securities and Exchange Commission; for manufacturing and selling organizations the Federal Trade Commission; and for insurance companies insurance commissions in each state.
>
> But the Interstate Commerce Commission exists not to protect railroads or other carriers in immunities but to protect the public from them; banking commissions are not to uphold immunities of bankers but to protect the public from them; the Securities and Exchange Commission is not to uphold any immunities or interests of financing agencies but to protect the public from them; the Federal Trade Commission it not to uphold immunities or protect interests of combinations of manufacturers or sellers, but to protect the public from them; the insurance commissions exist not to create and secure immunities of insurance companies but to protect the public from them.
>
> By contrast, the National Labor Relations Board and like administrative agencies in the states, along with the legitimate function of assuring equality in collective bargaining between employer and employee and securing the rights of employees in that relation, have also acquired a function of upholding immunities of labor organizations and their leaders at the expense of the public. They do not protect the public. In such matters as procedure in violation of the antitrust laws, restraint of trade and interference with commerce, security of private property, and the right to work they protect labor organizations and labor leaders against the public.

Why should unions be provided with government lawyers at taxpayers' expense? They can spend millions on politics, they have ringed the Capitol at Washington with expensive and lavish office buildings. Should they not pay for their own lawyers? If unions had to pay for their own lawyers, the N.L.R.B. would no longer be in the dual capacity of plaintiff's attorney and judge.

A small employer is almost helpless. He is faced with a union far more powerful than he is and the union gets free legal services while he has to pay for his own. He may have a good defense but it may bankrupt him to make it.

I know it sounds like an exaggeration but I can assure you that the cost to the taxpayer of the Kohler case alone runs into the hundreds of thousands of dollars.

Under the Wagner Act only the N.L.R.B. can bring an action. You may think that a union has violated the Act but you can't bring a complaint against them. You can only file a charge with the N.L.R.B. If they refuse to issue a complaint you are helpless. You may know that the N.L.R.B.'s interpretation of the Act is completely contrary to its express provisions and the intent of Congress, but there's no way you can get the interpretation of the law even tested.

Many of the provisions of the Taft-Hartley Act have been emasculated by the N.L.R.B.'s refusal to act and by its interpretations clearly contrary to the intent of Congress. For a fuller discussion of this, see treatise *How The N.L.R.B. Repealed Taft-Hartley* by Sylvester Petro, professor of Labor Law at New York University.[5]

The N.L.R.B. has, in effect, a veto power over Congress. Under Section 10(j) of the Act the N.L.R.B. was given the power to seek temporary injunctions in cases of violations of the Act. It was the clear intent of Congress that the N.L.R.B. should take action against union violence and mass picketing. But it has refused to do so. Kohler Company was faced with violence and mass picketing shutting the plant down for 54 days in direct violation of the Taft-Hartley Act, as well as state law, but the N.L.R.B. at that time had never asked for an injunction against union violence.

In the few cases where the

N.L.R.B. had itself issued a cease and desist order against union violence the average time between the filing of the charge and the order was over two years and the shortest time one year and two months.

One of the principal arguments for putting labor cases in the N.L.R.B. rather than in the courts where they belong is to get more rapid action than the allegedly cumbersome procedures of courts. But it should be obvious that funnelling all the labor cases of the country through a single administrative agency is bound to create a log jam and more delay than if they were divided among the many courts of the country.

I want to point out that the set-up of the Wisconsin Employment Relations Board (W.E.R.B.) is much different. That Board does not have an expensive legal staff to try cases before itself. It does not act both as plaintiff's attorney and judge. If you want to bring a case before it, you make the decision. The Board has no discretion to decide whether or not to hear it. And you pay your own attorney and present your own case. That is why we went to the W.E.R.B. with our case. They interpreted the law as we did and eventually their interpretation was sustained.[6]

But had they disagreed with our interpretation they would have had no power to refuse even to hear the case and we would have had the same opportunity as the union to get our interpretation tested by the courts.

