

The General Strike



A U.S. Tradition

By David Sole

Introduction - 2020

This pamphlet, a short history of the general strike in U.S. labor history, was written in 1998 at the height of the Detroit Newspaper Strike (see 1998 Introduction). If anything the labor movement is in worse shape today than back then. The percent of unionized workers has shrunk. Union busting and political attacks on unions (such as Act 10 in Wisconsin) have sharply reduced union membership and union rights.

At the same time mass movements, especially among the youth, have shown great strength and initiative. The environmental justice struggle has become a dominant theme globally. The Black Lives Matter protest movement has drawn in millions, especially following the police murder of George Floyd on May 25, 2020, even in the midst of the COVID-19 pandemic.

Organized labor can still play a vital role, but only if it works hard to build bridges to the mass movements for justice and the huge number of unorganized mainly young workers.

When President Donald Trump threatened to refuse to accept defeat in the November U.S. elections, the idea of a general strike to defend democratic rights suddenly emerged across the United States. The Moratorium Now Coalition in Detroit joined by the Peoples Alliance in the Bay Area and the Wisconsin Bail Out the People Movement issued a call for unions and community groups to form People's Defense Committees to Defend Democratic Rights. In particular it urged unions to take action under the Constitution of the American Federation of Labor – Congress of Industrial Organizations (AFL-CIO), Article II, Section 12. That paragraph instructs the unions to “protect the labor movement ... from the undermining efforts of authoritarianism, totalitarianism, terrorism and all other forces that suppress individual liberties and freedom of association.” The call stated “The aim of People's Committees should be very clear. They must prepare to shut the entire country down if Trump tries to steal the election. They must popularize the idea of, and prepare for, a General Strike.” That call went out October 1, 2020.

Only days later the Rochester, NY Labor Council passed a resolution supporting a general strike “if necessary” and urged the national AFL-CIO to take similar action. This occurred on October 8. Soon thereafter Seattle's MLK Central Labor Council and the Western Massachusetts Area Central Labor Council passed similar resolutions. International Longshore and Warehouse Union (ILWU) Local 10 in San Francisco added their powerful voice to call for “united front strike action.” Librarians in the Social Responsibility Round Table of the American Library Association took action on October 29 urging “strike action to oppose any coup attempt associated with this election.”

While Trump was on national TV, mouthing off that the election was stolen from him, one commentator on a CNN national broadcast warned that labor was talking about a general strike.

Clearly the tactic of the general strike has not disappeared from the memory of the labor movement. Under compelling conditions a new chapter in the history of the general strike may be written by the working class in the United States.

David Sole, November 7, 2020

Introduction - 1998

During September of 1995 the Detroit Newspaper strike had escalated to an open confrontation between the entire labor movement of southeast Michigan and the newspaper bosses, the police of a dozen cities and the courts. Thousands of unionists faced off in Sterling Heights against hundreds of riot equipped police. Workers were wondering what we could do next.

At that time I made a motion at the September Metro-Detroit AFL-CIO Delegate Body meeting that all tri-county area union locals be instructed to hold a vote of their membership to authorize a general strike in support of the newspaper workers "if and when such action was deemed necessary." I suggested that just the holding of such a vote in union local after union local would command national attention and drive fear into "all the bankers and bosses who are encouraging union busting at the Detroit News and Free Press."

Several delegates rose to speak against this resolution. "It is illegal. It violates our contracts. It can't be done," they argued. Unable to win support, the motion was withdrawn. Despite the negative reception by these union officers, the proposal was circulated widely on the picket lines (see Appendix A). Within three weeks seven local unions from the United Auto Workers (UAW) had passed resolutions supporting the idea, including the largest Ford local in the country. A Detroit labor lawyer researched the legality of sympathy strikes and distributed interesting case law that upheld the right of workers to take this kind of action (see Appendix B). With the end of mass picketing by order of the six striking local unions, the general strike proposal was shelved.

But it got me thinking. Just what was the history of the general strike in United States labor history? Were those delegates right? Had it never been done? Was it something that only European workers had used in the past?

The following is a short account of an incredibly rich history of the general strike in the United States, beginning in 1835.

Much had to be left out, and of course I am not attempting to sketch the very complex history of the entire labor movement. But it does make clear that the general strike is as "American as apple pie." History shows that the general strike is not a cure-all for labor's problems, but it can be a powerful weapon in labor's arsenal.

I would like to dedicate this pamphlet to the Detroit newspaper workers who have been on strike and locked out for three long years. With their blood, sweat and tears they are writing a new chapter in the book of solidarity. They have been an inspiration to all of us fighting for labor's emancipation.

This pamphlet has been produced entirely by donated union labor.

David Sole

President, UAW Local 2334 Detroit, Michigan - - July 22, 1998

Strikes – a recent development

Webster's Dictionary defines "strike" as a verb meaning "to refuse to continue to work ... until certain demands have been met."

While human beings have always worked to survive, strikes are a new phenomenon, only a few hundred years old. For several hundred thousand years our ancestors lived as hunters and gatherers. Everyone worked together to eke out an existence, sharing the fruits of their labors. Refusing to work, striking, was unthinkable.

The later great civilizations of Egypt, Sumeria, Greece, Rome, etc. came after agriculture and improvements in technology made possible a surplus of food. Cities and empires were built on the backs of slave labor which could now produce an abundant surplus to feed the masters. These workers could not "strike" but occasionally they revolted. The story of Spartacus is perhaps the most well known. All of these revolts were drowned in blood.

Peasant serfs in the feudal period in Europe had more rights than ancient slaves. But they, too, were squeezed dry by the lords of the manor. Their weapon was the peasant uprising. These were usually easily crushed by the military superiority in armament and organization of the "nobility." The Peasant Wars in Germany in 1525 have been amply studied.

Only with the development of capitalism did the two modern classes emerge – capitalists and workers. Industrial capitalism has made this minority of owners vastly wealthy, but it also has created a huge majority of workers gathered into large establishments and crowded into huge cities.

The strike, at one time outlawed and punished as conspiracy, won recognition over the past two hundred years due to the persistent struggle of masses of workers. Strikes which began as a united effort by some workers to better the conditions of their employment can, and have, appealed to ever wider sections of the working class to lend assistance. This became known as the general strike.

The First U.S. General Strike – 1835

The tactic of the general strike first emerged in England where the capitalist overthrow of feudalism occurred in the revolution of 1640 to 1660. The industrial revolution was in full swing in England by the early 1800s.

In the United States a proposal for a general strike was first made at the 1835 convention of the National Trades Union. This was the first national labor federation in the U.S., founded in August 1834.

Workers in Boston in 1835 had tried to organize a city-wide general strike for the 10 hour work day but were crushed. Workers in Philadelphia, inspired by the Boston struggle, took up the banner. Three hundred armed Irish longshoremen marched through the streets calling on workers to join them on strike. Leather workers, printers, carpenters, bricklayers, masons, city employees, bakers, clerks and painters joined in carrying their tools.

