

Winter 2002

## The Labor Strike: Is It Still A Useful Economic Weapon for Unions?, 35 J. Marshall L. Rev. 255 (2002)

Gerald E. Berendt

David Moberg

Stephen Franklin

Follow this and additional works at: <https://repository.law.uic.edu/lawreview>



Part of the [Labor and Employment Law Commons](#)

---

### Recommended Citation

Gerald E. Berendt, David Moberg & Stephen Franklin, The Labor Strike: Is It Still A Useful Economic Weapon for Unions?, 35 J. Marshall L. Rev. 255 (2002)

<https://repository.law.uic.edu/lawreview/vol35/iss2/4>

This Article is brought to you for free and open access by UIC Law Open Access Repository. It has been accepted for inclusion in UIC Law Review by an authorized administrator of UIC Law Open Access Repository. For more information, please contact [repository@jmls.edu](mailto:repository@jmls.edu).

## FOURTH ANNUAL ARTHUR J. GOLDBERG CONFERENCE

### THE LABOR STRIKE: IS IT STILL A USEFUL ECONOMIC WEAPON FOR UNIONS?

GERALD E. BERENDT, DAVID MOBERG, STEPHEN FRANKLIN

*Professor Gerald E. Berendt:* Welcome to The John Marshall Law School and the Fourth Annual Arthur J. Goldberg Conference. I am Gerry Berendt, a professor here at the Law School and the Director of the Goldberg Conference.

The conference is named for Justice Arthur J. Goldberg who was the United States Secretary of Labor, an Associate Justice on the United States Supreme Court, and an Ambassador to the United Nations. The late Justice Goldberg was an outstanding member of The John Marshall Law School's faculty in the 1930s, 40s and early 1950's.

The first two conferences in this annual series focused on historical subjects. The first conference coincided with the beginning of the Law School's Centennial observance and was devoted to Justice Goldberg and his accomplishments in the area of labor relations. The second conference dealt with the Pullman Strike. Last year at the third conference, we moved into a thoroughly modern area, the effects of globalization on workers and unions. This fourth conference is devoted to a question of considerable contemporary significance, but with relevant historical antecedents as well: The Labor Strike: Is It Still a Useful Economic Weapon For Unions?

In a few minutes, I shall provide a brief overview of the law governing the strike as a foundation for the remarks of our distinguished speakers, David Moberg and Stephen Franklin. But first, I would like to acknowledge the people who make this annual conference possible.

This conference would not be possible without the financial contributions of private donors, particularly the family of Justice Goldberg. Justice Goldberg's daughter, Barbara Goldberg-Cramer, has supported the conference from its inception. Mrs. Cramer is here with us today and has brought her sons, Daniel Cramer and Matthew Cramer (and her cousin Charlotte Lenhoff).

This year we would especially like to thank our individual donors whose large and small contributions have made it possible for us to continue to offer this conference without a registration fee.

I would also like to thank the Chicago Federation of Labor, the Chicago Chapter of the Industrial Relations Research Association and the Chicago Decalogue Society for their help in publicizing the conference.

In addition, we wish to acknowledge the assistance and support of the Conference's Advisory Committee, the Law School's Board of Trustees, and our Deans and Administrators, for supporting the Goldberg conference. I want to extend a special thanks to Gary Watson and the Event Management Department for planning and coordinating another excellent presentation, our Publications Department for another exceptional brochure, our public relations department for arranging the publicity, and our media services department for providing the audio/visual support for the conference. I would also like to thank Assistant Dean Bill Beach for leading the efforts to fund this year's conference. Finally, I would like to single out several academic colleagues for their encouragement and assistance in planning the program: Professor David Stebenne of Ohio State University, John Marshall Professors Walter J. Kendall, Samuel Olken and Ralph Ruebner. It is not too early to add to this list Professor Arthur Malinowski of Loyola University, who is already giving me ideas for next year's program. Thank you all.

## OVERVIEW

Let me begin with an overview of today's topic with a definition: A labor strike is the voluntary, temporary withholding of services by employees in order to compel their employer to agree to their demands. I intentionally did not hunt for a definition from cases or treatises. This is my definition based on experience, and I take credit for any shortcomings in the definition.

Note that I did not include the word "union" in this definition, because a union's presence is not a prerequisite for a strike, as illustrated by the famous *Washington Aluminum* case in which un-represented employees engaged in a spontaneous work stoppage to avoid and protest unsafe working conditions.<sup>1</sup> Today, however, we shall focus primarily on strikes called by unions.

Note that I also characterized the work stoppage as "voluntary," that is, at the initiative of the employees and their union. This is to distinguish the strike from the lockout or lay offs, where the employer takes the initiative to deny work to its employees to achieve the employer's objectives. The distinction

---

1. National Labor Relations Board v. Wash. Aluminum Co., 370 U.S. 9 (1962).

between the strike and the lockout and who initiated the work stoppage is fundamental because, to a large extent, it determines the rights of both the employees and the employer with respect to replacing the employees.

I also described the work stoppage as “temporary.” When employees strike, they do not resign from or quit their employment. The National Labor Relations Board and the federal courts have long recognized an important distinction between striking and quitting employment. Although strikers withhold their services from the employer, they remain statutory employees protected at least to some degree by the National Labor Relations Act. Employees who quit, however, are no longer statutory employees and are therefore no longer protected by the Act. A year ago, a number of Major League Baseball umpires learned this the hard way.

There are several other fundamental distinctions that bear emphasis. There are essentially three kinds of strikes. First, there is the unprotected strike. In the private sector, the best example that comes to mind is the so-called “wildcat” strike where employees who have a union strike without their union’s authorization. The National Labor Relations Board and courts have also held unprotected a wide range of job actions, including the partial strike, the work slowdown and intermittent “quicky” strikes. Under Section 8(d) of the National Labor Relations Act, employees lose their protected status for striking to modify or terminate an existing labor contract without first satisfying certain conditions, including notifying the employer of intent to modify or terminate the agreement, waiting for sixty days and the termination of the agreement, and informing mediation services.

In the public sector, the strike is a protected right for some employees, depending on the jurisdiction, but is illegal for a significant number of employees who perform critical services. Police and firefighters may not strike under various state and local laws, but complex interest arbitration provisions are frequently substituted for their right to strike. Federal employees are also prohibited from striking. Many of us remember the strike by federal air traffic controllers in 1981. Then President Ronald Reagan terminated the strikers and disestablished their union, PATCO, for engaging in an illegal strike. That strike is often cited as a watershed event in the modern history of the strike and collective bargaining, and I will say more about its impact shortly. The bottom line to this brief discussion of the unprotected strike is that an employer may legally terminate employees who engage in illegal or unprotected work stoppages or job actions. As a practical matter, however, the employer may not wish to do so if it would be difficult or impossible to replace unprotected strikers. But the employees and their union could miscalculate whether

replacements can be found, as the air traffic controllers did.

There are two types of strikes that are considered "protected," the unfair labor practice strike and the economic strike. However, the rights of employees who engage in an economic strike are not as great as the rights of those who engage in an unfair labor practice strike. This distinction has been a matter of considerable controversy for many years.

Sixty-three years ago, the United States Supreme Court decided a case called *NLRB v. Mackay Radio & Telegraph Company*.<sup>2</sup> In that case, an employer replaced striking employees at one of its offices with employees from its other offices. When the unsuccessful strike ended, the strikers sought reinstatement. After most of the replacements left, the employer recalled only the strikers least involved with the union and denied reinstatement to the strikers most prominent within the union. The Supreme Court declared that strikers remain statutory employees who are protected by the Act's prohibition against discriminatory treatment. Therefore, the Court held that the employer committed an unfair labor practice by refusing to reinstate strikers based on their degree of union activity.