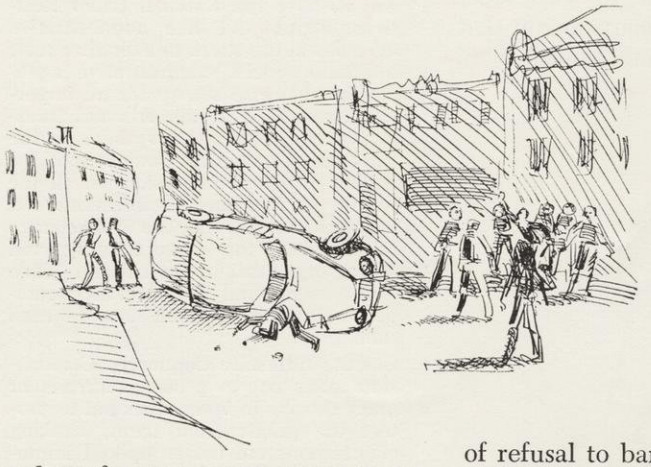
Thus we were able to get some relief that we could not have obtained from the N.L.R.B., despite the fact that it was the clear intent of the Taft-Hartley law to outlaw union violence and coercion.

V. Biased Interpretation

Under the biased interpretation which has been given the Act there is now one law for unions and a different, often exactly opposite law, for employers.

Unions have the right to strike. I think that employees ought to have the right to strike. I think that they ought to have the *right* to strike even when it is *unwise* for them to do so. And I don't think that any governmental body ought to have the right to decide whether their strike would be wise, economically sound, or in the public interest.

Of course, I am talking about a *voluntary* strike. No one has any



right to force or coerce a man to go on strike if he does not want to, any more than he has a right to force or coerce him not to. Nor am I talking about a union's foregoing its right to strike by contract, nor agreeing that a man who goes on strike retains a vested right to his job. I am simply talking about the basic right to strike.

Of course the right to strike does not mean that the employer has a duty to yield. He has a right to defend himself against the strike. And one of the traditional defenses against a strike is the lockout. This is the employer's counterpart to the right to strike. But is this right protected as is the right to strike? Oh, no. The law is much different for an employer than for a union. Except under certain limited circumstances a lockout by an employer is held to be a refusal to bargain and an unfair labor practice by the employer.[7]

If employees have a right to strike, in fairness shouldn't an employer have an equal right to lock them out? I'm not talking now about the *wisdom* of a lockout any more than about the wisdom of a strike. I am talking simply about bias and favoritism.

It is interesting to note that this is administrative and judicial legislation. The Act does not specifically prohibit lockouts except in two instances where a strike would also be illegal.[8] The prohibition of a lockout is purely administrative fiat under the guise of "interpretation". The Supreme Court has held that a union may engage in so-called "harassing" tactics, sit-downs, slow-downs, refusals to perform work, etc. and that this is not lack of bargaining in good faith.[9] But if an employer engages in similar harassing tactics the N.L.R.B. holds *him* guilty of refusal to bargain.[10]

There is one law for a union, a contrary law for an employer. A union may promote a sit down, slow down or other refusal to work to put pressure on an employer. But if an employer uses a temporary layoff to put pressure on the union he is guilty of an unfair labor practice.[11]

VI. Solicitation

If a union goes on strike an employer may not solicit the employees to return to work.[12] That, says the N.L.R.B., has a tendency to undermine the status of a union as exclusive representative.

But the union may solicit the strikers to remain on strike. It may promise that they will get a wage increase and other benefits if they stay on strike. It may threaten them with discrimination and social ostracism if they don't stay on strike. An employer may not assist a "back to work" movement but a union is completely free to promote a "stay away from work" movement.

And while even the N.L.R.B. has not gone so far as to hold that a union has a right to do so, unions can and do threaten strikers with

violence to themselves and their families if they go back to work.

VII. Free Speech Suppressed

The N.L.R.B. seems to think that an employer should be deprived of his constitutional right of free speech.

If an employer dared to exercise his right of free speech and tell his side of the story, even to answer the false statements of unions about him, that was taken as evidence of hostility to the union and would be the basis for a later finding of an unfair labor practice against him.

Under the Wagner Act the employer was ruthlessly gagged and deprived of his constitutional right of free speech and the employees were permitted to hear only one side of the story.

The situation was so bad that a committee of the House of Representatives reported:

> Although the Labor Board says it does not limit free speech, its decisions show that it uses against people what the Constitution says they can say freely.
>
> Thus, if an employer criticizes a union, and later a foreman discharges a union official for gross misconduct, the Board may say that the official's misconduct warranted his discharge but 'infer' from what the employer said, perhaps long before, that the discharge was for union activity and reinstate the official with back pay. It has similarly abused the right of free speech in abolishing and penalizing unions of which it disapproved but which workers wished as their bargaining agents.[13]

Congress sought to remedy this situation and, in the Taft-Hartley Act, provided:

> The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute *or be evidence of* an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.[14]

Congress could not have used any clearer or more express language. It leaves no room for interpretation. No one can *honestly* doubt that Congress intended to restore fully an employer's right of free speech.