John Ferral, the leading Philadelphia trade unionist, described it: "The blood sucking aristocracy stood aghast; terror stricken they thought the day of retribution had come." [Foner v.1, p. 117]. The Philadelphia city government met and ordered that city workers would now only work 10 hours, from 6 A.M. to 6 P.M. with one hour for lunch and one hour for dinner. Three weeks after the longshoremen walked out the other employers gave in to the general strike. The 10 hour day was adopted throughout the city along with some wage increases.

A wave of strikes then swept the country as workers heard of the Philadelphia victory. By the end of 1835 the standard working day for skilled workers was ten hours. Only in Boston, where the workers had first been defeated, were the hours not reduced. In 1840 President Martin Van Buren instituted the ten hour day for Federal employees.

Unskilled textile mill workers organized the North East Workingmen's Association to fight for the 10 hour day. A proposal circulated for a general strike to begin on July 4, 1846. It was called a "Second Independence Day." Five thousand women mill hands struck in western Pennsylvania but were crushed and a general strike never materialized.

The General Strike Against Slavery

A tremendous obstacle stood in the way of the further development of the U.S. labor movement. As bad as conditions were for the skilled and unskilled northern workers, four million workers and their families labored under the most horrible oppression of chattel slavery on southern plantations. Karl Marx noted that "Labor with a white skin cannot be free while labor with a Black skin is branded."

Slavery did not simply divide the working class. The slave system itself was an obstacle to the further development of capitalism and industrialization. The overriding power of the slave owners over the government of the United States had to be broken and it was broken in a brutal Civil War from 1861 to 1865.

One of the decisive factors in that war, a factor usually ignored by historians, was described by the brilliant African American scholar W.E.B. DuBois. In his monumental "Black Reconstruction in America" DuBois wrote: "As soon ... as it became clear that the Union armies would not or could not return fugitive slaves, and that the masters with all their fume and fury were uncertain of victory, the slave entered upon a general strike against slavery.... He ran away to the first place of safety and offered his services to the Federal Army ... this withdrawal and bestowal of his labor decided the war." [DuBois, p. 57].

The northern armies at first repulsed runaways. They even returned them to the southern masters. But nothing could stop the flow. When General Butler began accepting runaway slaves a "contraband of war," first eight came, then 47 more. Soon they numbered in the thousands. Fort Monroe became known as "Freedom Fort." "Gradually the fugitives became organized and formed a great labor force for the Army ... as laborers, servants and spies." [DuBois, p. 65].

DuBois went on: "This was not merely the desire to stop work. It was a strike on a wide basis against the conditions of work. It was a general strike that involved directly in the end perhaps a half million people. They wanted to stop the economy of the plantation system and to do that they left the plantations." [DuBois, p. 67].

The Union Army put tens of thousands of these fugitives from slavery to work growing crops. After the Emancipation Proclamation “this army of striking labor furnished in time 200,000 Federal soldiers whose evident ability to fight decided the war.” [DuBois, p. 67].

The National Rail Strike of 1877

The post-Civil War period allowed the rapid growth of industry. But capitalism always has its booms and busts. The depression of 1873 – 78 saw mass layoffs and wage cuts. The capitalist class, now fully in charge in Washington, D.C., feared the potential of Black-white labor solidarity. The year 1876 saw the betrayal of African American rights in the south with the pullout of Federal troops, the rise of the Ku Klux Klan, the enactment of vicious racist laws and widespread lynchings.

In 1877 the bosses carried out several rounds of pay cuts. The Pennsylvania Railroad and other lines cut wages 10% on June 1. On July 16, in Martinsburg, West Virginia, 1200 workers seized the B & O Railroad depot, stopping all freight trains. Even though the workers let passenger and mail trains through, the N.Y. Tribune called it “the insurrection.” When the mayor had the strike leaders arrested, a crowd released them. Miners from the surrounding hills came into town to protect the strikers. The general public, too, backed the strikers. They had a deep hatred of the railroad bosses after watching the give-away of public lands to the railroads, the skyrocketing rail rates and the exposure of massive stock fraud and manipulation.

President Hayes (1877-1881), having taken troops out of the south where they had provided some protection to the freed men and women, sent the Federal soldiers to Martinsburg against the strikers. This was the first use of U.S. troops against workers in peacetime U.S. history.

The strike spread to Ohio, Kentucky, Pennsylvania, New York and all the way to California. A crowd of workers in Baltimore tried to stop the troop trains from leaving. The state militia fired on them killing 12.

Troops in Pittsburgh shot down 20 strikers. Workers from all the steel mills stormed the troops, who retreated into the railroad roundhouse, Union Depot and the Pennsylvania Railroad terminals. The July 22, 1877 New York World ran the headline “Pittsburgh Sacked. The City Completely in Power of a Howling Mob!” That paper reported that the workers were “dominated by the devilish spirit of communism,” and compared the strike to the Paris Commune of 1871: “an insurrection, a revolution, an attempt of communists and vagabonds to coerce society.” [Foner v.1, p. 468].

In many cities women joined the strikers in large numbers. Black-white unity arose in the struggle. The Regiment Officer of the New York 69th declared “we may be militiamen, but we are workers first.”

William Vanderbilt of the New York Central Railroad rescinded the 10% pay cut and offered a 25% raise in an attempt to head off the strike. In California the strike was diverted by the bosses into anti-Chinese immigrant riots.

In Chicago and other western cities it became a general strike. The slogan of an eight hour day was raised. The socialist Working Men’s Party held a mass meeting of 10,000 people two days before the Chicago strike began, taking the lead in spreading the strike beyond the railroad workers.

On July 26 Chicago police cavalry attacked strikers with drawn swords, killing 12. But police alone could not intimidate Chicago's working class, so President Hayes pulled troops out of the Dakotas where they were waging war against the Native peoples and sent them into the streets of Chicago. The army arrested strike leaders, smashed union offices and jailed leaders of the Working Men's Party. Up to 50 workers were murdered in these assaults and on July 28 the trains moved under military escort.

In St. Louis 300 Black levee workers played a prominent role in spreading the strike. The Working Men's Party also helped lead the strike by setting up an Executive Committee for a general strike. The St. Louis Republican wrote: "It is wrong to call this a strike; it is a labor revolution." The St. Louis Executive Committee demanded an 8 hour day, pay hikes and prohibition of labor by children under the age of 14. By July 29 all businesses in St. Louis were closed. Troops were sent in and vigilantes were organized. Forty-nine leaders were arrested without charges, including the entire Executive Committee.

Even though these strikes were crushed, 1877 taught the working class several important lessons. One was the need for strong national unions. The role of the government and both Democratic and Republican parties were exposed as tools of the Wall Street bosses.