At first blush this case might appear to be a victory for unions and strikers. However, to get to its ultimate conclusion, the Court decided an issue that has haunted the labor movement ever since. In reaching its conclusion, the Court observed that the employees struck, not because the employer committed an unfair labor practice, but because of their dissatisfaction with the state of the negotiations. The Court continued:

Nor was it an unfair labor practice to replace the striking employees with others in an effort to carry on the business. Although [section] 13 provides, "Nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike," it does not follow that an employer, guilty of no act denounced by the statute, has lost the right to protect and continue his business by supplying places left vacant by strikers. And he is not bound to discharge those hired to fill the places of strikers, upon the election of the latter to resume their employment, in order to create places for them. The assurance by respondent to those who accepted employment during the strike that if they so desired their places might be permanent was not an unfair labor practice nor was it such to reinstate only so many of the strikers as there were vacant places to be filled.<sup>3</sup>

Thus was born the distinction between unfair labor practice strikes and economic strikes, and the further distinction between the rights of unfair labor practice strikers and economic strikers

---

2. National Labor Relations Board v. Mackay Radio & Telegraph Co., 304 U.S. 333 (1938).

3. *Id.* at 345-46.

that further developed in later National Labor Relations Board and court decisions. The relative rights of such strikers may be summarized as follows: Employees who strike in response to an employer's unfair labor practice are said to be unfair labor practice strikers. An employer violates the Act if it promises permanent positions to replacements who take the jobs of unfair labor practice strikers. The employer may hire *temporary* replacements or use supervisors and managers to remain open during an unfair labor practice strike. But the employer must reinstate any unfair labor practice striker who makes an unconditional request for reinstatement, unless the employer has a legitimate and substantial business reason not to do so. In effect, it is illegal for an employer to permanently replace unfair labor practice strikers.

The rights of economic strikers are significantly inferior to those of unfair labor practice strikers. Employees who strike to win concessions in collective bargaining are economic strikers. So too are employees who think they are striking in response to an employer unfair labor practice, but it turns out that the National Labor Relations Board and/or the courts conclude their employer has committed no unfair labor practice. Thus, even employees, who strike thinking the employer has bargained in bad faith, take a risk that they will be deemed economic strikers rather than unfair labor practice strikers. And as the Supreme Court declared in *Mackay Radio*, an employer may legally promise permanent jobs to replacements for economic strikers. As employers are known to tell employees during organizing campaigns, "if the union strikes for its bargaining demands, the company has the right to hire permanent replacements, and you could lose your jobs forever."

It should be noted that this distinction creates risks for the employer as well. The question of whether an employer is bargaining hard, but in good faith and legally, is often impressionistic and will not be determined by the Labor Board or courts for years in some cases. If it is later determined that the employer bargained in bad faith and committed an unfair labor practice that prompted the strike, the employees could be unfair laborers who may not be replaced permanently. Thus, an employer could incur substantial liability by hiring permanent replacements for such strikers under the erroneous impression that the strikers were economic strikers. Perhaps Congress intended to build these risks into the statutory scheme to deter both labor and management from precipitous resort to self-help and the consequent disruptions of commerce.

According to the unions, it is little comfort that economic strikers remain statutory employees, even after they are replaced. Yes, the employer has a legal obligation to recall permanently replaced economic strikers on a nondiscriminatory basis upon the

departure of their so-called permanent replacements. But according to the labor movement, the distinction between a striker who has been permanently replaced and one who has been terminated is a minimal and insignificant one. So far as the permanently replaced economic striker is concerned, he or she might just as well be fired because potential reinstatement is entirely dependent on the departure of the replacement.

After President Reagan discharged the striking air traffic controllers in 1981, the number of private sector strikes of any length or consequence in this country diminished dramatically. This led the American Federation of Labor-Congress of Industrial Organizations ("AFL-CIO") to press for amendments to the National Labor Relations Act to prohibit employers from hiring permanent replacements for strikers, irrespective of whether the strike was an unfair labor practice or economic strike. Unions maintained that the amendments were necessary to restore the level playing field in the economic resort to self-help. According to the unions, the bargaining ratio had been tilted management's way due to *Mackay Radio* and the example set by President Reagan when he discharged the air traffic controllers. The management community countered that the proposed amendments would radically skew the bargaining ratio in labor's favor by making it virtually risk-free for employees to strike. Management groups argued that under the present law, the employer has the important "right to take a strike"; that is to say "no" to union bargaining demands and leave it to the union to strike if it wished. Under the current law, if the union strikes for its demands, the employer is then free to find workers who will work on the employer's terms. The proposed amendment to forbid striker replacement would take away these employer rights. The consequences, management predicted, would be many more strikes, frequent disruptions of commerce, inflated economic settlements, higher costs of goods and services passed onto the consumer, broader inflation, recessions, business failures and high unemployment. Due to various political factors, Congress never passed the amendments supported by the AFL-CIO. The debate goes on.

Has the strike lost its effectiveness as an economic weapon for organized labor in its effort to win concessions in collective bargaining? If so, why has this happened? And what can labor do to restore the strike's effectiveness?

These and other questions will be the subject of the remarks of our two distinguished speakers whom it is my pleasure to introduce. Time is reserved for questions and answers following the speakers' presentations.

Our first speaker is DAVID MOBERG. David Moberg is a senior editor at *In These Times*, a Chicago-based national

newsmagazine committed to extending political and economic democracy in the United States and around the world and to opposing the dominance of transnational corporations and the tyranny of marketplace values over human values. Mr. Moberg is also a book editor and writes on labor issues for numerous newspapers, magazines and journals, including *The Nation*, *The American Prospect*, *Salon*, *The Progressive*, and the *Boston Globe*. A recent article by Mr. Moberg, "The Six-Year Itch: John Sweeney Sees the AFL-CIO Through Some Growing Pains," may be found in the Special Labor Day Issue of *The Nation* (September 3/10, 2001). He has been a senior fellow at the Nation Institute.

Our second speaker is STEPHEN FRANKLIN. Stephen Franklin is a reporter for the *Chicago Tribune*, where for ten years he has served as a national and foreign correspondent and covers workplace issues. Recently, you may have seen his byline reporting on events in Afghanistan and Pakistan, particularly on conditions faced by the people of the region and refugee issues. His recently published book, *Three Strikes: Labor's Heartland Losses and What They Mean for Working Americans* (The Guilford Press 2001), recounts three strikes in Decatur, Illinois in the 1990s and assesses both the strike's effectiveness and organized labor's future. Before joining the Tribune staff, Mr. Franklin wrote for the *Washington Daily News*, *Elizabeth Daily Journal*, *Pittsburgh Post-Gazette*, *Miami Herald*, *Philadelphia Bulletin*, and *Detroit Free Press*. He has been a Pulitzer Prize finalist and is a recipient of a George Polk Award. Mr. Franklin was also a Peace Corps volunteer in Turkey.

*David Moberg*: At first glance it seems easy to offer an answer to the question of whether the strike is still a useful economic weapon. Judging solely by the numbers, it is not useful, or at least not as useful as it used to be. According to the measures of strike activities used by the Bureau of Labor Statistics, (1) the number of strikes involving 1,000 or more workers, (2) the number of workers involved, (3) worker days idle as a result of strikes, and (4) the percent of estimated working time idle; strike activity in 1999 hit the lowest point since 1947, when the Bureau's record keeping began. However, there was a sharp rebound in 2000, especially in days idle, but by most measures strike activity was still comparable to the rest of the 1990s: that is, really, really low. This decline in strike activity is not caused by unions finding more successful alternative methods for defending their rights. In fact, there has been an overall trend towards greater economic inequality since the early 1970s. Most workers still earn about the same or less in real terms than they did more than a quarter century ago.

This impression of inequality is reinforced by the long anecdotal history of strike failures; deliberate union busting by



employers—even companies provoking strikes to break unions, and an apparent increase in employer lockouts. The dismal roll includes such notable strikes going back to the 1980s as Phelps-Dodge, PATCO, Brown and Sharpe, International Paper, Hormel, and the Decatur strikes at Caterpillar and Bridgestone/Firestone and lockout at Staley that Steve Franklin chronicles in his recent book.

Nevertheless, some strikes succeed. The Teamsters UPS strike in 1999 was one of the bigger, more dramatic cases in recent years. In some cases unions have managed to salvage victory out of apparent defeats in very long strikes or lockouts. These include the BASF plant in Louisiana, the Ravenswood Aluminum Corporation plant in Pennsylvania, and a more than six-year strike at Frontier Hotel in Las Vegas. These victories in difficult cases of strikes and lockouts come at great cost for workers, their unions (as institutions), as well as for the employers. The victories provide little encouragement to workers who may contemplate striking and should serve as a warning to employers. Yet these victories do offer some lessons about what strikes entail in the current climate and how unions might more successfully use the strike.