But the N.L.R.B. doesn't agree with the Constitution or with Congress; they set out to emasculate this provision as they did with so many other provisions of the Taft-Hartley Act.

In the case which the N.L.R.B. brought against us the President of our company was on the witness stand for an entire day being examined by N.L.R.B. lawyers on a speech he gave. That speech was given in Alabama to a group of manufacturers, so it couldn't possibly have been a threat or a promise to employees of Kohler Co. Under the clear terms of the statute that speech was not evidence of an unfair labor practice. But it *was* so used.

Obviously Mr. H. V. Kohler was called to scare him out of making any more speeches or any further exercise of his Constitutional right of free speech. The attempt failed, but many other employers *have* been scared out of exercising their right of free speech.

Recently the N.L.R.B. has set aside two elections because the employer exercised his constitutional right of free speech,[15] and expressed his views as to whether a union would benefit or harm his employees.

Regardless of what the Constitution or Congress says the N.L.R.B. doesn't approve of an employer's right of free speech and is going to gag him whenever it can.

VIII. Illegal Conduct

If illegal conduct occurs it is not enough that an employer cannot be proved to have authorized or participated in it. He must take *active steps* to *disassociate himself* from it.[16]

A group of employees engaged in an assault on a group of union organizers. There was no proof that the employer instigated or authorized the assault. He was found guilty on the ground that some of his supervisors saw the assault and that he did not fire those who participated in it.[17]

A group of employees threw eggs at some union organizers. It was held that the employer was liable because he did not *investigate* to discover the participants and discipline them.

But when a union engages in illegal conduct a much different standard is applied. A striker is not required to disassociate himself from illegal conduct: he must be proven to have authorized, participated in or abetted it.[18] A union is not required to investigate when violence occurs, to find out which of its officials were responsible and discipline them.

In our case a principal obstacle to settlement was the union's insistence that every striker be reinstated, regardless of how illegal his conduct might have been. Not only did the union not disassociate itself from the illegal conduct, it furnished lawyers and bail bonds for the defense of those apprehended; if they were convicted it paid their fines; if they were sentenced to jail it paid them a salary while they were incarcerated, as well as insisting on their reinstatement. The union did not disassociate itself from the illegal conduct, it ratified it in every way possible.

The N.L.R.B. ignored this conduct. But it found *us* guilty of an unfair labor practice because a detective we had hired to try to apprehend those guilty of violence and vandalism—after the law enforcement officers had shown that they would deliberately look the other way—*suggested* "bugging" a hotel room occupied by the union goons; we were found guilty even though I rejected the suggestion and *it was never done.*

If unions were held to the same standards of responsibility for violence as employers, the ugly cancer of violence—which is so prominent in our industrial body today—would soon disappear. And the intent of the Taft-Hartley Act to outlaw union coercion and violence would be accomplished.

As it is, if the N.L.R.B. deliberately set out to *encourage* union violence in violation of the Taft-Hartley Act it could not be doing a better job. As the N.L.R.B. applies

the law union coercion is not forbidden, but any attempt at self-help by the employer to defend against it *is forbidden*. Even the *thought* of a defense is forbidden even though *no action* has been taken.

IX. Thought Control

In numerous cases the N.L.R.B. has held that the crucial question for determination is not what the employer *did* (that is usually obvious) but what were his motives and intentions.[19] Perfectly proper *actions* have been condemned because the N.L.R.B. suspected an improper *motive*.

Hitler, Mussolini and Stalin have been universally condemned because of their so-called "thought control." But right here, in this country, we have an administrative body openly presuming to exercise "thought control" over employers and penalizing them, not for their actions, but for their suspected motives.

X. Unclean Hands

The N.L.R.B. exercises the power of a court of equity. It issues cease and desist orders (injunctions) and mandatory orders requiring affirmative action—powers formerly confined to equity courts. Of course, it is true that the N.L.R.B. cannot enforce its own orders but that is of little practical significance when courts have a limited power of review and must rubber stamp and enforce the orders. Courts of Appeals do not pass on an N.L.R.B. order as they would on an appeal from an injunction by a federal district court. They have a much more limited right of review and, in practice, many of them have exercised a much more limited right than they actually have.[20]

There is probably no more basic principle of equity than that one who comes into court seeking equity must do so with clean hands. But the "clean hands" doctrine is held to be not applicable to a union.[21] Unions can have equitable relief without any pretense of clean hands. It can be guilty of the most vicious and flagrant violence and coercion (as the union was in our case) and be rewarded by being reinstated as the exclusive representative of the very employees it unsuccessfully sought to coerce. No matter how flagrant the past misconduct of a union it has a "locus poenitentiae": if it wants to bargain, an employer must bargain with it.[22]

But the doctrine of "locus poenitentiae" is not applied to employers. The past transgressions of an employer, real or imagined, even of years past, are seized upon by the Board in its thought control process to show his *present* motive and attitude.