The Eight Hour Day Fight

An issue raised spontaneously in the risings of 1877 was raised again only seven years later. It came to the floor at a convention in 1884 held by the predecessor to the American Federation of Labor (A.F. of L.). The new federation represented only about 50,000 workers in the U.S. But the delegates, boldly proclaiming no confidence in legislative action, called for "a vote [to] be taken in all labor organizations ... as to the feasibility of a universal strike for a working day of 8 (or 9) hours to take effect not later than May 1, 1886." [Foner v2, p. 99].

In 1867 six states had adopted the 8 hour day. In 1868 the Federal government enacted the 8 hour day for government workers. But in 1876 the United States Supreme Court nullified these laws.

The more conservative leadership of the Knights of Labor, representing over half a million workers, opposed the resolution by the new federation. Many Knights of Labor local assemblies, however, quickly supported the May 1, 1886 eight hour campaign.

The A.F. of L. repeated its call in 1885 and began preparations. Forms were drawn up for signing by unions and management. Most interesting was the response of the anarchist movement in Chicago. These revolutionaries had deep roots in Chicago's unions. They had nearly 6,000 members in the Windy City and published five newspapers. Known as the International Working Peoples Association (IWPA) these radicals dominated the Chicago Central Labor Council.

At first the IWPA opposed the 8 hour campaign. They declared they were for "abolishing the wage system" entirely, not reforming it. But as they saw the tremendous response from the workers, their leader, Albert Parsons, reversed their ultra-left position. He explained his support because "it was a class movement against domination ... and secondly, because we did not choose to stand aloof." It was the militant, aggressive and imaginative IWPA which "put the fire into the struggle." [Foner v.2, p. 102].

Twenty-five thousand workers marched through Chicago the Sunday before May 1, 1886. Over 30,000 workers in the U.S. were granted an eight or nine hour workday even before the fateful Mayday had arrived. Then on that first "May Day" 1886 350,000 workers in 11,562 work places hit the bricks.

Forty thousand walked out in Chicago while 45,000 other workers in that city were given a shorter work day without having to strike. Over the next two days about 185,000 more workers across the country won the eight hour day. Some 200,000 others got a 9 or 10 hour day, down from twelve hours. Still others went from 14 or 16 hours down to 12.

This truly national general strike provoked a vicious counter-offensive by the bosses. At Chicago's McCormick Harvester plant four strikers were killed on May 3. The Central Labor Council called a protest for May 4 at Haymarket Square. Three thousand workers gathered that day to hear many speakers. Most had left the area to go home when a large contingent of police arrived. Someone, possibly a police provocateur, threw a bomb that killed six cops. Police then fired into the crowd. No one knows how many workers were killed. At least 200 were wounded. The big business press went wild, equating the eight hour agitation with bomb throwing.

Police and hired company goons rampaged through the city smashing meeting halls, union offices and private homes. Hundreds of union activists and radicals were arrested. Three years later the police admitted that they had formed "anarchist societies," planted bombs and then led the press to show them this "evidence."

Eight Chicago leaders were quickly brought to trial - Albert Parsons, August Spies, Michael Schwab, Sam Fielding, Louis Lingg, Adolph Fischer, Oscar Neebe and George Engel. They were leaders of militant unions and spearheaded the eight hour movement. Seven were not even present when the bomb went off in Haymarket Square. Yet all were charged with murder solely based on their speeches.

Their jury was handpicked to consist only of bosses and factory foremen. One was a relative of a police victim of the bombing. The prosecutor declared: "Convict these men, make examples of them, hang them and you save our institutions, our society ..."

On August 20, 1886 seven defendants were convicted. Louis Lingg died in jail, a supposed "suicide." On November 11, 1887, despite worldwide protests, the bosses hanged Parsons, Spies, Fischer and Engel. Listen to the words of August Spies to the judge who sentenced him: "Your honor, in addressing this court I speak as the representative of one class to the representative of another.... If you think that by hanging us you can stamp out the labor movement ... the movement from which the downtrodden million, the millions who toil in want and misery expect salvation – if this is your opinion, then hang us! Here you will tread upon a spark, but there and there, behind you and in front of you, and everywhere, flames blaze up. It is subterranean fire. You cannot put it out." [Foner v. 2, p. 109-110].

The bosses' offensive widened to declare strikes to be conspiracies and equated boycotts with extortion. The working class responded with its own political offensive. A United Labor Party (ULP) was formed in Chicago which gathered enough support to elect one state senator, six state representatives and five judges. The ULP came within 64 votes of electing a U.S. Congressman.

The three other Haymarket defendants, after spending seven years in prison, were pardoned by the Peoples Party (Populist) governor of Illinois, John Peter Altgeld.

Labor Unity in the Face of Racism –

New Orleans 1892

The powerful weapon of racism which the bosses counted on to keep the working class weak and divided was at a height in the closing years of the 1800s. Initial efforts for unity in the Knights of Labor and the A.F. of L. after the Civil War were lost in the wave of Ku Klux Klanism and racist propaganda that swept the nation. Yet in November 1892 the workers of New Orleans overcame their divisions in an historic general strike.

On October 24 over 2,000 teamsters and packers went on strike for the 10 hour day, overtime pay and a union shop. At this time there were many Black teamsters organized into separate local unions. The bosses offered to settle with the white workers, but the white union locals refused this splitting tactic.

The New Orleans press tried inciting racial antagonism. The New Orleans Times-Democrat ran a headline on November 2 “Negroes Attack White Man!” Instead of the expected race riot, however, 49 other local unions polled their membership on the question of a general strike. All went on record in favor of it.

On November 8, 1892 all 49 unions went out, making their own demands for union recognition and a closed shop. Some put forward demands for shorter hours and higher pay. Some were newly formed unions. Others broke contracts to join the general strike. Twenty-five thousand workers were involved, being the first general strike involving both skilled and unskilled workers in the United States.

A Committee of Five led the strike, including James E. Porter, a Black union leader. The Committee was aided by Black attorney, Madison Vance. The strike slogan was “Tie up the town” and they did! Transport was at a standstill. Lights and power were shut off. After four days facing this unity, the bosses crumbled. Most demands for shorter hours and better pay were won and even more unions were organized during the strike.

The bosses then filed in Federal Circuit Court against 44 union leaders citing the Sherman Anti-Trust Act. They claimed the unions had conspired to restrain trade. A temporary injunction issued by the court was later quashed by an upper court.

A.F. of L. leader Samuel Gompers said of this strike: “With one fell swoop the economic barrier of color was broken down....I regard the movement as a very healthy sign of the times and one which speaks well for the future of organized labor...” [Foner v.2, p. 203].

Unfortunately, despite this promising beginning the A.F. of L., under Gompers, condoned segregated locals and excluded most unskilled workers (many Black) from union membership. The Federation was to remain mainly made up of white skilled trades workers.

The Pullman Strike of 1894

The failure of a general strike in sympathy with the 1894 Pullman strike showed the limits of this labor tactic. On May 11, 1894 over 4,000 workers in Illinois went out against the Pullman Railroad Car manufacturing company. They belonged to the American Railway Union (ARU) led by Eugene V. Debs.