Focusing on the issue posed for this conference, the labor strike, one must ask: is it still a useful economic weapon for unions? We must rethink the strike. For most people today in the United States, including most union members and leaders, the strike involves a formal decision. A striking worker, most often at the end of a contract, consciously decides to stop work and leave the workplace. Strikers expect that the economic pressure brought to bear on their employer because of lost production will force some willingness to compromise and settle a dispute. These strikers also believe that the financial hardship caused by their not receiving full pay will encourage employers to compromise. However, it is uneven terrain even on these terms because corporate pockets are usually deeper than workers' pockets. There is, however, a modicum of balance. This standard scenario is a relatively recent invention in American history that involves a strike that has been very narrowly defined through decades of legislation, court decisions, contract agreements, customary expectations, and relationships established between certain groups of employers and unions.

The development of this standard scenario reflects a political struggle—a conflict about social power and ideology. But in the standard scenario, the politics are obscured. While strikes appear to be simply about withdrawal of labor and economic pressure, the strike remains a political issue in the broad sense—a question of power and ideology as much as dollars and cents. Furthermore, as both history and contemporary experience in the United States

and elsewhere suggest, the strike as an isolated tactic is very problematic. Strikes have been turned into isolated tactics through a process of depoliticization that has left them extremely vulnerable. The institutional framework that, for a few decades, supported the standard scenario strike in a few key industries has virtually disappeared, except for the rules that handicap workers and unions. In most cases, strikes in the United States today must be political as well as economic if they are to succeed. The labor movement needs to approach collective bargaining and strikes as part of a broader political strategy both to change the balance of power and to challenge the dominant ideology that celebrates the unfettered market as the final arbiter of all questions. Therefore, I argue that strikes have indeed become much less useful (though not useless) as narrow economic weapons for unions. However, as part of a broader political strategy, strikes not only can succeed, but also remain an important weapon for the labor movement.

It is useful to remember that workers have historically resorted to strikes not because they almost always succeeded, but despite the fact that they very often failed. Even if they were often centered on economic grievances, like trying to restore pay cuts, strikes were generally seen as part of a broader movement to restore the dignity of labor lost in the shift from artisan to industrial work, to establish the eight-hour day, or create the cooperative commonwealth. These are just a few examples from more than a century ago.

The history of Chicago in the late nineteenth century reminds us how different strikes have been at various times from the standard scenario. There were no formal contracts, and strikes were often called quickly. Skilled workers had some success in simply withholding their labor, but the less skilled (the so-called "outdoor" workers like lumber shovers and coal yard workers) would often walk out spontaneously and move from one workplace to another, shutting businesses down as part of a collective action that often involved a whole working class neighborhood, like Bridgeport, by demanding that workers lay down their tools.

For many years after the Civil War, the police were also part of the workers' community and could often be counted on to sympathize with strikers or at least be neutral, especially when labor-friendly politicians held office in the city. Preventing scabs or strike-breakers from working was a critical part of the strategy. Skilled workers increasingly realized that "amalgamation" or solidarity, including solidarity with unskilled workers who were encroaching on their trades as work became more mechanized, was important. In the late 1870s, unions began emphasizing public boycotts of scab work, and sympathy strikes proved critical. The value of cooperation became increasingly apparent: in the late

1880s building trades workers won about forty-three percent of their strikes, according to historian Richard Schneirov, but after forming the Building Trades Council and employing more sympathy strikes, they doubled their rate of success by 1894. Mass strikes at times turned violent, with attacks on employers' property or on scabs, as well as in some skirmishes with the police.

In the 1877 railroad strike, which expanded into a general strike, there were pitched battles between strikers and police, especially along Halstead Street, with crowds mainly throwing rocks (though occasionally shooting guns) while police fired into their midst. The city's upper class, including businessmen like Marshall Field, organized militias and neighborhood patrols to fight off what they saw as a revolutionary mob, and United States army troops fresh from the Indian wars were called into Chicago to restore order. The conflict not only persuaded many rich Chicagoans to move north along the lake shore to be farther from working class neighborhoods and closer to the army headquarters, but it also led them to push for a larger police force that was independent of democratic political pressures.

During a streetcar strike in 1885, a group of prominent employers pressed the police to make it possible for them to run the streetcars despite the strike, and the superintendent sent in a particularly ruthless captain, John Bonfield, who ordered officers to club anyone near the tracks and arrest anyone who used the word "scab." Bonfield's actions proved critical in changing the role of the police, and it was no coincidence that he was in charge of the police that marched into Haymarket Square the next year and opened fire on the dwindling crowd after a bomb was thrown, most likely by a lone anarchist.

There was a great deal of dispute within the labor movement over the value of strikes or the best use of the strike weapon. Although the Knights of Labor became intimately involved in many strikes, the leaders of the Knights initially criticized strikes as futile and urged workers to seek arbitration. Some Knights and other leaders argued that politics, not industrial action, provided the best hope for workers, and although Chicago anarchists supported strikes, it was in the context of their advocating the overthrow of capitalism through direct action, including armed insurrection. There was, not surprisingly, more unanimity among the economic and political elite that strikes were a bad thing. Coinciding with the rise of the corporation and expansion of its legal rights, there was a growing tendency in the courts to treat strikes and other worker action as an interference in the rights of labor to accept whatever terms employers offered and as restraints of trade. Increasingly strikers faced federal court injunctions and even federal troops.

Nevertheless, around the end of the nineteenth century, there

was a movement across social classes towards industrial democracy, mainly as a way of reducing civil strife and disorder, but also to address the grievances of workers and regulate the new world of corporate capitalism. In the vision worked out with Chicago's Civic Federation, unions would agree to disciplined collective bargaining and limited strikes in exchange for contracts and recognition.

I will not attempt to summarize the struggles that remained before a version of this deal was implemented. Needless to say, there were severe ups and downs, as labor gained power during World War I as part of a bargain to maintain production, lost ground in an employer counter-offensive in the 1920s, and fought back with sit-down strikes and a wide variety of forms of action in solidarity during the great organizing drives of the 1930s that were consolidated once again during wartime, in part because of government support. The threat of disruption and the desire to lift the economy out of the Depression helped to push through passage of the major New Deal labor laws, which finally gave not only recognition but also encouragement to formal collective bargaining and action, including protection of strikes. But in the retrospective view of many analysts, these laws also set the stage for new regulation of labor and restraint on actions like the strike.

Much of that came through later legislation, especially the Taft-Hartley Act, and through interpretation of the law. This interpretation included a footnote in a 1938 decision that opened the door for permanent replacement of strikers, even though the law also prohibited firing workers for going on strike—a distinction with little difference that came to haunt labor in the 1980s and beyond. After World War II, unions thought that they were well established in major trades and industries. Unions often had to strike, even for long periods, to win what they wanted, but neither leaders nor members thought that the existence of their union was in question. The strike increasingly was tamed and channeled into the standard scenario.

Strikes were also far more common in the United States and more important for the labor movement here than in most of Western Europe during the post-World War II decades. There are many reasons for the difference. One important reason was the existence of strong social democratic or labor parties in Europe (and even the acceptance of many social democratic principles by conservative parties). Working people were more likely to win gains through politics in Europe than in the United States, most obvious in the contrast between universal national health insurance systems in Europe and patchwork employer-based systems in the United States that were either collectively bargained or built on that negotiated model. Also, in Western Europe bargaining more often involved entire industries, with

government frequently acting in a variety of ways to extend union-negotiated conditions to all of the industry. By contrast with the United States, labor was much more embedded in European institutions and accepted by management, and strikes were both less necessary and, when undertaken, both more political and more likely to succeed.

With some important exceptions, like the rise in public employee organizing, labor unions in the United States both failed to organize broadly beyond their base in the early 1950s and continued to confront employers who were determined to avoid unionization, at first through practices such as matching many conditions in unionized workplaces and adopting sophisticated human relations strategies, then increasingly through more aggressive tactics to block unionization efforts.

While labor leaders acted as if unions were securely ensconced in American life, most business leaders continued to view unions as unnecessary and undesirable. The 1970s represented a turning point. After the long boom of the 1960s, corporations felt squeezed by stagflation, oil price spikes, increased regulation (such as the occupational safety and health act), and increasing international competition. In order to restore profit levels, corporations mounted an assault on workers and their unions under many guises, from relocating factories to non-union areas or overseas to internal speed-ups. In a major symbolic break, big United States businesses that unions thought of as partners broke with organized labor in the late 1970s and vigorously fought against labor law reform that would have made organizing new members easier.