The majority of the court of appeals for the District of Columbia, a so-called "liberal" court, has remanded our case to the N.L.R.B. for re-determination of whether our actions going back to 1934 offer an excuse for reinstatement of strikers that even the Board found guilty of flagrant violations of the Act. The Board already found that the fact that we made one contract with the union (which the union hailed as a "good" one) and were ready to make another showed that we did not refuse to bargain.

Our alleged past misconduct consisted of recognizing an independent union that we were ordered to recognize by the predecessor N.L.R.B. and by the Wisconsin Employment Relations Board, plus the fact that we chose to exercise our constitutional right of free speech and answer the union falsehoods.

XI. Union Agent v. Lawyers

An outstanding illustration of pro-union bias was in *Hill v. Florida*.[23] In that case the United States Supreme Court, under its preemption doctrine, held that the State of Florida had no power to require a union agent to register, be of good character and pay a nominal registration fee. This, it said, was interference with the right of a workman to be represented by a union. The same day the court handed down another decision, In re *Summers*.[24] In that case a man who had passed the bar examination of the State of Illinois was denied admission to the bar because he refused to take the required oath to support the Constitution. He was a member of a religious sect which forbade such an oath. It was held that the state had a right to refuse him admission.

Add those two cases up and you get this. You have a *statutory* right to be represented by a union agent. And the state has no power to regulate the qualifications of the agent. You have a *constitutional* right to be represented by a lawyer. But the state *does* have the right to regulate the qualifications of the lawyer.

XII. Trespass Laws

Unions are given special privileges of trespass. If a union can claim that it is inconvenient for it to solicit elsewhere it may trespass upon an employer's property and do its organizing there.[25] An employer has only a limited right to control the use of his own property if a union is involved.

XIII. Tax Exemption

Unions are tax exempt although they openly engage in politics—in fact they presently dominate politics. Not only is an employer prohibited from engaging in political activities, but anyone else who so engages forfeits the tax exemption he otherwise might have. I happen to be connected with several tax-exempt organizations. We forfeit our tax exemption if we engage in politics or promote or oppose legislation. But unions openly promote legislation. They have the most powerful lobby ever seen in Washington.

XIV. Immunity From Injunction

Under the Norris-LaGuardia and similar acts the unions enjoy a practical immunity from injunction. Except in limited cases and exceptional circumstances it is impossible to get an injunction against a union. There is no reason for this favoritism. If anything, there is more reason for the unions to be subject to

injunctions. A judgment for damages is difficult and often impossible to obtain, and if obtained it is often of no value because it can't be enforced against the members.

XV. Immunity From Anti-Trust Laws

Unions are practically immune from the anti-trust laws. It will serve no purpose to review the combination of Congressional and judicial legislation by which this came about; I just want to make three points: *First:* The very excuse for federal intervention in labor relations and the mushroom growth of federal bureaucracy and favoritism —that their activities affect interstate commerce—is the reason why the anti-trust laws should apply to them. Everyone else whose activities affect interstate commerce is subject to the anti-trust laws. Why should unions be exempt? *Second:* The most objectionable practices of unions—secondary boycotts, stranger picketing, and violence and coercion—would automatically be violations of the anti-trust laws if any other group so interfered with interstate commerce. Unions are today the biggest monopolies the nation has ever seen. No company has a monopoly of steel, autos, transportation, or any of our basic industries. But the unions can, and do, shut entire industries down at will. Let me call attention to one facet generally overlooked. The so-called "no raiding" agreement of unions generally receive approbation, even of the President of the United States. But what they amount to is to give one union a monopoly of an industry.