On June 26 a boycott was called against any Pullman cars on all U.S. railroads. One hundred fifty thousand railroad workers took on the Pullman strike as their own and demanded Pullman sleeping cars be detached and sidetracked. When the railroad owners refused, the first national strike began, led by an industrial union. When leaders of the skilled Railroad Brotherhoods ordered their members to strikebreak, many union lodges turned in their charters, joined the ARU and went on strike, too.

On July 2 a Federal court issued a sweeping injunction. When the ARU ignored it, President Grover Cleveland sent in U.S. troops over the objections of Governor Altgeld. The railroads hired goons to destroy company property and then blamed it on the strikers. Twenty-five workers were killed by the troops. Leaders of the strike were arrested for merely urging workers to strike, held in contempt of the injunction. Debs was arrested on July 10 and Federal marshals wrecked the ARU headquarters.

On July 8 all Chicago local unions sent three representatives to an emergency meeting. One hundred locals and seven national labor organizations were represented. The debate went all night. The meeting ended with a unanimous vote of approval on the question "Shall the trade unions of Chicago strike in sympathy with the Pullman boycott?" A city-wide general strike was set for July 10.

On the crucial day only 25,000 workers walked out. The reasons were simple. The city was under marshal law. Debs and the other leaders were in custody. The workers clearly felt they couldn't save the situation. A.F. of L. leader Gompers convened a meeting in Chicago on July 12. A proposal was submitted for a national strike, but there was little support from top A.F. of L. leaders.

On July 17 Debs was again arrested and spent the next six months in jail for contempt. By July 18 troops had broken the strike and they were withdrawn on July 20. What remained of the ARU leadership met on August 2. They ordered the strike ended.

The bitter defeat led to the disintegration of the ARU. But the last handful of ARU delegates to their 1897 convention founded the Social-Democratic Party, the forerunner of the tremendously influential Socialist Party. Debs, himself, had become a socialist during his six month prison stay. He would later run for president of the United States as the Socialist Party candidate. In the 1912 election Debs polled almost one million votes (before women had the right to vote)!

In 1905 a new attempt to organize industrial unions began. The Industrial Workers of the World (IWW or Wobblies) founding convention saw Lucy Parsons, widow of Haymarket martyr Albert Parsons, advocate the general strike tactic. The IWW popularized the tactic of the general strike to force concessions and as the final confrontation to win working class liberation from capitalist oppression. The IWW believed that economic power alone could defeat the ruling class, rejecting political action in principle. This was in opposition to Marx and Engels who stressed the need to use political as well as economic tactics to ultimately seize political power and establish a government run by the working class.

Again Philadelphia!

While the IWW advocated the general strike, it was A.F. of L. unions that carried out the next one. The location was Philadelphia. In May of 1909 trolley workers walked out on the Philadelphia Rapid Transit Co. (PRTC). The issues were wages, hours and union recognition. Members of the Amalgamated Association of Street Car & Electric Railway Men – Division 477 fought imported scabs, tore up tracks and wires, and derailed trolley cars.

Mass arrests of strikers led the Central Labor Council president to threaten: “If the PRTC does not meet the demands of the trolley workers ... a strike of all organized labor bodies of Philadelphia ... representing 75,000 men, will be called.... The present strike is only a beginning of the fight which will be waged by organized labor to emancipate the City of Philadelphia from the thralldom of capitalism.” [Foner v.5, p. 144].

Civic leaders worked out a one year settlement before the threat was carried out. But the PRTC created a company union and wouldn't live up to the contract. On January 8, 1910 PRTC workers voted 5121 to 233 to authorize a strike. When PRTC fired 173 union workers on February 19, the rest of the workers walked out.

Mass marches confronted scab driven trolleys. Ten thousand supporters in the German section of town fought police for two hours. Police fired on crowds at the Baldwin Locomotive Works and even shot into shops along the street. Fire hoses doused crowds in the winter cold. The mayor added extra police and jailed Division 477 president Pratt and Central Labor Union president Murphy.

On February 24 Governor Stuart sent in the National Guard. The New York Call, a popular socialist daily, wrote that Philadelphia is now “in the hands of the Cossacks.” [Foner v.5, p. 148]. CLU president Murphy sent a letter to each affiliate “asking if it was willing to join a general strike of sympathy with the carmen.” [Foner v.5, p. 148]. Two other Building Councils with 42,500 members also agreed to join a general strike if called by the CLU.

Business and religious leaders urged the company to arbitrate but it refused. “A general sympathy strike would break every employment contract in Philadelphia which is something that even the most senseless labor leader would not do,” the company stated. [Foner v.5, p. 148].

Threatened by the presence of the troops, CLU's Murphy warned: “I want it understood that there are men ... who can shoot as straight as any trooper who ever drew breath.” [Foner v.5, p. 149]. The CLU and other unions met February 27 voting to strike. Murphy set up a Committee of Ten to run the strike. Chicago's CLU wired that it stood “ready to join in sympathy strike against the traction powers.” San Francisco wired “175,000 in this city stand with you in any action you may take.” Eugene V. Debs wrote: “Stand your ground against the man-eating sharks. We are with you to a finish.” [Foner v.5, p. 149-50].

A CLU manifesto of March 2 set March 4 as the time for all workers to lay down their tools. Only bakers, bread and milk workers were exempted. The PRTC was described as “part of a larger group of capitalists and trust owners who hope to crush all organized labor by attacking and defeating one group at a time.” [Foner v.5, p. 150].

The first day saw 50,000 to 100,000 on strike. The second day had 125,000 out as strikers went door to door. By the fifth day 139,221 workers were on strike. This included 40,000 building trades workers and 39,000 textile workers among the larger unions, with 410 waiters and 151 piano movers from some of the smaller unions.

A March 5 union rally at Independence Square was banned by the mayor. When 20,000 workers came anyway, they were attacked by mounted police. The March 8 Pennsylvania State A.F. of L. Convention adopted a resolution for a statewide general strike. The resolution went on to urge the national A.F. of L. to call a national walkout. All Pennsylvania local unions were instructed to poll their membership to get approval and within 18 days state A.F. of L. president Greenwalt was authorized to call the general strike.

But by March 22 textile and rail workers began returning to their jobs. The United Mine Workers announced on March 24 that it would not break its contracts. State leaders gave up the idea of a general strike and on March 27 the Committee of Ten called off the city-wide strike. It had lasted three weeks. Yet the trolley workers kept the fight going, aided by their militant Women's Auxiliary.

As early as March 21 the mayor had secretly been urging the PRTC to settle "for the public welfare." PRTC soon offered a small raise to the union, but would not consider union recognition. The union rejected the offer on April 5.

The PRTC was losing an estimated \$20,000 a day. The company applied to the City for a \$25 million loan! On April 15 an agreement was reached with the union negotiators. The workers voted against this settlement 1265 to 1658. The union Executive Board, however, approved it. Within a few years the Amalgamated Association Division 477 had disappeared. Union membership in Philadelphia did increase, though, and on March 24 during the strike, delegates from all the unions created a local Labor Party.