When recessions hit hard in the late 1970s and early 1980s, corporations expanded their assault with demands for concessions (even when they were not in financial trouble), and a tough new approach to collective bargaining, including systematic strikebreaking and lockouts. The turning point in the statistics is dramatic. Throughout the 1970s the number of major strikes ranged from a low of 219 a year (in 1978) to a high of 424 (in 1974). The number dropped sharply over the next few years. From 1984 to the present, there has not been a single year with more than sixty-nine major strikes, whether the economy has been in boom or bust.

What made the employer assault so successful? First, the constraints on the strike—limits on such traditional aspects of the strike as secondary boycotts, sympathy strikes, quickie strikes, slowdowns, sabotage and even mass picketing—greatly weakened the ability of unions to strike effectively. Fundamentally, the law narrowed the strike to a contractual dispute over a limited range of issues that involved the interests of only the employer and employees; but, especially in times of crisis, the success or failure

of even relatively small strikes—let alone the old pattern-setting strikes against major employers of yesteryear—can have tremendous significance for the balance of power in society. Beyond the immediate employees and their employer, other employers, as well as the rest of the population in their roles as workers, citizens and consumers, can have a great stake in even small disputes. PATCO is an obvious case where the ramifications of a small union's strike extended far beyond measures they wanted to relieve, stress and inadequate compensation. If the PATCO strike had extended to all of the other airline unions, or to the rest of the transportation industry, the story of the past two decades might have been very different.

In nineteenth century Chicago, workers often went out on strike not just for their own immediate needs but for the rights of all workers. But the constraints built into labor law, which were mainly pesky interferences during periods when both employers and unions operated under the standard scenario, turned the law into the equivalent of a permanent injunction when employers were on the offensive against unionism itself. The final *coup de grace* to the strike is often administered thanks to the ease of bringing in permanent replacement strikebreakers.

The structures of collective bargaining and of the labor movement itself compound the problems. Despite some consolidation and mergers, the labor movement and collective bargaining in the United States remain highly fragmented and decentralized. Indeed, with the decline of pattern bargaining and employer associations as bargaining agents, bargaining is more fragmented than in the era of the standard scenario strike. This structure minimizes the strength of unions, especially in confronting increasingly consolidated businesses, and gives added incentive to businesses to resist union demands vigorously rather than be put at a competitive disadvantage with other firms. Also, these challenges are intensified because unions have to bargain over health insurance, which many non-union employers do not provide, and in recent years, except for a brief period when there was the specter of national health insurance, health care costs have been rising dramatically. So the structure of unions and bargaining not only weakens the unions, but also gives employers both additional incentive and means of fighting against unions and strikes.

At the same time, many unions over the years had become more and more bureaucratic, more top down, less democratic and less likely either to engage or mobilize their members (although some had always been that way). While union leaders tried to persuade management to take their employees seriously and appreciate how they could make the workplace more productive, they often failed to give such attention to their own members and

their ideas. As a result, workers were less motivated and supportive of union goals. Also, the union lost one of its major sources of strength in a strike, the ideas, energy and action of workers who could do far more to make a strike succeed than huddle around a fire barrel or desultorily carry a picket sign.

If unions had not changed enough to withstand attacks on both the institution and the strike, businesses had changed in many ways that made it easier for them to resist strikes. Many were more automated, or otherwise technologically transformed, and less labor intensive. The ranks of management had also swollen—partly to keep many workers artificially aligned with management rather than included in the ranks of potential union members. (In Europe, especially in Scandinavia, most supervisors, technicians, engineers, secretaries and other managerial staff are as likely to be in a union as production workers). This made it easier to operate with management personnel during strikes. Also, corporations had grown in size, expanded globally, and often diversified: they were often less vulnerable to strikes in one plant, one division or even one country.

Globalization undermined strikes in several ways, especially in manufacturing or other mobile industries. Employers could credibly threaten to move work out of the country—and did so to discourage unionization and weaken strikes. Global operations provide a cushion for corporations. But globalization has also been both an excuse and a weapon in an ongoing transformation of business to shift more risk to employees and to make employment relationships more contingent. Subcontracting is one example: the real power that a group of workers confronts might not be the employer but rather the larger corporation that contracts for work, and striking the immediate employer—rather than the ultimate power—can be difficult and fruitless. (Janitors who work for small contractors that clean large office buildings are a classic example, but they are also a good example of how unions learned to overcome this obstacle). Contemporary corporate globalization also exerts pressures on governments to reduce regulations and social services, both of which can weaken the leverage that workers have with business and socio-economic security.

The political and cultural shift towards *laissez faire* individualism diminishes the power of the strike as well. Strikebreakers feel less social or moral constraint about crossing picket lines. In a dog-eat-dog world, there is less public sympathy when the small dogs are getting devoured. There is also less of a sense of corporate responsibility towards maintaining the workforce—an erosion of a sense of loyalty to employees—than in the era of the standard paradigm strike.

But one of the most important factors—if not the most important—in the success of the corporate offensive against

unions and their capacity to strike was the declining density of union representation. With only momentary pauses, union density has been declining in the private sector as a whole and in most individual industries since the mid-1950s (while remaining fairly constant since 1980 in the public sector). Now only nine percent of private sector workers are in unions. Although globalization and technological change have been among the causes, most analyses conclude that the primary reasons are employer opposition and the failure of the labor movement itself to commit enough resources and to devise adequate strategies for recruiting members. As union density has declined (or failed to reach high enough levels) in different labor markets, unions have greater difficulty striking.

At least on financial issues, the union goal has not changed much: take wages and other compensation out of competition. But unions need to dominate the labor force in an industry in order to do that, especially when businesses are competitively battling with each other over costs and prices (unlike the steel and auto industries of the 1950s and 1960s, for example). With fewer businesses unionized, the expectation of executives—especially as the political and cultural climate has turned so sharply towards free market fundamentalism—is that unions and strikes are anachronisms that they should not have to tolerate. Also, to the limited extent that unions can still help each other, there are simply fewer helping hands.

All this sounds like an obituary for the strike. But, like the announcement of Twain's death, that would be premature. Unions are still winning many big, important strikes. Moreover, a few unions—especially the Steelworkers—are showing that it is possible to win at least reasonable settlements of tough strikes that many unions would write off as hopeless causes. For example, in the year 2000 there were several big strikes with quite different workforces and employers that were fairly successful. Engineers, who used their expertise to challenge management's vision for the future, won a forty-day strike in Seattle against Boeing (then used the victory as a springboard to a successful campaign to organize 4,500 more engineers in Kansas). Janitors took to the streets of Los Angeles (and later in Chicago and its suburbs), mobilizing popular support for exploited low-wage workers while organizing pressure on the ultimate powers—the building owners—to agree to pay higher fees to enable their contractors to pay the workers more.

Actors from the Screen Actors Guild and the American Federation of Television and Radio Artists held out for six months against the major advertising agencies, using celebrity power and mobilizing solidarity from a wide range of allies (from politicians and sports stars to auto workers, communications workers, and



Teamsters) in a largely successful strike that extended their revenue streams to more new media outlets. In Minneapolis, the Hotel and Restaurant Employees parlayed their high-profile campaign on behalf of several undocumented immigrant workers—whose employer had called the Immigration and Naturalization Service after the workers had organized a union—into a successful citywide hotel strike during a critical business period for the hotels. A couple of years ago in Las Vegas, the same union held out for more than six years—without a single worker crossing the picket line—in a battle with the Frontier hotel, eventually forcing the owner to sell to an owner who would cooperate with the union.

Yet, not every strike is so successful, even at a time when unions are obviously being much more cautious and selective in deciding whether to strike. You will probably note that the list of big, successful strikes does not include manufacturing unions that once set the pace for the labor movement. Manufacturing strikes, when they do occur, often fall into the category of hard cases, if not lost causes. For example, on May 1, 1988, 670 members of the Steelworkers went on strike at the Des Moines, Iowa, tire factory of Titan International, one of the leading manufacturers of off-road and agricultural tires and wheels. Morry Taylor, a maverick businessman who ran a quixotic campaign for the Republican presidential nomination in 1988, had assembled a collection of tire and wheel facilities in the United States and six other countries in Europe, Latin America and Asia. The company employed 3,500 workers in the United States and 1,500 overseas. The European facilities were unionized, but the Steelworkers represented only two of Titan's factories in the United States. The workers in Des Moines felt that Taylor was refusing to bargain in good faith over issues such as pensions, retiree health benefits, two-tier wages and harsh working conditions, including mandatory overtime for periods of nearly a month without a break. A few months later workers at the Natchez, Mississippi, plant also went out on strike over a bankruptcy proceeding that the union believed Taylor was using to eliminate the contract and longtime employees.

