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Labour, Liberalism, and the Democratic Party: A Vexed Alliance

Travail, libéralisme et parti démocrate : une difficile alliance

Trabajo, liberalismo y Partido Democrático: una alianza problemática

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Résumé de l'article

Cet article met en avant le fait que le mouvement syndical américain constitue un bloc social-démocrate dans le tissu politique des États-Unis, qui arrive épisodiquement à élargir la couverture de l'État-providence, à étendre les droits rattachés à la citoyenneté et à défendre le niveau de vie de la classe ouvrière américaine, y compris des personnes peu susceptibles d'adhérer un jour à un syndicat. Mais une telle influence politique, qui a permis de faire de la force de travail syndiquée une épine dorsale de la mobilisation électorale du parti démocrate, a rarement réussi à augmenter la vitalité institutionnelle des syndicats, ainsi que leur capacité à organiser de nouveaux membres. Quand des demandes de ce genre sont faites, les présidents et les politiciens républicains les dénoncent fermement, tandis que la plupart des démocrates, y compris la quasi-totalité des présidents démocrates d'après-guerre, voient une telle législation comme le produit d'un groupe d'intérêt impopulaire, donc dévalorisé et ignoré.

Les syndicats américains ont presque toujours échoué à faire avancer la législation en faveur de leur renforcement institutionnel et de la reconnaissance de leur légitimité politique. Afin de comprendre pourquoi, cet article explore successivement les trois régimes distincts qui ont régi les « négociations » des syndicats – avec les employeurs, les démocrates et l'État – depuis l'époque du *New Deal*. Premièrement, les syndicats de travailleurs symbolisent l'époque même du *New Deal* (1933-47) où la politisation corporatiste de toutes les questions relatives aux salaires, aux prix et à la production a apporté certains gains. Deuxièmement, les années du pluralisme industriel et de la négociation collective classiques (1947-1980) sont celles de la reprivatisation, en grande partie, des relations industrielles. Troisièmement, pour conclure, l'époque actuelle (des années 80 à nos jours) est celle où le mouvement ouvrier subsiste et retire ses principales possibilités de croissance du secteur public et des services. Une forme de négociation collective tripartite très politisée entre les entreprises, les syndicats et le gouvernement (principalement au niveau des États ou au niveau local) a constitué la principale voie permettant d'augmenter le salaire social et de tisser les réseaux d'influence des syndicats dans les principaux secteurs de l'économie qui dépendent grandement du gouvernement. Avec l'avènement de l'ère Obama, ce troisième système devient la seule règle du jeu qui prévaut, bien qu'il semble être très en deçà des espérances premières des représentants des travailleurs.

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Labour, Liberalism, and the Democratic Party: A Vexed Alliance

Nelson Lichtenstein

The American trade union movement constitutes a social democratic bloc within U.S. politics. Often successful in expanding the welfare state, American unions have almost always failed to win legislation advancing their institutional strength and political legitimacy. This has been particularly true during the prosperous postwar era (1947-1979) when a depolitized form of collective bargaining stood at the centre of the U.S. system of industrial accommodation and conflict. But today that system is ineffectual, forcing the trade unions to return to a system of state-centred, corporatist bargaining reminiscent of that which sustained the unions during the era of the late New Deal and World War II. But this 21st century system is a weak and tenuous version of corporatism, largely and dangerously confined to local government and those industries dependent on the state for revenue and regulation.

KEYWORDS: labour, corporatism, collective bargaining, unions, AFL-CIO, Democratic Party

When Barak Obama was swept into office in 2008 the possibility of a labour-liberal revival seemed a tangible possibility. For the first time in nearly half a century, a liberal, Democratic president, both urban and northern, occupied the White House. A new New Deal was on the agenda, a legislative and political initiative that promised a cavalcade of long sought social legislation, an invigorated liberal movement and a revitalization of American labour, whose organizations now represented a smaller proportion of the workforce than at any time since Calvin Coolidge took the oath of presidential office in 1923 (Rubinstein, 2009; Dreier, 2008).

American trade union leaders were pleased and hopeful. They had played a decisive role in putting Obama over the top in battleground states like Ohio, Nevada, Pennsylvania and Virginia where the key campaign issue revolved around the extent to which the white working class would vote for a black liberal when and if they entered the voting booth. And during the bruising legislative battles that preceded enactment of Obama's New Dealish agenda, the labour movement was a steadfast ally even when it felt the President and many Democratic Party

legislators far too cautious. “We know we haven’t achieved everything we worked for. But we’ve made progress – and we have to keep it going,” AFL-CIO president Richard Trumka told unionists on the eve of the 2010 elections. “We have to save our anger for the corporate lapdogs who made this mess and the Republicans in the Senate who are determined to keep us in it” (Bellantoni, 2010).

But Trunka’s dutiful loyalty to Obama and his party could not forestall the set of disastrous defeats suffered by the Democrats and other labour-backed candidates during the midterm elections; nor could it mask the failure of the labour movement to win for itself legislation that would enable the unions to once again begin organizing within the private sector of the American economy where employer hostility was both fierce and near universal. Indeed, conservatives of all stripes made enactment of the Employee Free Choice Act, which was designed to advance the institutional strength of the trade unions by curbing a number of anti-union tactics routinely deployed by such employers, a rallying point for opponents of both the Obama administration and the labour movement. EFCA’s details – majority sign-up (card check), larger penalties on labour law violators, first contract arbitration after impasse – are far less important than the organizational consequence, a somewhat more robust and expansive labour movement, indeed a rescue of private sector trade unionism – now representing about 7% of the workforce – from virtual extinction (Lichtenstein, 2010).

It is therefore clear that even before the end of Obama’s presidency, labour liberal politics was once again repeating an old story. For more than half a century the trade unions have been the backbone of American liberalism and a key electoral element making possible those moments of progressive legislative reform, be they massive as in the mid 1960s, or far more modest, exemplified by the Clinton agenda of the early 1990s and that of Obama in the brief window of opportunity he enjoyed in 2009 and 2010. But regardless of the extent of liberal legislative success, one outcome remains constant: neither the trade unions nor their ostensible Democratic allies have been able to muster the political muscle or ideological persuasiveness to enact the kind of legislation that would actually enable the unions themselves to increase their size, power, and legitimacy at the bargaining table or in the political arena. Indeed, for more than half a century the trade union movement has almost always emerged from eras of liberal legislative reform in a weaker and more tenuous political shape than when such moments began.