N.Y.C. Transit 1916 –

The General Strike That Wasn't

Transit workers in New York City faced off against the might of Wall Street when they went on strike on September 7, 1916. The Morgan family owned the IRT subway line and within days there were 6,000 scabs, goons and cops operating one half the struck cars. The Committee on Industrial Relations reported: "From Wall Street has gone forth the order that trades unionism in the City of New York and in the nation must be destroyed." [Foner v.6, p. 94].

To support the strike the socialist newspaper, the Call, began printing a special daily "Evening Call" edition covering strike news. New York State Federation of Labor president James P. Holland issued a statement saying in part: "remember there are half a million organized [workers] in this city ready to lay down their tools to help you win your fight for organization." The New York Times headline declared: "Threat of General Strike." [Foner v.6, p.92].

On September 8 the Central Federated Union (CFU) met and invited A.F. of L. leader Samuel Gompers to come to New York City and assume "command" of the strike. The CFU announced that a

general strike would begin on September 22. Instead, on that day ninety union leaders met and decided to call for a “suspension of work” on September 27 due to the lack of safe public transportation for their members. The union officials were fearful of breaking their contracts.

On the appointed day of September 27 this timidity was shown further when only six unions called out their members, 12,500 workers in all. The powerful Building Trades Council, 150,000 strong, “postponed” action for a week. The huge International Ladies Garment Workers Union decided to honor an injunction brought against them by their employers.

By October 1 most of the sympathy strikers had begun to return to work. The general strike had failed to materialize. It was later revealed that Gompers “was secretly undermining the movement.” [Foner v.6, p.99]. One union described the fiasco by the labor leaders as a “vulgar bluff.” Most upsetting was that the transit engineers and powerhouse workers had kept the trains running on the orders of their craft unions all during the strike.

By Christmas 1916 only 1,600 strikers were still active in the strike. Over 9,600 had found other work. The companies had spent \$3.5 million to break the Amalgamated Association and they succeeded. It wasn’t until 1935 that a successful union drive finally organized New York City transit. Historian Philip Foner wrote: ‘The workers certainly demonstrated that they did not lack fighting spirit. But fighting spirit was not enough, and they paid a terrible price for the narrow outlook of the union with which they were associated.’ [Foner v.6, p. 102].

World War I and **the Political General Strike**

The weapon of a general strike was also repeatedly proposed to keep the U.S. out of World War I which broke out in June 1914. The National Executive Committee of the Socialist Party debated the idea in December 1914, but rejected the motion.

In February 1915 Pennsylvania A.F. of L. president James Mayrer proposed a general strike against the U.S. entering the war. Eugene V. Debs spoke to large crowds in New York City in March 1915 saying: “I’d rather be backed up against a granite wall and shot as a traitor than go to war for Wall Street.” [Foner v.7, p. 26]. Debs, too, called for a national strike.

The Minnesota Socialist Party called on workers to “refuse to fight” and the Cleveland Socialist Party came out for “declaring a general strike and thus save the people from the horrors which have engulfed Europe.” [Foner v.7, p. 27].

The United Mineworkers Journal threatened in April 1915 to call a general strike in the event of war. The same month saw the New York City Central Federated Union hold a mass meeting resolving to call “for a general strike among those industries employed in the production of ammunition and food supplies destined for any of the belligerents.” [Foner v.7, p. 47]. The IWW repeatedly called for a general strike as the U.S. government got closer and closer to joining the war in April 1917.

Even with a massive pro-war hysteria generated over a two year period, support for this war was thin. The U.S. Socialist Party has the honored distinction of being one of only a few parties in the world to oppose the imperialist war both before and after its outbreak.

While no general strike broke out in April 1917 against the war, something quite amazing did occur.

Over 2,000 workers and farmers in eastern Oklahoma gathered in August 1917 to protest the war and the draft. They proceeded to tear down telegraph lines, burn railroad bridges and marched, with weapons, toward Washington, D.C. Their stated aim was to “seize the government and stop the war.” These revolutionaries, Black, white and Native, were crushed by the state militia. For hundred fifty rebels were seized along with hundreds of other, non-participating socialists and Wobblies. Eighty-eight were finally convicted and imprisoned for seditious conspiracy and draft resistance. This became known as the Green Corn Rebellion. [Foner v.7, p.323; Marcy pp. 93-119].

Economic General Strikes

During World War I

Although no political general strike occurred, the fact is that “more general strikes took place in the United States after the nation entered World War I than during any period in American history.” [Foner v.7, p. 170]. These were economic strikes.

Springfield, Illinois streetcar workers struck in September of 1917. One thousand supporters marched in a Labor Day parade organized for the strikers. Led by miners, they attacked the company headquarters. State militiamen charged the crowd with fixed bayonets. Ten thousand workers then went on a general strike until the street car company agreed to meet with the union. In Waco, Texas in March 1918 a general strike supported locked out transit workers, too.

A two week general strike was held in Billings, Montana during 1917 to support striking mechanics. Pay hikes were won. Then in April 1918 the bosses of Billings locked out all union workers. Another general strike was called that won raises, but the workers lost the closed shop.

February 1918 saw 1800 women laundry workers walk out for union recognition and better pay in Kansas City. After five weeks a general strike began on March 27. When scabs were brought in to run the trolleys, rioting erupted. The National Guard was sent in and on laundry driver was killed. After one week the mayor arranged a meeting that resulted in raises and the right to organize.

Strong labor solidarity was built in this Kansas City strike. When women conductors were introduced onto the trolley lines after the strike, the Amalgamated Association welcomed them and demanded they get equal pay. The company refused and the union appealed to the War Labor Board. In its only ruling of this kind, the Board ordered “equal pay for the same work.” [Foner v.7, p. 213].

Save Mooney and Billings

Calls for a national political general strike were heard during and after the war years when San Francisco militant union organizers Tom Mooney and William Billings were sentenced to be hanged.

These two labor leaders were framed up and convicted for the July 22, 1916 "Preparedness Day Parade" bombing.

Attempting to promote pro-war sentiment and maneuver the U.S. into the World War, San Francisco businessmen had organized a pro-war demonstration. The entire labor movement of the day boycotted the event. A suspicious bombing occurred near the parade and police immediately arrested Mooney and Billings. Forensic evidence at the site was destroyed by the police and criminal elements were brought forward as "upstanding" witnesses. Most of these later recanted their perjured testimony, but the courts and officials proceeded with plans to execute the two men.

Resolutions for a general strike flooded A.F. of L. headquarters as the May 11, 1917 execution of Mooney approached. V.I. Lenin led a demonstration of workers in Russia to "save Mooney and Billings." Samuel Gompers felt compelled to do something. Though he squashed any thought of a general strike, Gompers did pressure President Woodrow Wilson.