Union strategists had thought that Taylor would be a tough, hard-nosed, bottom-line business owner, but that he could be forced to bargain under sustained pressure. They admit in retrospect that they underestimated his determination—driven by ego and ideology—to fight the union at all costs. Like a growing number of executives, one union official argued that Taylor thought “control is more important than profit.” As a result, the strike dragged on until September of this year (and the Natchez workers just voted on Monday to ratify the agreement). Two years into the strikes, Taylor told me that “They’ll never be settled,” adding, “I haven’t bargained for over a year. I don’t plan to.”

Eventually he not only bargained, but also agreed to the majority of the union demands.

Taylor tried to run both plants from early in the conflict with strikebreakers. But there were strong indications that he had underestimated the value of the skills and experience of veteran tire makers and that he had trouble getting either the quality or quantity of production he wanted from the struck plants. Moreover, when he tried to bring in workers from his Uruguayan factory to train Spanish-speaking strikebreakers, the Steelworkers contacted the union in Uruguay, which proceeded to block further training—and threatened to strike in Uruguay if Titan tried to use those workers again. The Uruguayan union continued to work with the Steelworkers on its own problems with Taylor. The Steelworkers, who ultimately maintained a web site on the conflict in four languages, also worked with European unions, who regularly pressured management in their home countries about the strikes.

Closer to home, the Steelworkers worked hard to win over public opinion, especially in the Des Moines area, and they established alliances with community and religious groups. After a Roman Catholic bishop in Des Moines criticized the way Titan was treating its workers, the plant manager, a devout Catholic, left the company. But the church support also helped strengthen the resolve of the strikers, very few of whom crossed the picket line, and many of whom were involved in strike-related activities with allies from around the country and beyond.

Two days after the Natchez workers struck, LaSalle Bank extended a line of credit to Titan. The Steelworkers saw LaSalle, which was the lead creditor until the ABN/Amro bank took over that role earlier this year, as directly financing Titan's resistance to the strike and made LaSalle a major target of prayer vigils, demonstrations at bank branches, leafleting of customers, and threatened actions at the marathon race sponsored by the bank. The union targeted dealers and trade shows with informational leafleting that raised questions about the quality of tires being produced by the strikebreakers. It protested at annual meetings and demonstrated at various homes or businesses of Taylor, his wife, and his business associates. Individual steelworkers introduced shareholder resolutions and even filed a lawsuit against the company. The union also launched organizing campaigns at non-union Titan plants. It attacked the subsidies local government gave to a new Titan plant in Brownsville, Texas, that Taylor had hoped might provide an alternative to the struck plants. They began to use Taylor's own flamboyant personality against him, inciting him to speak out publicly on the conflict and regularly putting his foot in his mouth, or taking advantage of his tendency to micromanage and keeping him distractedly moving

from one location to another to deal with a new union offensive. The Steelworkers researched Titan's financial dealings—which were often elaborate and dubious—and regularly publicized shortcomings in corporate performance and potential legal or financial problems to the investment community and the general public. They tried to push Taylor into selling the company if he wasn't going to settle, but Taylor only sold off some individual facilities.

Despite Taylor's effort to keep operating, sales declined, profits turned into losses, and the stock price plummeted by two-thirds at one point. While a soft agricultural economy would have posed problems anyway, even Taylor admitted that the strike hurt, but he insisted that he had to drive down costs in anticipation of a flood of cheap tires from China after that country acquired permanent normal trading relations with the United States and entered the World Trade Organization. Finally, last summer, creditors who had already cut Titan's line of credit twice moved up the date for renegotiation of the line of credit by one year to this month. Shortly after that announcement, Taylor indicated that he was ready to negotiate. After several weeks of bargaining, the two sides reached a contractual agreement.

The Steelworkers won at great length and cost, and the strike itself was effective in hurting Titan financially. But the union's lead strategist at Titan, sharing an increasingly common bit of union wisdom, argued that, "you can lose a strike on the picket line, but you cannot win a strike on the picket line. The strike in most cases is insufficient to force companies to make a decent settlement. There are too many ways to get around it." There was no magic bullet in this or any other conflict, Doug Niehouse said. The union strategy "was being everywhere Taylor was and involved in everything he did." The union would attack from every direction, setting up roadblocks for every escape route that he might try, but leave him an opening to return to negotiations. Instead of just a frontal assault, the union promised Taylor "a thousand points of pain." Echoing the view of former Steelworker president George Becker, Niehouse said, "the real key is that you create a situation so that top management, from the time they get up in the morning till the time they go to bed, they worry about what you're doing, and if you're doing a good job, they wake up with nightmares."

In other successful strikes, such as the Teamster UPS and Verizon strikes, the unions spent many months soliciting ideas from members, educating them on the issues, and developing solidarity through protests and other actions at work. Increasingly, workers themselves become the spokespeople for the strike—again an effective tactic in reaching out to the public in the UPS and janitor strikes. In some cases, companies are especially

vulnerable to publicity that tarnishes their carefully polished corporate images. In other cases, they are vulnerable to regulatory, legal and political pressure, from investigations of environmental violations to challenges of their requests for permits. Unions are finding great value in new alliances with students, academics, clergy, immigrant rights groups, anti-globalization movements, feminists, and civil rights leaders in carrying out their strikes. For example, steelworkers and fairly militant environmentalist groups on the west coast formed a dramatic alliance in a fight against Maxxam Corporation, which had locked out workers from Kaiser Aluminum and through its Pacific Lumber Division was clear cutting old growth forests.

Financial supporters, customers and other business allies are likely to feel less deeply invested in a struck company's battles with its union and not want to be smeared with their dirty business. There are hosts of tactics more traditionally related to strikes that unions can pursue, often skirting the edges of the law. Unions can, for example, encourage workers who remain in or return to a factory to "work to rule" or effectively slow down production. They can call boycotts or, even without calling a formal secondary boycott, provide information to consumers—whether individuals or businesses—that might discourage their patronizing businesses that use the struck company's products. Civil disobedience, like the janitors practiced, can spread the pain and raise the stakes in the strike, and as long as unions can maintain the moral high ground, as many underpaid workers can, such disruption can be effective. Recently Steelworkers president, Leo Gerard, went a step further and threatened to occupy LTV steel plants if the company tried to dismantle closed mills—an echo of the old sit-down strikes.

Increasingly unions are also cooperating on major strikes to the extent that they can, and they are reviving moribund old central labor councils and state federations to help. (It is noteworthy that the American Federation of Labor-Congress of Industrial Organizations in Illinois did not help in the Staley conflict because it was miffed at the local union's failure to pay its dues to the federation, even though the Staley defeat was a crushing blow to workers throughout the state). Unions loan money where it is needed, join in financial pressure campaigns, swell the ranks of supportive protests, help to enforce picket lines and mobilize public opinion in support of strikers in ways that were much more rare even a few years ago. There is still far too little of such cooperation, but to the extent that it does take place, it reflects recognition that strikes have become broadly political issues, much as unions are now trying to make organizing new members a political issue as well.

The old framework for conventional strikes is gone, leaving

only the constraints and none of the supports. But the biggest constraint, argues Niehouse of the Steelworkers, comes from laws that make organizing more difficult by sanctioning employer interference in workers' decisions about forming a union. If there were a higher percentage of workers overall or in specific industries that were in unions, the labor movement would be strong enough that employers would not try many of the tactics they now readily deploy against a weakened labor movement.

Yet, even in the current context, unions can pick targets carefully and develop comprehensive campaigns in which strikes can play an important role that will win in far more instances than unions have tried in recent years. But the strike itself is no longer the focus of attention. It is just another tactic. The question is how to gain social power to compel employers to bargain fairly with workers. The strike is part of a broader political challenge to the corporations, the political elite, and the ideologies of free market fundamentalism and corporate globalization. As part of the challenge to the ruling powers and ideas, unions will have to rely more on political action of the broadest sort to change laws that hamstring both organizing and striking in a comprehensive, effective way that permits workers to act legally in solidarity with each other. Industrial action, including strikes, as well as sit-ins, mass marches, and protests that disrupt everyday social and political life, will be essential. History strongly suggests that workers make major structural gains mainly through the threat of widespread social chaos and conflict; even if once they secure some institutional power such disruptive tactics become less necessary.