To understand the dynamic that made labour so important to the Obama victory, but which produced such a paltry political and legislative payoff for the unions, we need to recognize the character of the contemporary industrial relations regime in which labour now functions and why this is so different from those that have gone before. Passed in 1935, the Wagner Act has for more

than 75 years provided the ostensible legal and administrative basis for union and management collective bargaining in the United States. But it would be a considerable mistake to characterize the last three-quarters of a century as one of undifferentiated Wagnerism. Indeed, three distinct regimes have governed trade union “bargaining” with employers, with the Democrats, and with the state, during the era since the New Deal. They are the era of the New Deal itself (1933-1947), during which a corporatist politicalization of all wage, price and production issues achieved some purchase; the years of classic industrial pluralism and collective bargaining (1947-1979), in which industrial relations was reprivatized to a large extent; and finally, our current moment (1980s forward) in which the labour movement fights its most decisive battles largely in government and the service sector. A highly politicized form of tripartite bargaining, between unions, political parties, and government (mainly state and local), has provided the chief avenue for raising the social wage and building nodes of trade union influence in many state-dependent employment sectors. This third system, a kind of decentralized corporatism, has produced some stunning victories for service sector unionism, but it also holds immense dangers for the union movement when the fiscal and political winds become adverse.

This essay argues that the American trade union movement constitutes a social democratic bloc within the U.S. body politic, episodically successful in broadening the welfare state, expanding citizenship rights, and defending the standard of living of working class Americans, including those unlikely to be found on the union membership roll. But such political influence, which has also helped make organized labour a backbone of Democratic Party electoral mobilization, has rarely been of usefulness when the unions sought to enhance their own institutional vibrancy, their own capacity to organize new members. When demands of this sort are put forward, Republican presidents and politicians denounce them outright, while most Democrats, including virtually every postwar president from that party, see such legislation as but the product of an unpopular interest group and thus safely devalued and ignored.

Corporatism in the New Deal Era

In the New Deal era, trade union growth was rapid, political engagement took place at multiple levels, and industrial actions were frequent and not always contained by the law. Most importantly, this was an era of corporatist bargaining in which virtually every important economic or organizational initiative put forward by the unions had a political dimension. This was obvious in the strikes of the mid 1930s during which the legality and legitimacy of trade unionism itself was on the bargaining agenda, not just in Detroit and Pittsburg, but in Lansing, Michigan, Washington, D.C. and in every other capital where legislators, jurists, and

government administrators considered the meaning of trade unionism and the functions it might perform. During World War II, and shortly thereafter, such politicized bargaining arrangements covered virtually the entire working population. Key decisions, on wages for war workers, the price of steel, or the cost of a yard of cloth, and a pound of meat, were made in either the White House itself or in a Federal Triangle building where tripartite panels representing business, labour, and the government had assumed something close to a new normality.¹ Under such circumstances the alliance between the labour movement and the Democrats was both intimate and tempestuous and not only because the American South and its congressional representatives were so hostile to the union impulse. The effort to transform the northern Democratic Party and inject a consistent social democratic ethos within generated much tension. As Jack Kroll of the CIO-PAC put it in the early 1950s, the unions were bargaining with the Democratic Party "much as it would with an employer" (Foster, 1975: 199).

But the white Dixiecrat South was the main problem. As Ira Katznelson and his co-authors established in their now-classic 1993 essay, "Limiting Liberalism: The Southern Veto in Congress," Southern determination to maintain control of the labour market in the South proved the driving force that first fractured the New Deal congressional majority and then reshaped the meaning of what constituted a viable liberalism in the postwar era. As these political scientists make clear, for most of the 1930s the South had been supportive of a New Deal agenda, but once a mass labour movement sought to nationalize the labour market and open the door to African-American economic citizenship, the white South went into opposition. But this did not mean that in the 1940s or even later, the Democratic South completely eviscerated all policies and programs that constituted a liberal agenda. The Republican Party-Dixiecrat alliance staunchly opposed an expansion of the welfare state and any legislation that furthered labour's institutional strength, but that alliance faltered when it came to other initiatives considered part of the liberal agenda, including Keynesian fiscal policies, free trade and foreign aid, farm subsidies and infrastructure spending. Liberalism was limited and distorted, it lost most of its social democratic cast, and it consigned labour largely to an industrial archipelago that did not directly threaten Southern, later Sun Belt, political-economic arrangements (Katznelson, Geiger and Kryder, 1993).

Summing up, Katznelson and his co-authors quote the British historian D. W. Brogan, who in 1957 observed, "The American liberal today is confronted first of all by the memory of something that did not happen," the development of coherent social democratic programs and organizations. Elsewhere in the West, wrote Brogan, the democratic Left had created parties committed to strong political control over capitalist development, labour movements insistent on being recognized on a par with business ... and coalitions of workers and

farmers as the basis for political mobilizations. In the U.S. on the other hand, the Southern veto had reduced the scope of labour's national political ambitions and instead given priority to aggressive collective bargaining in core industries. "The large unions have largely contracted out of the state system," observed Brogan (Katznelson, Geiger and Kryder, 1993: 301).

Collective Bargaining at High Noon

Indeed, this well describes a key feature of the second industrial relations regime, a high noon of American industrial pluralism, when private sector collective bargaining stood centre stage. Bargaining with stable companies and industries in the North and West, strong unions in transport, manufacturing and mining, generated a set of wage and benefit patterns that effectively set the template for a majority of workers, union or not, in the economy's core industries. While unions and their corporate adversaries remained engaged during each election season, this was an era of relative depolitization, in which the bargaining regime functioned somewhat independent of the world of political contestation. Management and the political right favoured this ghettoization of the bargaining function. This explains why, during the high-profile McClellan Committee hearings of 1957 and 1958, the conservative Republican Senator Barry Goldwater could praise an industrial militant like Jimmy Hoffa of the Teamsters but condemn Walter Reuther, who as president of the United Automobile Workers (UAW) embodied a politically and socially expansive labour-liberalism (Shermer, 2008: 700-701; Phillips-Fein, 2009).