Suppose we were to enter into a "no raiding" agreement with one of our competitors, to agree that Wisconsin was our territory and he wouldn't raid or sell in it while we wouldn't sell in his territory. The department of justice would be on our neck before you could say "Bob Kennedy". But, even worse, these agreements deprive the employees of freedom of choice. An employee may want to decide which union to join. But he can't. If he tries he'll find that the union officials have already divided up the pie. He is told to join *this* union or else. *Third:* The anti-trust laws provide not only for criminal prosecutions but for civil suit. If the anti-trust laws applied to unions and the department of justice refused to enforce them, a civil suit for injunction and/or damages could be brought. No government bureaucrat could stymie or prevent an interpretation of the law by the courts or emasculate Congressional intent as has been so successfully done by the N.L.R.B. under the Taft-Hartley Act.

Had the unions been subject to the anti-trust laws when our plant was shut down for 54 days by a mass picket line we could have brought action for injunction and damages. When a clay boat tried to unload clay during our strike it was prevented from doing so by a

day-long riot at the docks. Although this occurred in full view of the authorities, to this day no one has been prosecuted for it. Relief was finally obtained by an injunctive order from the Seventh Circuit Court of Appeals under the secondary boycott provisions of the Taft-Hartley Act. Had the anti-trust laws been applicable to unions, the union would have been civilly liable for the damages caused by the riot.

XVI. Coercion and Violence

In addition to all the legally established privileges, unions are practically exempt from the laws against coercion and violence that are enforced against everyone else. Law enforcement officers openly refuse to enforce the law during strikes.

Recently Studebaker had a strike. A mass picket line prevented the president of the company from driving his car out of the plant. The president got out of the car and threatened to fight the pickets. Who got arrested? The president. It seems that it is illegal to interfere with strikers who are illegally blocking the entrance to your plant.

During our strike, when nonstriking employees asked the sheriff's deputies to get them through the picket line, they were told:

> You can try to get through if you want to. But it's perfectly peaceful over there now. If you go over and create a disturbance I may have to arrest you.

It seems that it's a disturbance of the peace to interefere with a mass picket line. When we got a W.E.R.B. order against the mass picketing it provided that the picket line must always leave open at least a 20-foot strip of the driveway at each gate. The union promptly barricaded all the driveways, except 20 feet, with rocks, concrete blocks, etc. The barricades were so placed that one driving in had to make almost a right angle turn and come to a complete stop. When he did so he not only was subjected to threats, curses and vile language, the finish on his car was scratched, paint remover thrown on it or his windows smashed.

Although the sheriff's deputies were right there they managed not to see any of this. But when an employee drove through one of the barricades, he was arrested for a traffic violation. That is when I wrote the district attorney and told him that if the arrest wasn't quashed and the barricades removed immediately I was going to bring an injunction action to have the sheriff's deputies removed.

A Look Ahead

Under their favored class status unions have developed into the most powerful monopolies this nation has

ever known. They are now acting, not as representatives, but as governments of employees. The government proposed solution is typical: To increase government power and to let government dictate the terms of settlement in the alleged "public interest."

This is the wrong solution. Down this road lies dictatorship. The unions got their power by taking it from us. The government can get more power only by taking it from us. The remedy for union monopoly power is not to give the government more power. It is to curb the union monopoly. The remedy for the failure of collective bargaining is not government fixing of wages and working conditions. Government's idea of the "public interest" will depend on the nearness of the next election. This will be true whatever administration is in power.

The administration's idea of a settlement in the "public interest" seems to be that wages should not increase faster than productivity. This is just a left handed way of saying that unions should get *all* the increase in productivity. But if there are no earnings to buy new and improved machinery, which is the only source of increased productivity, where is the increase to come from? The unions have been grinding up the seed corn and they now seem to have governmental approval for the process. If the policy that unions are entitled to all the increase in productivity becomes ingrained in our economy, Khrushchev won't have to bury us—we will have dug our own economic grave.

The only real solution to our labor union difficulties resulting from favoritism is to repeal that favoritism and make unions subject to the same laws which govern everyone else. We will not reach a real solution to our difficulties until we can go to Washington, gaze at that magnificent building that houses the United States Supreme Court, read the inscription on the front: "Equal justice under law," and say to ourselves: "That applies to labor unions too."

[1] "Legal Immunities of Labor Unions"—Roscoe Pound—Published by American Enterprise Association, Inc., 1012 14th St., N. W., Washington 5, D.C. (single copy price $1.00)

[2] Medo Photo Supply Corp., v. N.L.R.B., 321 U.S. 678, May Dept. Stores v. N.L.R.B., 326 U.S. 376

[3] N.L.R.B. v. Wooster Division of Borg Warner

[4] Brown & Root, Inc., 86 NLRB 520 Aff'd 190 F. 2d 222 (CA8) Cosco Products, 123 NLRB 766
N.L.R.B. v. Dalton Tel., 187 F. 2d 811 (CA5)

[5] Published by Labor Policy Association, Inc., 1624 Eye St., N.W. Washington 6, D.C.