The labor movement is tentatively moving in this direction. Organizing and collective bargaining are increasingly linked, with unions striking for recognition and bargaining to win employer neutrality in non-union workplaces. Organizing and politics are also more closely linked, as unions insist that politicians they back provide tangible support for organizing (and as at least a few politicians, especially progressive Democrats, are realizing, unionized workers can provide a big political boost). The heyday of the narrowly economic strike may have faded, but the effective use of politically savvy strikes aimed at changing the broad balance of power and the ideological climate is both possible and necessary if unions hope to restore their power.

[David Moberg is a senior editor of *In These Times*.] 12/12/01.

*Mr. Franklin:* Thank you very much, I am glad that David went ahead of me since he basically made many of my arguments, but I am going to baffle and confuse you because I will make the same points, but possibly point in a different direction. Let me just step back for a moment and say one thing: there are very few cities that have two writers who are devoted full time to writing

about labor. This says something about Chicago, but also something about the lack of labor writers in the United States. So, I am very proud to be here with David and also very proud that folks care this much about what we do for a living.

I have lead a schizophrenic life for a little more than a decade. I have been the labor writer for the Chicago Tribune and temporarily filled in as a foreign correspondent. It is not uncommon for me to go from a strike somewhere in the United States to Jerusalem to cover a story. Folks ask me: "Isn't that a dangerous life?" and I say, "no, the laborers only threaten to hurt you." So, it has been an interesting experience.

I appreciate very much what David had to say and I think what I am going to do is almost repeat what he said, but argue that we are at an important point in history. I also appreciate his helping us to understand history because I think it is very important for unions, for workers, and for Americans, to understand the scope and direction of history. Too often unions do not. Too often we, as citizens, do not. We can learn a lot from history and my argument is that we are at a very critical point in the future of labor relations and future democracy too, where unions will be. There are those who predict that in ten years the density of workers in the private sector will drop to five percent. If that is true, we will see a marked change in the situation. My argument is that the situation is not as hopeful as David intimated to a degree. My argument is that the facts are disheartening. We are pointed downward towards less use of strikes. However, in some cases, that is not a depressing point of view. If unions rely less upon strikes, then that should be seen as rational behavior.

A lot of what is true about the status of the strike is confusing. As David also pointed out, it is important to understand that the nature of the strike has changed. What I see taking place is that strikes will be used in more sensitive industries. Strikes will be used in industries where there is growth, industries where organizing is new, among university graduate students, among social workers, among nurses, among engineers. Workers will organize for a sense of justice and not as much for the importance of winning a pay increase. What you will find is the use of a strike in an area where there is growth, where there is this equilibrium, and where there is the energy to come forward.

There are also exceptions, and I think David's point about the success of the seventeen thousand engineers at Boeing is important. Here was a group of workers who Boeing felt would never strike. In all the history of the unionization there, they had struck for one day and when the workers and the engineers went out, they went out not so much over economic issues, although

that was the ultimate factor. They felt there was an imbalance there. The blue-collar workers and the machinists had been successful, but Boeing had taken the engineers for granted. No one really thought that the engineers would stay on strike.

“Engineers with Ph.D’s and Masters Degrees—what are they going to do?” Well, they stayed out for forty days. I was talking with one of the folks who was involved in helping them plan their work through their strike. It was a fascinating discussion the first few days. Here were former United Mine Workers (UMW) officials talking about their experiences in the mines and here were the engineers kind of figuring out, “Well, gee, you know, we’ve been told that these burning barrels are environmental hazards, how will we retrofit the burning barrels so we no longer have fine problems?” And that is what they did. They redesigned the burning barrels—no problems. They were not disputing that. So what we saw in the case of the Boeing engineers is that a sense of injustice provoked people who may not have been expected to strike.

David made the same point about the janitors. I agree totally and I want to take it a step further. I thought the success of the janitors in Los Angeles and Chicago last year was fascinating. Predictions prior to those events were that they would not succeed, that they were going against an industry spread across the country. What they did wisely was create a pendulum. Win in Los Angeles, then take the strike to Chicago, then to Boston—a brilliant pattern. They were going against pattern bargaining but creating their own pattern bargaining. What did they do? They built upon community support. They reached out to Latinos, out to Eastern Europeans, out to the Asian community, and then built upon that community support. It shows the experience and ability of the union to expand its broad base. Once again, the point it made is that when unions reach out and raise the social voice, they are more successful. The predictions at the start of both disputes, in Los Angeles and Chicago, were that they would not succeed.

If you recall there was a fear that the Writer’s Guild would enter a long dispute last summer in Los Angeles. The possibility of a strike was overcome because of a prior dispute by the Screen Actor’s Guild. They set the precedent. The dispute lasted five months and involved thirty thousand members, so when the Writer’s Guild threatened to strike, there was fear that the second strike would be just as difficult. There was also fear that the union, this time, would rely upon Hollywood stars and corporate campaigns.

Take also the case of the United Parcel Workers strike. The theme of that strike, framed by the Teamsters, was that part-time work is not fair work. The message got across. The union was successful in pointing out an issue that reached a greater

audience.

Airline workers, well, I am baffled how little we understand about the success of the airline unions in organizing the pilots. This is one of the most unionized industries in the United States, and it is very successful. The last major strike by the pilots was at Northwest Airlines. The pilots have been successful in using the leverage of: "We are not replaceable, we are important to your business, if you take us off the job, you will lose." In each one of these cases, what I find is that unions are successful in discovering points of leverage and using the leverage to their advantage.

All this being said, quite often strikes do not work. Last year if I am correct, we had thirty-nine strikes. The year before we had seventeen strikes. In 1950, we were rolling along at about four hundred strikes. How did we get to this place? Once again, companies are more willing to fight unions in places you would never imagine. I would never have believed that the newspapers in Detroit would have taken on the workers in the citadel of organized labor—in a town where a hundred thousand workers would have shown up for Labor Day. The message in Detroit was a message I think companies have learned across the country. Employers realize the pendulum has changed and are more willing to take challenges. Detroit was important, but I think Detroit learned from Peoria, learned from Decatur, learned from around the United States, learned that we cannot suffer as much.

In fact, if you recall, in the midst of the dispute between Caterpillar and United Auto Workers (UAW), Caterpillar officials met with officials from the big three and asked, "why don't you ever take on your auto unions? Look how successful we have been." The message was: "See what we have done. We're not the only ones that carry this out." So, I think the first thing is this sense that the situation has changed.

David also made the point about pattern bargaining. The demise of pattern bargaining is a great defeat. When you cannot control the industry across the board, you cannot win the same situation for all workers through one strike. Look back at what happened with Caterpillar. In the midst of all of its troubles with Caterpillar, the Deere Company went to the union and said, "well, you know, we like what Caterpillar has, we think it's a good situation." Fearful of another battle, UAW reached an agreement that was not as far-reaching as it had originally sought. When unions lose control industry-wide, they face reality and cannot receive what they once had.

Replacement workers. As Jerry pointed out, nothing is more significant. From the PATCO case onward, the threat of replacing workers is a nightmare that most unions cannot deal with. In the case of Caterpillar, the company said: "We're not going any further, we think we will replace you." In one day, thirty-five



thousand Americans called the company and said, "we'll take those jobs." That was a powerful warning to the union. Within two days, the union went back to work. The company never replaced its workers.

Globalization. I cannot repeat enough how globalization has changed the scenario. A company based in Zurich, in Tokyo, in Hong Kong does not have the same concern about what is happening in the United States. Oftentimes, unions frame the issue of globalization by saying we must protect the workers in San Pedro Sula, Honduras. We must think about what is happening in Tijuana. Well, my argument is you must think about what is happening here in Alabama or in North Carolina or Peoria. In the case of Decatur, A.E. Staley Company was bought by a British owned firm, Tate and Lyle. Once this was a company with thousands of workers. In fact, in the early sixties, there had been a study done at this facility by an efficiency expert and their conclusion was that the company had too many workers, and the company's officials said, "that's the idea of the company. We were born here, it's meant to create jobs." Things change as a company moves overseas.

In the past, when you struck a facility, this facility lost money. The story of Titan Tires is a classic example of this. But, when the company has facilities around the world, when they can ship product from Burma, from Mexico, from Honduras, that changes the whole equation. If you shut these factories down in the United States, they can bring products from elsewhere. This is exactly what Bridgestone/Firestone did. In the midst of its tire strike, anticipating a situation, the company built a stockpile of tires. Also, when you have a company that is broad and widespread, a loss in the United States can be adjusted from outside the United States. Global companies change the equation.