This was not an era of consensus or of a labour-management accord – strikes were frequent and organizing increasingly difficult – but for that portion of the working population enrolled in strong trade unions, the political system, including the Democratic Party, was an increasingly detached "other." A shift to the right on social or racial issues therefore, seemed to carry few costs for many rank and file unionists and the local union leaders who represented them. In the building trades, in trucking, airlines, and communications the bargaining regime was remarkably insulated from outside political pressures. This suited conservative union leaders and their employer adversaries just fine. And even in a trade union like the UAW, with a highly politicized and liberal leadership, it had become increasingly difficult to mobilize anything but a thin slice of the membership in support of the organization's larger social democratic goals (Lichtenstein, 1997: 299-326; 2002: 98-140).

But the unions did not abandon their larger vision entirely: they did not become the parochial interest group that so many conservatives wanted and so many pluralist academics seemed to celebrate. Most union leaders looked for ways to break out of the bargaining ghetto to which they had been consigned,

and this ambition even extended to figures like cigar-smoking George Meany, the AFL-CIO chief who seemingly embodied caution, bureaucracy, and organizational parochialism. Indeed, it was a set of politics put forward by Meany that socialist Michael Harrington celebrated when he described the American labour movement as an invisible social democracy standing on the centre left of the Democratic Party, even in the tumultuous 1960s (Harrington, 1972; Isserman, 2000).

Case in point: in 1965 labour thought that the time had finally arrived to repeal Section 14B of the Taft-Hartley Act, which gave individual states the authority to proscribe the union shop. To most unionists at that time, 14B seemed the chief obstacle to organization of the South and the Mountain West. Congress itself had a genuinely liberal majority, if not a filibuster-proof supermajority, for the first time since the 1930s. And this was the liberal hour in which a progressive/civil rights agenda was pushed through the legislature and signed by the president. In the photograph taken at virtually every signing ceremony, George Meany stands somewhere not far behind President Lyndon Johnson, a signifier of the key role organized labour played in pushing through Medicare, Immigration Reform, Federal Aid to Education, Model Cities, and the two great Civil Rights statutes of 1964 and 1965.

But when it came to the repeal of 14B, President Johnson put the labour reform at the end of the legislative line and failed to use his famous “treatment” on the Senate barons. To the public and to many in Congress, the repeal of 14B was a parochial, special interest proposal. This was certainly the view of the Senate Republican leader Everett McKinley Dirksen, who offered George Meany a deal. Just as Dirksen had gone along with the civil rights bills, the minority leader would cease his opposition to repeal of 14B if Meany would agree not to resist a constitutional amendment overturning the Supreme Court’s 1962 ruling, *Baker v. Carr*, that mandated an equitable one person, one vote reapportionment of state legislatures, a boon to liberals and minorities in the South and California. But Meany told Dirksen, no deal! “As badly as I want 14b repealed,” Meany told his biographer, “I do not want it that badly. And the Senate Minority Leader and all his anti-labor stooges can filibuster until hell freezes over before I will agree to sell the people short for that kind of a deal” (Dark, 1999: 61).

This was an incident that Michael Harrington deployed to assert that organized labour did not play the role of a self-serving interest group, despite the gravitational pull in that direction exerted by the privatized collective bargaining system of that era. “If the unions had been acting as an interest group they would have snapped up Dirksen’s offer,” wrote Harrington, “since it would have guaranteed passage of a law that was explicitly in their favor. But they chose to maximize a much more long-term perspective and to stick to their support for reapportionment. Labor’s orientation toward playing a role in the center of

American politics, where one-man/one-vote was so important, had prevailed over narrow organizational concerns. The unions, in short, had created a social democratic party, with its own apparatus and program, within the Democratic Party” (Harrington, 1972: 326).

Of course, that social democracy had a rough road before it. In two more instances, in 1978 and again in 1994, labour pushed forward legislation that would have sustained the institutional strength of the unions. During the Administration of the Democratic President Jimmy Carter, the unions settled upon an exceedingly modest piece of reform legislation – after realizing that repeal of 14B was simply off the agenda – which would have expanded the National Labor Relations Board, insured timely certification of elections, and imposed penalties on labour law violators. And during the second year of the Clinton Administration, the industrial unions backed a bill that would have made it more difficult for companies to replace striking workers during the course of a work stoppage, a manoeuvre that had become a commonplace management tactic in the years since President Ronald Reagan fired 11,000 members of the Professional Air Traffic Controllers Organization during a 1981 strike (Halpern, 2003; Logan, 2004).

In both instances, labour lost because the President and the Democrats in Congress followed a well worn script. Although Jimmy Carter and Bill Clinton were both Democrats who had enjoyed much labour support during their respective campaigns and although both briefly enjoyed large Democratic majorities in the Congress, these presidents saw labour law reform as a grudging tribute owed to their labour allies rather than a core part of their legislative agenda. Because the labour movement had more than two-thirds of all its members in just ten states, any legislation the AFL-CIO hoped to pass required either a full court press by the President and the Democrats or a division within conservative ranks. But in both 1978 and 1994, as in 1965, labour faced opposition from the business community and from the Republicans that was practically unanimous. Within Democratic Party ranks, a significant contingent from the South remained coy but essentially hostile.

Neither Carter nor Clinton put labour law reform high on his Administration’s agenda. Carter expended what little political capital he had in a bruising, bitter, but ultimately successful effort to cajole the Senate into passing a treaty that transferred ownership of the Panama Canal to the government of the country which it traversed. Thus, by the time labour law reform reached Senate debate in the Spring of 1978, it faced a fully mobilized opposition, what two of the president’s aides later described as “the most expensive and powerful lobby ever mounted against a bill in the nation’s history” (Halpern, 2003: 125). In contrast, Carter’s backing of the labour law reform bill, which would have speeded up

NLRB procedures and given union supporters and organizers a bit more protection from employer reprisal, proved tepid and uninspired. He rarely spoke in favour of the proposed law and when asked about it, he usually emphasized its limited impact. "I don't think that the legislation would lead to more rapid establishment of union workers in the South," he told a questioner on a presidential visit to Yazoo City (Halpern, 2003: 124).