[6] UAW v. WERB, 351 U.S. 266

[7] *Utah Plbg. & Heating Contractors v. N.L.R.B.*, (CA10) 294 F. 2d 165; *Quaker State Oil Refining Corp. v. N.L.R.B.* (CA3) 270 F. 2d 40, cert. den. 361 U.S. 917; *American Brake Shoe v. N.L.R.B.*, 244 F. 2d 489

[8] 60 day termination Sec. 8(d) National Emergencies, Sec. 206

[9] N.L.R.B. v. Prudential Ins. Co., 361 U.S. 477

[10] *Crestline Mfg. Co.*, 133 NLRB No. 30

[11] *Davis Furniture Co.*, 100 NLRB 1016

[12] *Clearfield Cheese*, 106 NLRB 417 Aff'd (CA3) 213 F. 2d 70
N.L.R.B. v. Spiewak, 179 F. 2d 695, 696, 697 (CA3)
Giusting Bros. Lbr. Co., 116 NLRB 700, 725—*N.L.R.B. v. Giustina Bros. Lbr. Co.*, 253 F. 2d 371, 373 (CA9)

[13] *House Report No. 245* on HR 3020 P. 33, *Legislative History of the Labor Management Relations Act 1947*, Vol. II, P. 324, See also (id) P. 8 & 299

[14] Act 8(c) 29 U.S.C.A. 158 (e)

[15] *Somiso Inc.*, 133 NLRB No. 131
R. D. Cole Mfg.Co,. No. 130

[16] *Limestone Mfg. Co.*, 117 NLRB 1689

[17] *Martel Mills* ,118 NLRB 618, 628

[18] *Garment Workers v. NLRB (BVD Co.)* 237 F. 2d 545 (CADC)

[19] *Martel Mills Corp. v. N.L.R.B.*, 114 F. 2d 624 (CA4);
N.L.R.B. v. Entwistle Mfg. Co., 120 F. 2d 532 (CA4)
N.L.R.B. v. Perfect Circle, 162 F. 2d 566 (CA7)
P. R. Mallory, 237 F. 2d 437

[20] *Universal Camera v. N.L.R.B.*, 340 U.S 474

[21] *Republic Steel v. N.L.R.B.*, 107 F. 2d 472, 479 (CA3)
N.L.R.B. v Remington Rand., 94 F. 2d 862, 872 (CA2)
N.L.R.B. v. Carlisle Lbr. Co., 99 F. 2d 533, 540 (CA9)

[22] *N.L.R.B. v. Remington Rand*, 94 F. 2d 862, 873, (CA2)

[23] 325 U.S. 538 (Frankfurter — Roberts dissent)

[24] 325 U.S. 561 (Black, Douglas, Murphy, Rutledge dissent)

[25] *Steelworkers v. N.L.R.B.*, 357 U.S. 357 U.S. 105
N.L.R.B. v. Babcock & Wilcox 351 Le Tourneau, 54 NLRB 1253

Compulsory social insurance is in its essence undemocratic and it cannot remove or prevent poverty. The workers of America adhere to voluntary institutions in preference to compulsory systems, which are held to be not only impractical, but a menace to their rights, welfare, and their liberty.

—Samuel Gompers, founder of the U.S. labor movement. January 22, 1917.

BOOK INSIGHT

On Top of the Fringe

We are, as a people, unusually favored with information concerning the Internal Threat, that is, from the Radical Right. We all of us know all about the law of the jungle, setting back the clock, monopoly, business and the arms industry, witch-hunters, greed, anti-Communist hysteria, neo-fascism and dropping the Bomb.

But we are not losing any sleep about it. The difficulties in this analysis are two: only a caricature of the Right is attacked; and the Radical Right commands no power, not even a seat in Congress, hence presents no threat of significance.

If one is looking for troublemakers, the only sane way to go about it is to look for people with enough power to make trouble. I refer you to Our Leader and his legions. For good or ill, they rule, thus the relevant question becomes: how? The answer in part is that, in terms of the American tradition, they are plain extremists and they rule very badly indeed. Where our fathers maintained the peace by acting with

THE FRINGE ON TOP, by M. Stanton Evans, American Features, 1962, $2.

courage and honor, they perpetuate "cold" war by acting cravenly and seeking accommodations; where our fathers fought and died to accumulate moral and physical capital, they spend both wantonly; and where our fathers believed in liberty and its blessings, they seek to plan the economy with bureaucratic certitude.