Sometimes, however, unions do not realize the situation. The United Steel Workers Union, I think, is a good example of a union that has faced up to that situation. I would also say Unite and Electrical Workers Union understand, but in most cases unions do not. Too often what you find is unions going it alone. "We are the proudly named union. We can do this by ourselves. We know our industry," or, worse yet, "if we cooperate with them, what will they want from us?" So, you do not find broad campaigns. And there is a larger issue.

If you take this whole history, the burden of this history, and impose upon it what happened in September in New York, in Washington, and a field outside of Pittsburgh, you see that the mood has changed in this country. What you find today are some unions that say, "this is not the time to strike. This is not the time to confront employers with contract disputes. This is the case of Local 1199 in New York City. They moved back their contract

bargaining for six months, and the word has gone out from some unions that we will not raise these issues now. We will accept what we can. There are mixed feelings about that. If you recall, at the end of September, American Federation of State, County, and Municipal Employees (AFSCME) workers in Minnesota carried out a strike—a very difficult decision. I do not know how many unions would carry forth on that. There is a change in the mood.

There is also a sense that we are in hard times. Hard times mean we do not have enough money. We are laying off workers. If you happen to be in the hotel workers union, or the service employees union, which has not been hit as hard, your finances are markedly reduced. Can you organize? Can you wage large strikes? During a period of entrenchment there are some unions that move ahead, but other unions have also learned from the pattern they entered in the 1970s and 1980s. Unions began to withdraw, began to defend themselves, began to say, “these are the times in our industry when we have to hold on to what we have.” That is common thinking. We are also, in a time where unions are saying, “there are sixty-five of us, sixty-five unions. I represent warehouse workers but I could represent nurses. I could represent teachers or psychiatrists. I can do everything.” And, what you find is that unions are grabbing for one another. If I am correct, there are five unions looking to organize the healthcare industry. Five unions looking to organize the higher education industry and you can go down the line.

Where there is growth, unions who have been there are trying to grow. Unions who have not been there are also trying to grow. What you find is disparate organizing efforts and the message I would send to the workers out there, even those who are organizing and striking, is that this is a difficult situation. We do not have the support. We are not unified, and we cannot overcome what we face. This is the very inertia that unions have had to overcome. Look at the recent failure of the UAW after many efforts to organize the workers at Nissan. This was going to be the final effort to break the success of foreign automakers. Almost all foreign automakers in the United States are non-union. This was to be the first victory, and it failed. What happens when a union faces that? In most cases, inertia sets in. A defeat pushes you backward not forward.

Let me tell you the story of why I chose to write about Decatur. My book is called *THREE STRIKES*. As you know, there were not three strikes in Decatur. There were two strikes and a lock-out. Once again, the reason why I appreciated Dave’s talk about history, is that what I learned from the history of organized labor and from writing about these disputes was that the mid 1990s was a moment from which we could look at where organized

labor was and where it had been. The lessons I learned also apply largely to blue-collar unions, unions that have suffered entrenchment, and unions that suffered the avalanche of job losses that occurred during the 1980s.

There were three disputes that represent the weakening of the unions, and all three center around Decatur, Illinois. The UAW at Caterpillar, A.E. Staley, a long time locally grown firm in Decatur, and Bridgestone/Firestone, which happened to have its oldest facility in Decatur. In all three disputes you had an issue about who was in charge. Essentially, the company came to the union and said, "the rules don't work anymore. We are a global company and American workers are on an escalator of wages taking them up higher and higher. We cannot compete in Thailand and Japan if we pay you those wages." What a fascinating argument to make, that the company's success means the worker cannot also succeed. All of these three companies were the dominant firms in their industry. So the unions faced an argument by the companies that the rules must change.

In the case of Bridgestone/Firestone, they wanted continuous manufacturing. They wanted to run the factories around the clock—an idea that had been introduced in the tire industry by Michelin Tire when they opened their first facility in the American South. The union was not able to organize Michelin. The idea spread throughout the tire industry. Running a machine for ten hours, twelve hours, might sound good, if you have never done it. You can work at a utility hitting buttons for two or three hours in a row, but standing at a machine and making a tire, I discovered, is much like cutting jewelry. It is not easy. There is actually an overworked workers' syndrome, those who have worked long hours, such as nurses, often fall asleep at the wheel on the way home. The Firestone workers did not want to do continuous work. They did not want to go to three days on the job at ten or twelve hours and then shift off. The company was also arguing for a change that meant doing away with weekends. The weekends would no longer be required. The company would do away weekend pay, and diminish overtime.

In the case of A.E. Staley, it was much the same thing. The facility had been operated for many years with a small union, Allied Industrial Workers. The company said to the union, "we are losing money in this industry as a whole. This is an old facility and the union's awfully powerful here. You can make a lot of decisions and we do not think we need that. We need to run the facility continuously, days and nights. We need to change workers, put younger workers on day shifts, and put out more work to sub-contractors." Well the workers were terrified. It was a change in our rules and in our understanding of the situation

Caterpillar and Bridgestone/Firestone workers struck against

the companies. However, fearful that they would be crushed by the company, the Staley workers began to go through a process of work rule changes with which they tried to slow down the job. Following work rules on the job did not work. The company, claiming sabotage, locked out the workers. There are only a few countries that allow companies to replace workers and I think it is the same for lock-outs. Only a handful of nations allow this as part of industrial relations. So, the workers at Staley were locked out. There were about eight hundred workers locked out at the time the dispute began. The unions did not have a strategy. They thought they did, but looking back, I think they would agree they did not. The autoworkers figured: "same old strike, we'll face the company, shut a few plants down and they'll come to us."

Bridgestone/Firestone faced the United Rubber Workers Union. At one time, it was a progressive, powerful, imaginative union, a union that represented a swath of workers across the industrial scenario; however, tires are not made the way they used to be. The union had shrunk and so had its finances. When the workers went on strike they only had enough money for a few months of strike pay and a few strategy consultants. In comparison, A.E. Staley's workers, represented by the Allied Industrial Workers, were told by the union, "we really cannot help you in this case. We are a small union. We are having a hard time running our operations here in Milwaukee. You should get outside help." So they sought outside consultants and one of those was Ray Rogers.

If you are familiar with the history of the Hormel strike, you know that Ray is a controversial fellow who thinks he began the corporate campaigns in the south against southern textile mills. He may have. Oftentimes, Ray is brought in as a fireman at the last minute when there is a dispute. Ray's approach is to wage an all out battle. In this case the unions accepted him. So, what you had—in this blue-collar town where much of the work is union and industrial—were three major disputes.

The companies did one thing that surprised the unions. They used public relations. In Decatur and throughout Illinois, Caterpillar told workers, "you know the union in Detroit really doesn't represent you." The union was astounded and the message to them was, "you're Illinois folks, those are Detroit people who are trying to change your mind." The same thing happened with A.E. Staley, who said to its workers, "look how backward, look how small your union is, look what we're doing, look at the industry." It was a gesture that the unions were not prepared for. The unions did not reach out as much as they could have. They could not tell the story. What was most stunning to the workers was that their basic assumption, that the company could not do without them, was wrong.

Likewise, to the astonishment of the Caterpillar workers, Caterpillar said, "fine, you want to strike, then strike." So, Caterpillar took its entire white-collar workforce up to the level of vice-president and put them on the line, and they were making Caterpillar tractors. I know of only one person who lost part of her finger. It was a secretary, and she said she was glad to give it for the company. To the union's astonishment, they produced tractors that did not explode and did not harm people. They were successful. The same thing happened at A.E. Staley. They suddenly decided, "Gee, we don't need all these workers. Heck, instead of eight hundred we need five hundred, four hundred, three-hundred." The number dropped markedly. They went from manual labor and manual control facilities to technology. The union assumption that the company could not function without them was broken down.