The same dynamic was at work in the early years of the Clinton Administration as well. The president first spent political capital on a controversial foreign trade initiative, the North American Free Trade Agreement, which many liberals and almost all labourites opposed outright. Then came the all consuming battle over health care reform, as well as an ultimately futile effort to reach common ground with the business community on a series of labour law reforms exhaustively debated by a high-profile commission presided over by former Secretary of Labor John Dunlop. By the time the Senate did debate a Workplace Fairness Bill that would have prevented employers from permanently replacing strikers after a work stoppage, President Clinton, like Carter before him, had pretty much exhausted his political capital, putting a cloture vote in the Senate just out of reach. Clinton's labour bill, editorialized the *New York Times*, "never inspired the midnight phone calls and political arm twisting the White House had lavished on other difficult political issues, like the North American Free Trade Agreement or last year's budget" (Dark, 1999: 175). In 1994 as well as 1978, legislative defeat came when a handful of Southern Democratic Senators – with Arkansas "moderates" playing a key role in each instance – voted with opponents of the institutional reform (Halpern, 2003: 167-71).

To understand these failures it is not enough to fault the legislative tactics of the Congressional leadership or the timing of the Presidential agenda, although in both instances mistakes were clearly made on both counts. Instead, we have to look to the interplay of ideology and interest which had robbed labour of so much of its legitimacy and which had made Harrington's social democratic claims hard to credit for anyone not then a union leader or liberal activist.

Two issues are paramount: trade and civil rights. By the 1970s American unions were already engaged in a fierce battle to defend themselves from a global trading regime that seemed to eat away at the foundations of labour strength in the most important industrial sectors of the economy. Labour's presumptive, parochial "protectionism" put it at odds with both Carter and Clinton, not to mention the Republicans, whose party was increasingly linked to the agenda of America's largest transnational corporations. But as historian Andrew Cohen has pointed out, labour and business had once seen protectionism as the essence of modernity. Indeed, in the half century ending in 1930, Republicans had courted both labour and the most technologically advanced representatives of capital

by linking high tariffs, high wages, and entrepreneurial innovation as the very essence of a progressive modernism. "Protectionists," writes Cohen, "viewed the customhouse as the guardian of an egalitarian society endangered by America's new affluence and global trade." Indeed, the same conservative jurists and politicians who defended free-market capitalism and laissez-faire government during the early 20th century sustained the constitutionality of the protective tariff, despite intense opposition from the Democrats, both big city Tammany and Southern white Bourbon (Cohen, 2012).

This formula collapsed in the Great Depression when a new definition of progressive, democratic modernity took its place, linking direct welfare-state protections for labour with free trade and an internationalist engagement. This was an equation sustained by the enormous productivity of the American industrial economy after 1940 and by the Cold War posture of the American establishment. Within labour's ranks the greatest champions of the free trade regime came from those unions most sensitive to ethnic and racial discrimination, especially the needle trades, who linked trade, higher levels of immigration, and ethnic pluralism as foundational to the New Deal ethos. Indeed, one of the complex strands which kept Southern segregationists and northern labour-liberals within the same party was a commitment to this free trade regime, backstopped – outside the South – by government enforcement of a high social wage and the gradual easing of immigration restrictions (Bon Tempo, 2008).

That arrangement eroded rapidly in the 1970s, not only because of a greater level of global trade competition, but because labour lost any hope for a protectionist partner within either party. Except for some congressmen and women from rustbelt districts, there were no prominent Democratic figures who championed import restrictions to protect American jobs or sustain wages in the manufacturing sector; and among the Republicans, the high-tariff wing, even if remnants of it still existed, was in no mood to reconstruct the social bargain it had once proffered to American labour in the pre-New Deal era. As a consequence, writes Cohen (2012), virtually all critiques of free trade are viewed as an "archaic form of false consciousness." This was a view that reached a symbiosis of sorts in Thomas Friedman's now (in)famous denunciation of the 1999 World Trade Organization protesters in Seattle as a "Noah's ark of flat-earth advocates, protectionist trade unions and yuppies looking for their 1960's fix" (Friedman, 1999).

A second and even more important development also eroded a sense that trade unionism was a modernist phenomenon that meshed with Democratic Party interests and liberal goals. In the heyday of the collective bargaining regime, a cautious, pluralist understanding of how democracy functioned, certainly in contrast to the cataclysm which had engulfed Europe and Asia during the first half

of the 20th century, provided a sturdy foundation for interest group politics and big time collective bargaining. "Collective bargaining is the great social invention that has institutionalized industrial conflict," wrote the labour economist Robert Dublin in 1954. "In much the same way that the electoral process and majority rule have institutionalized political conflict in a democracy, collective bargaining has created a stable means for resolving industrial conflict" (Dublin, 1954: 44). Six years later theologian Reinhold Niebuhr, who had once denounced Henry Ford from a Detroit pulpit in the 1920s, summed up the wishful yet cautious ethos into which the organization of the Western working class had been consigned by America's most respected liberals. "Collective bargaining has come to be regarded as almost as basic as the right to vote," Niebuhr (1969: 18) told the labour liberals who read the staunchly anti-Communist *New Leader*. "The equilibrium of power achieved between management and labor ... is one of the instruments used by a highly technical society, with ever larger aggregates of power, to achieve that tolerable justice which has rendered Western Civilization immune to the Communist virus."²

The rights revolution that reached fruition in the 1960s soon supplanted this pluralist understanding of what made liberalism a dynamic and progressive faith, certainly in terms of labour and its role in the larger polity. Labour's relative eclipse during the era of civil rights is not just the story of white working class racism and a calculating trade union leadership that put its muscle behind the new civil rights laws of the mid 1960s while dragging its feet on their application inside the house of labour. All this is true and no apologia is on offer in this essay. But the real question is why could not the trade unions recapture a sense of momentum once demography and organizational opportunities transformed the trade union movement, in the 1980s and 1990s, into an institution which is both far more multicultural and in many respects more democratic than that which existed on the eve of the civil rights movement.