Six days before the hanging, Wilson telegraphed Governor Stephens of California urging a commutation of the sentence. Stephens granted an "indeterminate stay" of execution. Wilson then created a special committee to look into the matter, headed by Felix Frankfurter, later to become a U.S. Supreme Court justice.

The Frankfurter Committee found so many outrages in the original trial that it called for a new trial for Mooney and Billings. While Governor Stephens did commute the sentences to life imprisonment, he and five succeeding governors refused to grant a new trial. Finally in 1939 California Governor Olson gave Mooney a pardon. Billings, while also released in 1939 was not given a full pardon until 1961.

Seattle Shows How to Do It

The greatest organization developed in any general strike in the United States was achieved by the workers of Seattle, Washington soon after the end of World War I. Ship building due to the war made that industry the largest employer in the city. The shipyard workforce was 100 percent unionized.

During the war the bosses had been able to keep wages down. But just two weeks after the armistice was signed, on November 18, 1918, twenty-three unions in the Metal Trades Council voted 2 to 1 to strike. Since the war was technically not over until a peace treaty was signed, the U.S. government, pushed by the shipyard owners, would not give in on any issue.

On January 21, 1919 thirty-five thousand workers hit the bricks. The Grocers Association canceled all food credit for strikers. The unions denounced the bosses who wanted "to crack the cruel whip of capitalism over [our] head forevermore." [Foner v.7, p. 66].

On the next day the Central Labor Council resolved that all locals should poll their members on the question of a general strike to support the Metal Trades workers. By January 29 twenty-four local unions had reported their members as ready to strike. Many unions had their own grievances as well. Seattle bankers then proposed mediation, but the government representative over ship building vetoed any mediation.

The Seattle Union Record ran the following editorial as the general strike neared

“We are undertaking the most tremendous move ever made by LABOR in this country, a move which will lead NO ONE KNOWS WHERE. We need not hysteria. We need the iron march of labor. LABOR WILL FEED THE PEOPLE – twelve great kitchens have been offered, and from them food will be distributed. LABOR WILL CARE FOR BABIES AND THE SICK – the milk wagon drivers and the laundry drivers are arranging plans for supplying milk to babies, invalids and hospitals. LABOR WILL PRESERVE ORDER – the strike committee is arranging guards ... Labor will not only SHUT DOWN the industries, but Labor will reopen under the management of the appropriate trades such activities as are needed to preserve public health and public order.” [Foner v.7, pp. 68-69].

One can see the influence that the 1917 Bolshevik Revolution had on the thinking of these U.S. workers.

On February 2 a General Strike Committee was set up. Three representatives from each union began preparations for the walkout to begin February 5. An Executive Committee of 15 was formed to direct all action.

Three hundred union veterans from the war formed the Veterans Guard to maintain order. Strike headquarters evaluated request for exemptions from striking and, if approved, issued written passes. Hospital and funeral home emergency vehicles were exempted along with firefighters, garbage workers and mail carriers. Electric power was kept on, except for commercial service. Telephone workers were told to stay on the job to facilitate strike communications.

On the other side Mayor Hanson mobilized 1500 police officers. Fifteen hundred members of the U.S. First Infantry, 13th Division, were sent in at the request of state officials. At 10 A.M. on February 6, 1919 over 60,000 A.F. of L. union members walked off their jobs. The IWW, representing another 3,500 workers joined in. Add in the shipyard workers who were already out and you have over 109,000 in the general strike. Japanese workers who had been excluded from membership by the racist policies of the A.F. of L. unions, nonetheless joined the walkout.

Mayor Hanson denounced the strike as a revolution “in the exact manner as was the revolution in Petrograd [Russia].” The press screamed that it was “planned by the IWW and the Bolshevik elements as the beginning of a revolution.” [Foner v.8, p. 73].

But aside from the strong radical and socialist sentiments of the workers, the general strike was just that – a sympathy strike for the shipyard workers. And the fact was that there were no disorders in the city.

The entire weight of the U.S. government, the media and the ruling class was thrown against the strike and was taking its toll. Then the A.F. of L. national leadership publicly denounced the general strike. By February 8 some unions began to go back to work.

The Executive Committee of Fifteen recommended to the General Strike Assembly that the general strike be halted February 8 and that the unions be prepared for a second general strike if the shipyard workers couldn't get a settlement. This was overwhelmingly voted down, but by February 11 the reality of the situation finally convinced these delegates that they must call off the general strike. It had lasted five days.

The bosses and the U.S. government retaliated by ending all ship construction in Seattle and cancelling 25 vessels that were already contracted for. Thousands of workers permanently lost their jobs. A general offensive by all the bosses led to a big decline in union membership.

The attitude of the Associated Industries of Seattle was revealed in their statement after the general strike: "We must smash every un-American and anti-American organization in the land. We must put to death the leaders of this gigantic conspiracy of murder, pillage and revolution. We must deport all 'aliens,' Socialists, 'closed shop unionists,' syndicalists, 'agitators,' 'malcontents' – all these must be outlawed by public opinion and hunted down and hounded until driven beyond the horizon of civic decency." [Foner v.8, p. 78].

Canada Joins In

Perhaps under the influence of the Seattle general strike, three general strikes took place in Canada that same year at Amherst, Nova Scotia, Toronto and Winnipeg. The Winnipeg general strike was 35,000 workers (out of a population of only 200,000) walk out to support the building trades and metal trades unions. Even the firefighters, cops and postal workers joined in.

From May 15, 1919 the strike was solid. Ten thousand veterans from World War I marched on May 31 to protest the arrival of troops with machine guns. "Bloody Sunday" June 21 saw a peaceful union parade fired upon by the Mounties. Two workers were killed and thirty wounded. Martial law was then imposed. Thirty-one other Canadian cities held sympathy general strikes in solidarity with Winnipeg. The general strike was called off on June 26 with the workers winning some gains. Winnipeg unions came out stronger and a labor led political movement went on to elect several jailed unionists to the state legislature. One was even elected mayor of Winnipeg!

Turning Point in the Great Depression – 1

Back in the United States the next great use of militant labor tactics, including the general strike, took place in 1934. Labor still had not been able to organize on a mass, industrial basis. Some victories were won, but defeat was more common.

Even after four years of bitter depression, unemployment, hunger, pay cuts and the like, organizing was tough. But the workers were getting fed up. A big jump in strikes was seen in 1933. Four times as many workers struck that year as in 1932. The United Mine Workers recruited 100,000 new members in just two months.

President Franklin Delano Roosevelt and Congress, pressured from below, passed the National Industrial Recovery Act (NRA) in June of 1933. Section 7(a) recognized the workers' "right to organize." When workers took heart and repeatedly asserted themselves citing Section 7(a), Secretary of Labor Frances Perkins complained that this law "gave working people an exaggerated notion of their rights."