The same thing also happened to some degree at Bridgestone/Firestone. I am sure all of you are familiar with the story of exploding Ford Explorer tires. I think this was a good example of when a company goes to war with its workers over a product that is sold to the public and it becomes a liability for the company. It has never been proven that the tire flaws were caused by the Decatur workers. In fact, the argument is made more broadly that Decatur made a larger number of these tires, which turned out to be flawed, but that Bridgestone/Firestone made the same flawed tires in its other facilities. The facility in Decatur is an older facility, using an older manufacturing process. As a result, more of its tires may have been flawed. Initially, the union argued that replacement workers could not do this work, which I liken to crafting jewelry. So in the case of Bridgestone/Firestone, we saw an example where replacement workers were brought in, and the union was successful in raising doubts about the quality of their work.

I talked earlier about how companies have been able to change, and take advantage of the change in the community's mood. What struck me about Decatur, and I thought this was a message, was that this was a heartland Midwest community. Most of the folks who worked in this town of eighty thousand knew people, or shopped with people, or went to church, or hunted, or had relatives, were married, or played golf with people in these factors. At the same time, you had people crossing the picket lines. You had a sense that when these folks were arrested by the police for demonstrating, and they went to court, the police said, "watch, they'll always be found guilty." The mood was against them. I thought that was fascinating. What you found there, much to the unions' surprise, was that they were viewed as whiners and complainers. They were able to raise funds from around the United States, and they were able to reach out and find

support, but they did not have the same support at home. I think what changed was that people did not think it was a strike they could stand behind. The people of Decatur were saying: "These people are making eighteen dollars an hour, where I'm making seven dollars an hour in this warehouse, why can't I take that job?" That alone is a great defeat when unions try to wage this battle.

I want to touch something here, and I don't know how to raise this because I think sometimes I see this and it is hard to explain what happens in a strike, in a union situation. I think something is lost in the dialogue that goes on between unions and companies. I know one of the fascinating aspects of the battle between the autoworkers and Caterpillar was that it became a battle on paper. The union filed more than a thousand complaints with the National Labor Relations Board (NLRB)—a record-setting event, never seen before—and this would have been a battle totally on paper with no humanity. What I am talking about here is the nature of the strike and Dave pointed this out a second ago. A strike is a very emotional situation. It is a "strike." I think in other languages, it comes to me as a much stronger word because it truly is one person hurting the other, one person striking out against the other. It is a war. What I found lost in the understanding of the situation is how corrosive a strike can become and how, when unions and companies go to war with each other, they forget who is caught in the middle and that there is a big price, a heavy price, paid by those folks in the middle. I often wonder when union leaders and when company officials say that they will go to the ends and fight, whether they realize what they are asking the people to do. Let me step back for a second and say when they do that, I never see the poll results of shareholders asked whether they want to put these workers' jobs on the line. I do not think that takes place when companies talk about defending their profit margins. When union officials say, we will fight this until no man is left behind, I very rarely see union presidents or their assistants returning to the picket lines three years later.

In Decatur, there were a number of heart attacks, nervous breakdowns and suicides. One person who committed suicide was a union official from a small UAW local in Denver who had urged his members to hold out against the company. It was a small parts facility. They were relatively reluctant and he had stood up for what he felt was right. When the union finally decided that the strike was over, that they could not go on, that they had to go back and accept the company's terms, his response was, "I can't stand up for what I stood up for. I made a mistake." The folks who talked with him that day in Detroit said, "Oh don't feel so bad about it. You can cope with the situation. We are getting through

until tomorrow.” He did not accept that. He went back home to Denver and took his life the next day. How many people commit suicide in union battles? I do not think there are any good figures anywhere – maybe two, three, five, ten in large disputes—but these are very human prices. I go through this whole process, because a strike is important for many issues. But, when a strike is waged badly, from both sides, there is a price that must not be forgotten.

In Decatur, where I spent a lot of time, there are fathers who will not talk to sons. There are neighbors that will not talk to neighbors. One of the persons I wrote about in my book was a priest, Father Martin Mangan who I like very much and who died recently of cancer. He told a story about one of the workers who was recently hit in a car accident. Before he died, the Father was called to give rites to the worker. At the worker’s deathbed, his wife looked at him and his dying and said, “At least you don’t have to go to the Staleys tomorrow.” Father Mangan recounted that story because he was struck by the power of that message.

When he went to visit the cemetery a few days later, a worker came up to him and said, “Father, I haven’t seen you in a long time,” and Father Mangan—who is a little leprechaun-like man who became caught up in the union movement—said, “Where have you been and everything?” The worker said, “Well you know, I could never go back to the factory. I wouldn’t take that job. I’m working here as a gravedigger.” Then he said, “But you know Father, I’ve never talked to my son since then. He went back to work. He crossed the picket line.” These are stories that happen when strikes fail or even when the workers win. I wonder if we remember the tremendous price people have to pay.

I told you stories about union difficulties. Violence takes place. In the case of Caterpillar, there were shots fired at Caterpillar officials. There were threats made, and there were also people who crossed the picket lines fearlessly, mistakenly. I think they suffered too, those who thought about it. One of the workers I talked to, and it took me three years to get him to tell me about his case, explained that he made a mistake. He crossed the picket line the first day, thinking, “oh, they’re going to go back to work.” When they did not go back to work, he was stuck inside the factory, and about a month later, while on the job, he had a nervous breakdown. From what he could figure out, it was a heart attack. Whatever it was, he has not been the same since then, and the company has moved him from job to job to job to job. He never really held a permanent job. Now, when he gets home from work, he sits on his front porch and watches every car drive by, thinking that someone will attack him.

I think these are great, great problems and I raise these because I have a point here. When unions do not represent the

workers, do not fight to the end, do not send the message out that they will stand behind the workers, then it sends a different message. It sends a message that it is not worth standing up for these people. It is not worth going to battle. The steel workers are a good example. I think they learned in early battles against Ravenswood and Bridgestone/Firestone that you must wage a large battle. You have to go around the world.

There is a wonderful story about George Becker telling the strategist for the union, "I want you to take on Bridgestone/Firestone. Find out every weak point possible." They had no idea what they were going to do. All they knew is they would spread their tentacles worldwide. They began fighting the company in Japan, in Turkey, in Argentina, forming alliances with people who make tires around the world, learning all the weak points. They even learned the personal fax number of the president of Bridgestone Company. So, every day they would send him a message saying, "here's what we're doing." In that case, the steel workers, a large union, spent a lot of money and the message was, "we'll defend you." They did not totally win their battle, but I think the message there is that when unions engage in these battles, and they are so difficult, and they are so hard to win, and they do not win, and they do not in the end stand up for the workers, then the workers go back and accept the same conditions that the company offered them in the first place.

In the case of Caterpillar and UAW, the UAW fought its way back on to the job. They went back on the same conditions that had been offered six years earlier by Caterpillar. At one point, the union agreed to go back under the condition that Caterpillar leave one hundred and twenty of its workers, who the company had disciplined, on the outside. The union members voted down that contract. How simple it would have been to understand that after such a long battle, you do not leave those people on the outside. To me, the message there is that unions have a lot of responsibility on their shoulders.

So, if my scenario is correct, what am I telling you? We are going to have fewer strikes, which may be rational. You do not commit suicide when you do not have to. You do not extend beyond the border when it is unwise. When you have a population who are undocumented but willing to take the chances and willing to fight, then you can carry out a strike. But, when you are up against a situation where you could be a victim in an extended legal battle, you stand back. Makes sense. But what are we left with? I do not hear today, in 2001, the same talk about labor/management cooperation. I do not hear as many companies talking about traveling on the high road. Each of the companies I talked about, Caterpillar, Bridgestone/Firestone, and A.E. Staley, to a degree, also talked about worker participation, worker



engagement, sharing all of our concerns. But, when these disputes came up, that all went out the window. I raise this as a moral question. I do not know the answer.

When you have this situation, what happens to the workers who are there, frustrated, unhappy, feeling a sense of defeat. Where does that frustration go? Let me raise one more question for you, and this is the bigger issue when we talk about history. If you look at unions without any perspective, look at labor relations in a small microscope, then you are making a big mistake. I think we are really talking about democracy here. What do I mean? Economic rights are human rights. The right to be treated fairly on the job because of your race, your sex, your age, your disability, is a human right. When human rights are not articulated, are not respected, we have less democracy. When unions are weaker and there is nobody else who bargains on their behalf or raises those issues, I think democracy is diminished. I think we lose this perspective. If we just look at the failure of unions to use the strike as a weapon, we are really ignoring the bigger issue. How does democracy function? We all have rights, if you cannot articulate those rights, if we cannot share, if we cannot have a dialogue from both points of view, labor and union, then democracy is less than what it should be. Thank you.