From a legal perspective, the labour movement was battered from two directions in the years after the 1960s. After the passage of the 1964 Civil Rights Law, the nation had two sets of labour laws, one having its origins in the Wagner Act, the other arising out of the judicial reinterpretation of Title VII of the 1964 law. In her *Freedom is Not Enough: The Opening of the American Workplace*, Nancy MacLean (2006: 333-347) has demonstrated how the struggle to pass and then implement Title VII had a near revolutionary impact on employment opportunities and patterns for tens of millions of workers, even as the American right, in turn Southern, corporate, and neo-conservative, sought to eviscerate such legal and social transformations.

But as with so many labour-liberal achievements in the postwar era, the genuine breakthrough represented by Title VII had unforeseen and deleterious

consequences for the institutional strength and integrity of the trade unions, including those which had long been advocates of racial liberalism in the workplace. Title VII and other similar laws and administrative rulings proved an invitation to judicial activism, argues Paul Frymer (2008) in his *Black and Blue: African Americans, the Labor Movement and the Decline of the Democratic Party*. Both the Norris-LaGuardia Act, which banned court-ordered injunctions against strikes and most picketing, and the Wagner Act, which for a time put even conservative judges on the side of union bargaining rights, had seemingly rid the U.S. of the intrusive, anti-labour judicial policy making characteristic of the pre-New Deal era. But, argues Frymer, the courts were once again intruding themselves into the interpretation and application of labour and employment law, in part as a result of civil rights litigation on behalf of minorities discriminated against by unions and employers, and in part because of the stalemate in the labour law that Congress could not resolve. To Frymer (2004: 477), the “federal courts had in many ways regained their position as the primary overseer of the workplace.”

With civil rights and labour rights divided into two different organizational and judicial categories, unions were vulnerable to administrators and judges with little knowledge or sympathy for the particularities of union politics and institutional structures. While the failure of trade unions to protect their minority members was not the only reason for judicial activism, it set a precedent that was repeatedly used to strip unions of power and legitimacy when other issues involving seniority, strikes, membership, and dues are concerned. AFL-CIO litigation costs doubled between 1966 and 1973, doubled again by 1979, and then quadrupled over the next four years. As Frymer (2004: 494) put it, “Once courts became involved in labour policy making on matters of race, it is not a far leap to where they extend this involvement to broader questions previously handled by electoral officials. Courts have not only scaled back the NLRA, they have extended their influence to a wide range of employment matters, using tort and contract law to increase individual worker rights independent from legislative involvement.”³

Frymer’s story is one of how a discourse arising from the growth of a rights-conscious liberalism undermined trade unionism, but often in an inadvertent and unforeseen fashion. But a far more cynical and mendacious assault on union power also used a discourse made potent by the civil rights movement, but it emanated from long-standing Southern, anti-union business interests, which after 1955 were the chief funders and proponents of the National-Right-to-Work Committee. Passage of Right-to-Work laws became a cause célèbre in the 1940s even before Taft-Hartley and Section 14B opened the door for state-level Right-to-Work statutes that proscribed the union shop and weakened trade union power, chiefly in the Southern and Western states that enacted such laws.

When the Right-to-Work Committee was founded in the 1950s it was funded by the most reactionary textile, oil, and food processing interests. Its propaganda against the union shop was virtually indistinguishable from a larger anti-union, anti-Communist, states' rights discourse that often evoked McCarthyite and segregationist themes (Gall, 1988; Shermer, 2008).

In the mid 1960s however, right-to-work advocates began to switch their source of rhetorical authority from natural law to civil rights constitutionalism. Indeed, as the legal historian Sophia Lee (2012) has pointed out in an essay on right-to-work litigation, these conservative anti-union lawyers and publicists no longer described their legal struggle as one which ran parallel to that of the civil rights impulse, but rather it was a legal strategy which was actually *part* of the civil rights movement. Soon African American litigants – representing but a tiny minority of that minority, but just enough to cast a creditable cloak over the enterprise – were prominent in right-to-work publicity and court cases. The Right-to-Work Committee promised to represent “workers who are suffering legal injustice as a result of employment discrimination under compulsory union membership arrangements” even as they touted its mission to “Protect Human and Civil Rights for America’s Wage Earners.” Through the 1970s and 1980s the committee’s efforts to link this anti-union propaganda and litigation with civil rights themes became more elaborate, institutionalized and sophisticated. Committee membership mushroomed from less than 50,000 to almost 300,000 by 1975 alone, while its network of cooperating attorneys had grown to include 100 lawyers. By the mid 1980s the foundation was pursuing scores of right-to-work cases in as many venues. Thus, even as Republican politicians were courting southern Democrats and promising race-coded assaults on welfare and crime in the 1970s, the right-to-work movement tested a different approach which advanced a species of rights talk, originally spawned by the black liberation movement, in order to achieve doctrinal victories in the courts, generate anti-union propaganda, and deploy a potent weapon against its sworn enemy, “big labour”, and thereby weaken its implicit foe, the Democratic Party (Lee, 2012).

Repoliticizing U.S. Labour Relations

The era of intense conflict between the unions and civil rights forces is now over. As the industrial unions and the construction trades have declined in size and influence, the centre of gravity of American trade unionism has shifted to the service sector where a multicultural workforce and a relative de-emphasis on traditional collective bargaining have marginalized the job control and seniority issues which were once such lightning rods for racial conflict and litigation. But the legacy of the defeats, political and ideological, suffered by the old union

movement live on. The strike weapon is dead, union density drops almost every year, and the administrative/legal regime put in place by the New Deal is dysfunctional, both in rust belt manufacturing and big box retail. Strikes and lockouts, precipitated by management, are now a corporate weapon; likewise collective bargaining, especially on health and pension issues, is more likely to generate union givebacks than contract improvement (Moody, 2007; Greenhouse, 2008: 71-97; Ashby and Hawking, 2009).

But a new, highly politicized, highly public system of “bargaining” has arisen in place of the mid 20th century collective bargaining model. It is a system that has linked the unions ever more closely to the Democrats, at the state level perhaps even more than at the national, and it has transformed the metrics by which we measure the strength and influence of American trade unionism, which is one reason that conservative hostility to organized labour has taken on a very sharp edge, even as labour’s numerical ranks have sunk to new lows. In effect, industrial relations in the United States have once again taken on some of the corporatist coloration that was so important to the labour-liberal agenda in the 1930s and 1940s.