It is unfortunate that, amidst all the hullaballoo over right-wing extremism, the meaningful extremism of the power-holders has not been held up for critical public examination and dumped out like yesterday's garbage. In precisely that capacity, Stanton Evans' latest book, *The Fringe on Top,* presents itself. It is an ambitious, if overdue, attempt to fill in the deleted portions of contemporary political dialogue. You know the iniquities of Robert Welch, Billy Hargis, H. L. Hunt; now meet Dean Rusk, Walt Rostow, William Wieland as they have recorded themselves, over the years, in the public ledger.

The book is singularly free of "exposure," finger-pointing, invidious comparisons, I-told-you-so's and that sort of thing. It merely tells, and tells and tells. It does not judge: given a non-preferential supply of facts, you certainly will be able to determine for yourself who is, or is not, an extremist.

For instance, if you were to learn of Senator Joseph Clark's definition of his avowed creed: "A liberal is here defined as one who believes in using the full force of government for the advancement of social, political and economic justice at the municipal, state, national and international levels . . . "—you might determine that he has a somewhat heavy-handed reverence for our Jeffersonian heritage. By the way, Senator Clark is a Democrat.

"There seems no inherent obstacle," Arthur Schlesinger Jr. would like you to understand, "to a gradual advance of socialism in the United States through a series of New Deals." It is because of, not despite, ideas such as this that Mr. Schlesinger is now a presidential adviser. Needless to say, he is entirely enthusiastic about the transition he predicted and has spent his adult life promoting it. Whatever the merits of his case, it must be conceded by all that he is exactly 180 degrees out of phase with American's Noble Experiment.

So goes the revelation, bound up in Mr. Evans' characteristically concise and illuminating prose. In better days, a book like this would have been fantasy, its protagonists disbelieved, its message superfluous. That it is not today, is why you should read it.

—T. J. W.

Roughing up Rousseau

Much of leftist thinking today, as in the past, is based on the fundamental philosophic precept of the perfectibility of man: the idea that if people live under the proper environment, they would be ideal creatures. If only children could be raised away from the corrupting influence of civilization, or slums, or money, or the capitalist mentality or whatever the particular bogy-man happens to be , why then they would grow up to be happy, and self-sacrificing. This idea of the perfectibility of man is not the exclusive property of the Left. Some of the pure libertarians' thoughts are

LORD OF THE FLIES, by William Golding, Capricorn paperback, $1.25.

based on the idea that we would have our utopia if only there was no government, but for the most part human perfectibility belongs to the Left and has been the basis of Leftist movements. One consequence of this notion has been an extensive search for the Noble Savage who has not been corrupted by civilization.

True conservatives, in contrast, recognize that a perfect Utopian society can never exist because of imperfections in man himself. Conservatives recognize

that people in positions of power will tend to abuse their power, and that an over-concentration of power in any segment of society, be it government, business, labor, the church, or any other, will lead to abuse and corruption. They recognize that the best we can hope for is a balancing-off of the powers in such a way that each segment is held in check by the others.

It is to this question of human perfectibility that William Golding's fine novel, *Lord of the Flies*, addresses itself. A group of young boys are shipwrecked on a balmy, tropical island, far from civilization, slums, money, and the capitalist mentality. Surrounded by coconuts, blue sky, and sea breezes, our boys are excellent candidates to become Noble Savages. However, before long, and in spite of the idealized environment, dissension soon develops in the ranks. Among the leadership of the older boys, (approximate age, 12), two factions soon develop. Ralph feels that the primary function of their society should be to keep a watch fire burning as a signal for rescue ships. Jack, on the other hand, thinks that the primary importance should be placed on the hunting of the pigs which live on the island.

While Jack initially leads hunting parties because the pigs are needed for food, soon the hunters develop a fascination for hunting and killing *per se*. As the story develops, the balance of power swings from the fire keepers to the hunters. The gradual degeneration of our Noble Savages into creatures far more savage than noble makes this an interesting as well as provocative novel.

—James Blair

Freedom and Virtue

Mr. Meyer offers us a short but important philosophical work here; important in that it touches on one of the sore spots of the individualist movement in America— the intellectual schizophrenia between the "conservatives" and the "libertarians". This dissension would hardly be important were it only a difference over names; however, discussions in various right-wing publications have indicated that the dissension is centered on basic ideas. Indeed, it is the same dissension which has always divided the anti-collectivists: which holds the primacy — freedom or virtue?