The bosses agreed. The American Civil Liberties Union, reporting on the first six months of the Act, said that management acted "flagrantly to smash labor's efforts to organize despite the NRA. At no

time has there been such widespread violation of workers' rights by injunctions, troops, private police, deputy sheriffs, labor spies and vigilantes." [Preis p. 17]. In 1934 alone, 52 strikers were murdered.

In the face of this the working class struggled to find suitable tactics and capable leadership to fight back. These elements came together in three great labor battles of 1934.

On February 23, 1934 workers at the recently organized Toledo Auto-Lite plant went on strike. The union sent them back to work while negotiations resumed. Then on April 13 the union struck again. An injunction was issued that threatened the strike. Louis Budenz wrote about the crisis: "The officers of the Federal Automobile Workers Union (AFL) would have lost the strike if left to their own resources ... when the company resorted to the injunction, the union officers observed its terms. In less than three weeks ... the company had ... secured 1800 strikebreakers ... that would have the end.... The Lucas County Unemployed League, also enjoined, refused, however, to let the fight go in that way." [Preis pp. 20-21]. The Unemployed League, organized by the socialist led American Workers Party, brought thousands to the picket lines, defying the injunction.

On May 23 ten thousand pickets battled scabs and police outside the plant. Nine hundred National Guard troops were brought in. What followed was six days of street fighting with the National Guard. In peaceful moments union veterans, strikers and their families would talk to the soldiers. Some troopers quit and went home.

On May 24 two strikers were shot dead by the troops. Within hours six thousand workers arrived on the scene to renew the fighting. On May 31 the troops were withdrawn. The authorities, unable to break the resistance of the workers, ordered the Auto-Lite plant closed.

As tensions rose, 98 of the 99 A.F. of L. union locals in Toledo voted in favor of a general strike. On June 4 the company caved in, signing a six month contract with raises and union recognition. Over the next six months 190 more Toledo plants were organized. Workers who had been in the National Guard during the strike played a leading role in some of the later union organizing drives!

Turning Point in the Great Depression – II

Minneapolis was another scene of action. The Teamster local union developed the tactics of flying squadrons and mass picketing to a fine art. Only milk, ice and beer trucks were given union permission to roll. Police, vigilantes and company thugs attacked in mass. Hundreds of strikers were arrested and many more were beaten. Women supporters were special targets for beatings. So outrageous were these attacks that 35,000 Building Trades workers walked out in sympathy. Many factories also had to shut down as workers all across town joined the picket lines. The Central Labor Council voted its full support.

On May 21, 1934 police tried to open the City Market to scab trucking. Large crowds of strikers and supporters attacked the police, charging in from two sides. Hand to hand combat landed 30 cops in the hospital.

The next day the entire police force plus 2,200 "special" deputies (goons) occupied the City Market. Again strikers charged, fighting hand to hand. Two special deputies were killed in the melee and the police fled in terror before the anger of the workers.

The bosses settled with the union, granting recognition, return of all strikers and submitting the question of wages to arbitration. But this was not the end. On July 16 the Teamsters again walked out, protesting management's refusal to live up to their agreement. The bosses were emboldened to try to break the union when International Brotherhood of Teamsters president Daniel Tobin publicly denounced the leaders of Local 574 as "radicals and communists." In fact they were and they were dynamic, effective union organizers, too.

In a carefully prepared plan (a report to the governor would later confirm this) police fired repeatedly into a truckload of unarmed strikers who were tailing a scab truck. Two workers were killed and 55 wounded. Twenty minutes later the National Guard rolled into Minneapolis. The governor declared martial law.

Facing 5,000 troops, Local 574 ordered all taxis, ice, beer and gasoline trucks to stop working. At the funeral for the murdered workers 40,000 people marched. Thousands of scab trucks rolled under military escort. Local 574's flying squads went back into action to stop the trucks. Unable to intimidate the workers, the military stormed union headquarters. One hundred strike leaders were arrested and put into a military stockade. For a while the remaining leadership directed the strike from the back of a truck that kept driving to elude the troops. A mass protest of 40,000 people forced the military to release the jailed unionists. On August 22 the strike was victorious.

Turning Point in the Great Depression – III

At about the same time west coast workers showed their power. On May 9, 1934 ten thousand longshoremen closed the ports in an "unauthorized strike." Seamen joined in making it 25,000 workers on the picket lines up and down the coast. Both unions demanded a shorter work week, raises and hiring through union hiring halls. The president of the International Longshoremen's Association (ILA), Joseph Ryan, flew into San Francisco and without consulting the workers signed agreements with the bosses. A.F. of L. president William Green denounced the strikers as "reds and communists."

It was true that the west coast dock workers were strongly influenced by communists. But it was years of abuse by the bosses that fueled the strike. The workers overwhelmingly rejected the sellout "settlements" signed by Ryan.

On July 5 San Francisco police launched a murderous assault on the docks with the aim of crushing the strike. Bullets flew, killing two strikers and wounding 109. Almost immediately the National Guard was sent into the city – the same game plan that had been used in Minneapolis.

Under armed guard the docks slowly began to function with scab labor. The only hope was a general strike which the Joint Maritime Strike Committee proposed to a meeting of all unions in San Francisco. The resolution was unanimously approved on July 7.

What followed were days of maneuvering as conservative union leaders tried to delay and derail the growing demand for a general strike by their membership. Developments in the Teamster Union were typical. A mass meeting of teamsters met on the evening on July 8. Michael Casey, head of the teamsters, desperately tried to block his members' action. He "pointed out that sympathy strikes were a violation of the rules of the international union ... contrary to all agreements. He confronted them

with the ... loss of strike benefit funds ... loss of their A.F. of L. charter, loss of agreements, ruination of the union.” [Quin p. 123].

Casey was “drowned in a storm of boos.” The meeting voted by secret ballot for a general strike to begin July 12 no matter what the other union leaders might do.. The vote was 1220 to 271.

On July 9 labor buried its martyrs from “Bloody Thursday.” Forty thousand workers marched behind the coffins. A mediation board, appointed by President Roosevelt, began hearings the same day. Nothing came of three days of testimony.

On July 11 the teamsters met again. The workers wouldn’t let their officers speak when they again tried to discourage a general strike. The chant went up: “We want Bridges.” Harry Bridges, a militant rank and file dock worker, had become the de facto leader of the maritime strike. Yet he wasn’t even invited into the meeting hall by the Teamster Union officials. Under mass pressure they went outside and brought him to the stage. After his speech the teamsters unanimously reaffirmed it – they would go out at 7 A.M. the next morning.

As word spread through San Francisco, workers everywhere walked off the job. Most didn’t wait for official orders from their unions. Picket lines blocked all highways into the city. Movements for general strikes were developing in many other western cities as well. In Los Angeles the unions assessed every union worker 25 cents to aid the San Francisco general strike.

The conservative Labor Council finally gathered a meeting of all union officials on July 14. Unable to turn back the tide, the meeting voted to officially begin a general strike at 8 A.M. on Monday, July 16!