The first phenomenon which repoliticized U.S. labour relations was the jump in union membership among government workers. This began in the late 1950s, accelerated all through the 1960s and 1970s, and then reached a plateau in the years after 1980 when union density in public employment stood at about 35 percent. Today more unionists can be found working for a government entity than for a private employer. “This means government is the main playing field for modern unionism,” editorialized the *Wall Street Journal* (2010) with some alarm. By its very nature, state and municipal trade unionism is highly political. Key decisions are often made not at the bargaining table, but at the ballot box and in the legislative chamber. New York State now has the highest union density in the nation thanks to the adroit, if not always pretty, capacity of the municipal employees, school teachers, and non-profit hospital workers to bargain with governors of both political parties (Freeman, 2001: 201-227). In the South, where laws banning public employee unionism still exist, union density is truly minuscule, less than five percent in many instances. Thus U.S. trade unionism, always a regional phenomenon, is even more so today than in decades past, which is one reason for the sharp divide between blue and red states (and why Democratic gains in the upper South are almost always tenuous unless they are backstopped by the organizational weight of unions which have a foothold among public sector workers there).

The second development which has politicized the relationship between the unions and the electoral system has been the growth, or attempted growth, of unionism in the service sector of the economy, especially in the growing hospital,

health care, higher education, hotel, retail, and telecommunications sectors of the economy. In all of these industries, government subsidies, regulations, and zoning approvals are crucial, which is why all unions in the service sector maintain outsized research staffs, whose primary function is to figure out at what points the unions and their political allies can leverage government power and money on behalf of the workers and companies they seek to organize or influence. In the 1950s the UAW maintained a research staff of about half a dozen, whose primary job was to read the General Motors annual report and determine how much the union could safely demand without bankrupting Chrysler and other less profitable companies. Today, UNITE-HERE, a far smaller union which largely organizes in the hotel sector, has a research staff of almost 100, all of whom are experts in the politics of state and city zoning and in the complex arrangements by which new hotels and convention centres are financed. As Harold Meyerson observed in a recent commentary, "HERE's decision to create a cadre of corporate campaigners was based on the grimmest of facts: Traditional private-sector union organizing – signing up workers who want to join a union, winning a certification election conducted by the government, and securing a collective-bargaining agreement in negotiations with the employer – had become a dead-end. Not a single hotel could be organized absent a campaign to bring so much financial, political and community pressure on the employer that it would agree not to oppose unionization. The mere desire of workers to form a union no longer sufficed," asserted Meyerson (2009).⁴

For almost two decades such corporate campaigns have been largely worked out at the state and local level where unions have used their political and lobbying clout to advance their organizational and economic interest in the state capital or at city hall. This has generated bargains in which employers have agreed to remain neutral and/or accept "card-check" union certification when new hotels, convention centres, shopping malls, and airports were built, or where a new level of government financial aid was necessary to sustain nursing homes, hospitals, and home health care services. In like manner, the United Food and Commercial Workers thwarted Wal-Mart's effort to undercut labour standards in its own urban heartland by forming political coalitions in Los Angeles, Chicago, and other cities that for many years forestalled competition from the big, anti-union retailer (Cummings, 2007). Thus in progressive states like California, Maryland, New York, Massachusetts, and Illinois, a Democratic Party-labour alliance has become increasingly symbiotic; conversely, the Republicans have sharpened their denunciation of this politicized unionism and through various legal gambits and referenda, including "paycheck protection" laws proscribing union expenditure of member dues for political purses, have sought to curb the trade union capacity to lobby and exercise electoral influence (Malanga, 2010; Masters, Gibney, and Zagenczk, 2009).

When the Democrats won the White House in 2008, this kind of labour politics became a flashpoint for high-level debate. Take the question of part-time work in the service sector, a contentious issue fought out by labour and management for many years. In what was probably the last great union victory in a traditional strike and bargaining situation, the Teamsters in 1997 forced United Parcel Service to transform more than 10,000 part time jobs into full time positions with regular pay and benefits. But the overwhelming majority of service sector workers are unorganized, so regardless of the internal difficulties that crippled further Teamster efforts on this front, such strike action was not repeated. Thus, during the Bush era, part-time work flourished, along with the paltry benefits, rapid turnover, and low pay characteristic of these jobs (Lichtenstein, 2009: 85-117).

But tucked away within the Obama Administration's 2009 stimulus package was a provision that promised a substantial impact on the status of part-time work. In exchange for a large increase in the federal government's contribution to state unemployment compensation funds, state officials were required to extend unemployment benefits to thousands of part-time workers who were never before eligible. This had been a long sought goal of the union movement, because it offers financial and legal incentives to upgrade part-time work, thus reducing turnover, raising take-home pay, and in some instances making unionization easier. Not unexpectedly, such a revision in the law was anathema among labour-intensive employers in the service sector, first among them the big-box retailers who use part-time workers as a reserve army of the semi-employed to put downward pressure on wages and enhance management capacity to deploy labour in the most "flexible" fashion. By including such workers in the unemployment system, more of them can say, "Take this job and shove it." Thus it was hardly surprising, or a political miscalculation, to find that in states like South Carolina, Texas, and Louisiana, where labour is weak and big-box retailing strong, Republican governors rejected Obama's unemployment funds in order to avoid tilting the unemployment compensation law even slightly in labour's favour (Rampell, 2009; Montgomery and Batheja, 2009). Katznelson's "Southern Veto" thesis still makes it weight felt, albeit under 21st century conditions.

And the fate of the Employee Free Choice Act is even more instructive. President Obama and the rest of the Democratic Party, now purged of much of its Southern wing, had a more genuine commitment to labour law reform than either Presidents Carter, Clinton or the Democratic legislators of their era. But like Carter and Clinton, Obama put other legislative initiatives higher on his agenda, health care reform first and foremost. And on this question, the labour movement heartily endorsed the President's reform priorities, if only because health care reform was a grand corporatist bargain, that whatever its limitations, promised to greatly enhance health care provision for upwards of 32 million working-class

Americans. This was a hugely progressive transfer of income, insuring more security and well-being, but the right-wing mobilization engendered by the year-long battle necessary to enact health care reform also doomed prospects for a revision of the labour law that would make union organizing a less arduous and dangerous enterprise.