Mr. Meyer manages to defend both — by resorting to an idea analagous to the idea of sin found in Roman Catholic theology: just as an act, though sinful *per se*, is not sinful if the person so acting is forced to act

IN DEFENSE OF FREEDOM, by Frank S. Meyer, Regnery, 1962, $3.95.

against his will, then neither is an act which is virtuous *per se* virtuous if the actor is similarly coerced. Thus, Mr. Meyer repudiates the ideas of those "conservatives" — the so-called "New Conservatives" — who, in

their passion for virtue, relegate freedom to a secondary position, if they defend it at all, and propose, instead, to march man into heaven at gunpoint.

He is properly indignant at the activities of those who exalt "community" at the expense of the individual; who speak of "the organic nature of society" as if society were an entity apart from its members, and who rail against reason — "defecated rationality" is a Devil-word to many "New Conservatives" — and who suggest that, at best, man must depend on the collection of ideas called "Western (or Christian) tradition". He especially castigates those who, like Edmund Burke, the patron saint of the New Conservatism, believe "He Who gave our nature to be perfected by virtue, willed also the necessary means for its perfection. — He willed therefore the state. —He willed its connection with the source and original archetype of all perfection." Thus, Russell Kirk can say: "Government is . . . a device of Divine wisdom to supply human wants. . . . The government may justly perform all those labors which surpass the reach of individual abilities." It is hardly surprising to note that many of these people have attitudes which are ambiguous, to say the least, on such questions as Social Security and Welfare programs — as long as such programs tend to promote "community."

But, although Mr. Meyer has gone far in repudiating the New Conservatism, he has not completely abandoned its theology. He finds fault with the utilitarian philosophy which "denied the validity of moral ends firmly based on the constitution of being." This, according to Mr. Meyer, denied the "ultimate sanction for the inviolability of the person." Now, anyone familiar with the writings of the utilitarians would realize that nowhere does this philosophy attack or even question the inviolability of the person. Neither Mill, nor his modern descendant, Mises, would deny this sanction; indeed, they both point out that, as long as man desires the achievement of values possible in society, he must accept the idea that his fellow men are inviolable as to person, liberty and property. The ultimate failure of nineteenth-century liberalism can be traced to its perhaps naive faith in democracy and the inexorability of progress — neither of which is held by the modern descendants of Mill and Bentham.

Despite this misunderstanding of utilitarianism, which is common to many authors on the Right, Mr. Meyer has written an excellent defense of the right, yea, necessity, of allowing the individual to choose his own path to *arête* — virtue, or better, excellence. Meyer exposes the fallacies of the notion that man, alone, cannot find the beautiful and the good; that some super organization, whether it is the State of the collectivists or the "community" of the New Conservatives, must find it for him and lead him toward it. It is a book well worth reading.

—James M. O'Connell

HINDSIGHTS

► "The evidence usually cited to justify the contention that the Soviet Union is militarily aggressive is without foundation," writes Fred Neal, professor of international relations and government at Claremont Graduate School, and a former State Department consultant on Russian affairs and chief of foreign economic research on Eastern Europe. Let's clear up that ambiguity, professor: do you mean flatly that the Soviet Union is not aggressive, such as in Hungary, or that the evidence simply is not persuasive, such as in Hungary?

► Witch doctors in the Malawi congress party have formed their own union known as the Nyasaland Nganga Association. It has a constitution and a set of strict disciplinary rules. If the Malawi congress party ever proposes a Medicare bill, we know of at least one union that won't be for it.

► Sen. Pat McNamara (D-Mich), announces that his Senate Special Committee on Aging will conduct an investigation of "frauds, quackery, and other schemes designed to exploit the older citizen. . . . The old-time medicine show pitchman has been replaced by the sophisticated promoter and quack." We suggest that perhaps the Senator should start with Medicare.

► Dr. Albert Schweitzer has recently declared that it is incomprehensible to wage war against Katanga in order to force it to pay taxes to the Central Congolese government. He continued to the effect that Katanga is and has every right to be an independent state. "Reason and justice," said Dr. Schweitzer, "demand that the United Nations immediately withdraw their forces from Katanga and acknowledge and respect, in the future, the independence of this country." This guy Schweitzer must be a "know-nothing" and a "dupe of the Union Miniere." Does he think that his half-century as a medical missionary in Africa and his Nobel Peace Prize qualify him to contradict the pronouncements of REAL authorities, like Soapy Williams?