Equally important, it opened the door to an intense season of anti-union rhetoric and legislation, not only in the South or the agricultural West, where such gambits were routine, but in the very heartland of contemporary union strength: the tier of Northern industrial states from New Jersey westward where a new cohort of conservative Republican governors, many elected in 2010, put the virtual destruction of public sector unionism and the evisceration of the state-level corporatism which sustained these unions, at the very top of their legislative agenda. Wisconsin was ground zero, where Governor Scott Walker pushed through a conservative state legislature, a radical revision of existing law, that virtually eliminated collective bargaining in the public sector and stripped unions of much of the monetary resources necessary to engage in effective political action. Conservative Republicans put similar anti-union initiatives on the legislative agenda in Ohio, New Jersey, Michigan, and Indiana. And even in New York, Massachusetts, and California, Democratic governors elected with union support took a harder line against public sector trade unions (Greenhouse, 2011).

The fiscal crisis that starved so many state budgets in the aftermath of the 2008-2009 financial crisis was the proximate rationale for this assault. By emphasizing, and in some cases manipulating, the red ink flowing through so many state budgets, the anti-union right leveraged the crisis to declare the pension benefits and health care standards negotiated by public sector unions, not to mention collective bargaining itself, as fiscally unsustainable. Unionists were quick to point out that neither pensions nor wage standards contributed decisively to state and local budget deficits; indeed, in Madison, Columbus and elsewhere they mounted large and spirited demonstrations that blunted for a time the conservative onslaught (Aronowitz, 2011).

But if unionists remained steadfast, organized labour had greater difficulty in winning to their side those private sector workers whose own wage and benefit standards had either stagnated or declined in recent years. Under such economically fraught circumstances, even the limited bargaining success enjoyed by public sector trade unions often generated an intense, pseudo populist resentment among millions of others that Republican officeholders were all too skilful in projecting against the organizations that sustained the living standards and relatively secure jobs of so many teachers, clerks, firemen, social workers, and other state and local employees (Sulzberger and Davey, 2011). Corporatism within one economic sector could not long sustain itself within a world of growing inequality and insecurity.

Conclusion: Liberalism without Labour?

In conclusion, let's return to the conundrum with which we began this survey of post New Deal labour-liberalism. Today, as in the 1930s and 1940s, the labour movement composes a liberal, even a social democratic wing within the Democratic Party. Issues of foreign policy, immigration, cultural politics, and racial parochialism, which once pushed labour toward the neoconservative right, have faded. Though shrunken in size, the unions are a backbone of the Democratic Party electoral effort, even in states where membership is small. Likewise, the Democratic Party itself has become more liberal, largely because of the withering away of the conservative, white Southern contingent. So why has the passage of legislation that seeks to strengthen the institutional integrity and assure the potential growth of the unions been so problematic, even when Carter, Clinton, or Obama and their legislative cadres had the political wind at their back?

First, business hostility is near-universal, far greater, for example, than during the abortive labour law reform efforts of the Johnson Administration. This is because the corporations recognize that any additional organization clout won by the unions will generate not just more leverage at the bargaining table, but greater ideological and political influence on the far broader party/political terrain that today constitutes America's social policy battlefield. If a handful of Wal-Mart stores were successfully organized at any point in the foreseeable future, the result would not be higher wages or more benefits in those few, isolated workplaces, but rather an industry-wide body blow to the ideology and social praxis that has characterized retail's entire low-wage, low-benefit employment strategy and the cultural politics that sustains it.

Second, the Democratic Party is not united, even with the shrinkage of its Southern wing. The culture wars, which drove so many cosmopolitan upscale voters into Democratic ranks, also makes the Party far less homogeneous when it comes to economic policy. Although the trade union impulse that seeks a higher level of purchasing power for the working class now accords with Democratic efforts to redress the income inequalities that have grown so pronounced over the last three decades, the equally important trade union interest in job control issues, including seniority, pensions, work rules and the like, generate conflict and resentment in all workplaces, including those characteristic of such notably "liberal" industry sectors as the news media, Hollywood, telecommunications, big-city hotels, non-profit health care, and government service. This has tempered enthusiasm for a rebirth of trade unionism, even in such otherwise liberal locales as Chicago, the Bay Area and Seattle (Lippert and Rosenkrantz, 2009; Brophy, 2006).

And finally, the union movement itself has failed to infuse the new corporatism that it now propounds with the kind of overarching ideological impulse that once animated the burst of industrial union organizing in the 1930s or the civil-

rights inflected growth of the public sector unionism in the 1960s and 1970s. The CIO stood for industrial democracy and cultural pluralism as well as a new organizational form that promised a more efficacious way to represent mass production workers in heavy industry. The demonstrations that put tens of thousands on the streets of Madison during the winter of 2011 were spirited but essentially defensive mobilizations against an overconfident Republican right. To rebuild an American social democracy, and the unions that are its backbone, an ideological vision is just as essential as innovations on the organizational front.

Notes

- 1 The literature on labour and the New Deal is rich: for works which discuss the relationship between the unions, the state, and employers see Fraser (1991: 289-323 and 407-94 passim); Gordon (1994: 166-239 passim); Dubofsky (1994: 107-95 passim); Klein (2003: 78-161); Jacobs (2005: 136-220 passim); and for a comparative perspective, see Swenson (2002: 142-220 passim).
- 2 A longer discussion of pluralism as an ideological bulwark for Cold War unionism can be found in Lichtenstein (2002: 141-177).
- 3 But see Risa Goluboff (2007), *The Lost Promise of Civil Rights*, for an argument that in a somewhat earlier era civil rights litigation might well have been advanced in a more judicially harmonious relationship to that of organized labour.
- 4 For a critique of this kind of bargaining see Kim Moody (2007: 184-197).

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SUMMARY

Labour, Liberalism, and the Democratic Party: A Vexed Alliance

This essay argues that the American trade union movement constitutes a social democratic bloc within the U.S. body politic, episodically successful in broadening the welfare state, expanding citizenship rights, and defending the standard of living of working class Americans, including those unlikely to be found on the union membership roll. But such political influence, which has also helped make organized labour a backbone of Democratic Party electoral mobilization, has rarely been of usefulness when the unions sought to enhance their own institutional vibrancy, their own capacity to organize new members. When demands of this sort are put forward, Republican presidents and politicians denounce them outright, while most Democrats, including virtually every postwar president from that party, see such legislation as but the product of an unpopular interest group and thus safely devalued and ignored.

American unions have almost always failed to win legislation advancing their institutional strength and political legitimacy. To understand why, this essay explores the three distinct regimes which have governed trade union “bargaining,” with employers, with the Democrats, and with the state, during the era since the New Deal. They are the era of the New Deal itself (1933-1947) during which a corporatist politicalization of all wage, price and production issues achieved some purchase; the years of classic industrial pluralism and collective bargaining (1947-1980), in which industrial relations was reprivatized to a large extent; and finally, our current moment (1980s forward) in which the labour movement exists and holds the possibility of growth largely in government and the service sector. A highly politicized form of tripartite bargaining, between companies, unions, and government (mainly state and local), has provided the chief avenue for raising the social wage and building nodes of trade union influence in key government-dependent sectors of the economy. With the arrival of the Obama era, this third system is becoming the only game in town, although this appears to be falling far short of labourite expectations.

KEYWORDS: labour, corporatism, collective bargaining, unions, AFL-CIO, Democratic Party

RÉSUMÉ

Travail, libéralisme et parti démocrate : une difficile alliance

Cet article met en avant le fait que le mouvement syndical américain constitue un bloc social-démocrate dans le tissu politique des États-Unis, qui arrive épisodiquement à élargir la couverture de l'État-providence, à étendre les droits rattachés à la citoyenneté et à défendre le niveau de vie de la classe ouvrière américaine, y compris des personnes peu susceptibles d'adhérer un jour à un syndicat. Mais une telle influence politique, qui a permis de faire de la force de travail syndiquée

une épine dorsale de la mobilisation électorale du parti démocrate, a rarement réussi à augmenter la vitalité institutionnelle des syndicats, ainsi que leur capacité à organiser de nouveaux membres. Quand des demandes de ce genre sont faites, les présidents et les politiciens républicains les dénoncent fermement, tandis que la plupart des démocrates, y compris la quasi-totalité des présidents démocrates d'après-guerre, voient une telle législation comme le produit d'un groupe d'intérêt impopulaire, donc dévalorisé et ignoré.

Les syndicats américains ont presque toujours échoué à faire avancer la législation en faveur de leur renforcement institutionnel et de la reconnaissance de leur légitimité politique. Afin de comprendre pourquoi, cet article explore successivement les trois régimes distincts qui ont régi les « négociations » des syndicats – avec les employeurs, les démocrates et l'État – depuis l'époque du *New Deal*. Premièrement, les syndicats de travailleurs symbolisent l'époque même du *New Deal* (1933-47) où la politisation corporatiste de toutes les questions relatives aux salaires, aux prix et à la production a apporté certains gains. Deuxièmement, les années du pluralisme industriel et de la négociation collective classiques (1947-1980) sont celles de la reprivatisation, en grande partie, des relations industrielles. Troisièmement, pour conclure, l'époque actuelle (des années 80 à nos jours) est celle où le mouvement ouvrier subsiste et retire ses principales possibilités de croissance du secteur public et des services. Une forme de négociation collective tripartite très politisée entre les entreprises, les syndicats et le gouvernement (principalement au niveau des États ou au niveau local) a constitué la principale voie permettant d'augmenter le salaire social et de tisser les réseaux d'influence des syndicats dans les principaux secteurs de l'économie qui dépendent grandement du gouvernement. Avec l'avènement de l'ère Obama, ce troisième système devient la seule règle du jeu qui prévale, bien qu'il semble être très en deçà des espérances premières des représentants des travailleurs.

MOTS-CLÉS : travail, corporatisme, négociation collective, syndicats, AFL-CIO, parti démocrate américain

RESUMEN

Trabajo, liberalismo y Partido Democrático: una alianza problemática

Este ensayo argumenta que el movimiento sindical estadounidense constituye un bloque social democrático dentro del cuerpo político de los EE.UU., con éxitos episódicos en la ampliación del estado providencia, la ampliación de derechos ciudadanos y la defensa del nivel de vida de la clase trabajadora estadounidense incluyendo aquellas personas con poca probabilidad de ser miembros del sindicato. Pero tal influencia política que ha ayudado también a hacer de la organización laboral una espina dorsal de la movilización electoral del Partido Democrático, raramente ha sido de utilidad cuando los sindicatos necesitaban ampliar su propia vitalidad institucional, su propia capacidad de organizar nuevos miembros. Cuando

las demandas de este tipo son presentadas, los presidentes y políticos republicanos las denuncian abiertamente, mientras que la mayoría de Demócratas, incluyendo casi todos los presidentes de la post-guerra de dicho partido, ven dicha legislación como el producto de un grupo de interés impopular y por lo tanto susceptible de ser desvalorizada e ignorada sin riesgo.

Los sindicatos americanos han casi siempre fallado en obtener una legislación que permita avanzar su fuerza institucional y su legitimidad política. Para comprender porqué, este ensayo explora los tres regimenes distintos que han gobernado la negociación sindical, con los empleadores, con los demócratas y con el estado, durante la era desde el New Deal. Estos regimenes son: la era del New Deal (1933-1947) durante los cuales una politización corporativa de todas las cuestiones salariales, de precio y de producción aseguró un cierto nivel de compra; los años del clásico pluralismo industrial y de la negociación colectiva (1947-1980), en que las relaciones industriales fueron en gran medida reprivatizadas ; y por último, el momento actual (desde los años 1980 en adelante) en que el movimiento laboral existe y tiene la posibilidad de crecer en gran parte del sector gubernamental y del sector de servicios. Una forma muy politizada de negociación tripartita entre compañías, sindicatos y gobierno (principalmente del estado y de nivel local), ha procurado la vía principal para aumentar el ingreso social y construir núcleos de influencia sindical en los sectores económicos claves dependientes del gobierno.

Con la llegada de la era de Obama, este tercer sistema está convirtiéndose en la única alternativa disponible, aunque esto parece estar muy lejos de las expectativas laborales.

PALABRAS CLAVES: trabajo, corporalismo, negociación colectiva, sindicatos, AFL-CIO, Partido Democrático