San Francisco mayor Rossi declared that this was an attempt to “overthrow ... the government of the United States.” [Quin p. 141]. Publishers of area newspapers met before the strike deadline and conspired to portray events in the same unfavorable light – as a revolution against constituted authority – in an effort to turn public opinion against the strikers. [Quin pp. 143-144].

On July 16 the general strike was on. 125,000 workers were out and almost everything was at a standstill. Martial law reigned in sections of the city and extra police patrolled. The Strike Committee instituted special permits to ensure vital services were provided.

On the second day, July 17, National Guard troops, vigilantes and police stormed union halls, soup kitchens and meetings of progressive groups. Hundreds of workers were arrested. Everything in sight was destroyed. The list of places to be attacked had been prepared by intelligence agents of the “Industrial Association,” a relative of the Chamber of Commerce. Then the gangs went to work on the private homes of targeted strikers and radical sympathizers.

On the third day, the strike began to weaken under this tremendous pressure. Confusion also spread since there was no daily labor press or radio to combat the bosses lies and exaggerations. On July 19, the fourth day, the Strike Committee voted 191 to 174 to end the general strike.

Even this count, done by the conservatives who originally opposed the general strike, was suspect. But workers across the city went to work. The Longshoremen and the Seamen continued their strike and the teamsters still refused to drive to the docks or handle scab goods.

The bosses crowed about having “crushed the strike,” but in fact were terrified by what they had just witnessed. The whole labor movement was inspired by what it had done and felt stronger and more confident than ever before. On July 31 the bosses made some concessions and agreed to arbitrate both dock workers’ and seamen’s issues. The maritime workers went back to work on July 31. With their organization and spirits intact. The workers were victorious in winning all their main demands during the next year.

Sometimes Just the Threat is Enough!

The following year just the threat of a general strike, in the hands of serious labor militants, proved effective in winning another strike.

Potters Local 149 went on strike September 19, 1935 at the Ohio Insulator Plant in Barberton, Ohio, outside of Akron. After 9 weeks of peaceful picketing the company hired scabs and goons to attack the union lines with tear gas and clubs. Pickets fought back and drove the thugs into the plant. When union pickets refused to let them out, Barberton police launched a furious assault to rescue the scabs. Fighting went on for ten hours.

The Central Labor Union immediately convened. It was headed by class conscious militant elements who got a sanction to call a general strike. The resolution called upon the Chamber of Commerce to “try to call a halt to the gassing. If they refuse or are unable to stop this warfare, then we’ll all strike.” [Lynd p. 256].

Panicky civic leaders arranged a 48 hour “truce.” The CLU then called for a mass march on November 25. If the scabs were withdrawn they would celebrate a victory. If not, the march would initiate the general strike. A Committee of Seven was chosen to organize the strike. The mayor and sheriff of Barberton, overriding the plant management, closed the plant. The strike of Local 149 peacefully continued four more weeks until agreement was reached.

CLU leader Francis Gerhart spoke to the mass rally making clear the unity and determination among the city’s workers. “I want to instruct all local union presidents to be in readiness at any moment to call a meeting to decide on a general strike as we have outlined” if any other boss decided to bargain in bad faith. [Lynd p.257].

After the Second World War

A spontaneous general strike took place in Oakland, California on December 2, 1946. A long strike by women clerks at two downtown department stores was under attack when city police began escorting scabs into the stores. Street car drivers and teamsters, without direction from their local leaders, stopped all transportation downtown. Thousands of workers occupied the central business district for three days. First hand accounts report that no labor leader did anything to organize even after the action began. On December 5 the Central Labor Union announced the general strike was over. The women store workers stayed out another five months before returning with no gains. [Lynd pp.327-329].

There were also proposals in 1947 for a national general strike to defeat the impending passage of the anti-labor Taft-Hartley Act. In April 1947 New York Representative Arthur Klein wired labor leaders urging a one day general strike, but nothing came of this.

In June 1947 the United Auto Workers Convention voted down a similar resolution. Interestingly enough, Article 50, Section 8 of the UAW Constitution still provides the machinery for the UAW to call a general strike! It is worth quoting in full:

“In cases of great emergency, when the existence of the International Union is involved, together with the economic and social standing of our membership, the International President and the International Executive Board shall have the authority to declare a general strike within the industry by a two-thirds vote of the International Executive Board whenever in their good judgement it shall be deemed proper for the purpose of preserving and perpetuating the rights and living standards of the general membership of our International Union, provided, under no circumstances shall it call such a strike until approved by a referendum vote of the membership.” [1995 UAW Constitution p. 129].

The following years brought the McCarthy purges of socialists and communists from the unions. This coincided with a steady rise in the average standard of living which peaked in the mid-1970s. The U.S. working class became depoliticized and lost touch with its militant and socialist roots.

The Challenge for Labor Today

Today labor faces great challenges. For twenty-five years the average standard of living has been driven down. Union busting and scab herding are more and more blatant as the bosses take aim at the great gains and organizations workers won in the battles of the 1930s and after. The insatiable need for ever greater profit, the nature of capitalism, drives them. The success of the capitalist west, led by the United States, in overthrowing much of the socialist bloc led by the Soviet Union, has made the bosses even more arrogant and aggressive at home and abroad.

The attacks on the U.S. labor movement have not gone unanswered. In repeated arenas across the nation workers have shown no lack of courage and determination. But what is lacking is the experience, ideas and tested leadership needed to launch an effective counter offensive. Bitter battles from PATCO to the Detroit Newspaper strike have begun to awaken the working class. Interest in labor's history and socialist ideas are being sparked as workers see that class collaboration and bowing before capitalist legality has led to numerous defeats.

The re-emergence of class consciousness among the 100 million strong U.S. working class will be a slow and painful process. But it is both necessary and inevitable. Eventually the entire working class and its allies must rise to its feet to take destiny into their own hands, no longer captive of the bosses, the bankers and the ideas promoted in the mass media owned by the ruling class.

I hope this history of the general strike will make a contribution toward this development. With unity, knowledge and vision we will not only be able to shut down this country to defend our rights, but we will take over the factories, the mines, the offices, the hospitals and even the newspapers, to run them not for the profit of the few parasites, but for the benefit of all.

Acknowledgements and Sources

This history of the general strike in U.S. labor history has been compiled from many sources. The decision to include or exclude material was mainly made with an eye to brevity. The emphasis and conclusions drawn are entirely my own. Sources for direct quotations have been indicated within bracket [...]. The author, volume and page refer to the following sources. Special thanks to Detroit labor attorney, Ellis Boal, for permission to reproduce his two memos on the legal questions raised by a general strike.

Black Reconstruction in America 1860-1880, W.E.B. DuBois, Atheneum, 1977.

The History of the Labor Movement in the United States, volumes 1 – 8, Philip Foner, International Publishers.

We All Are Leaders, ed. Staughton Lynd, University of Illinois Press, 1996.

The Bolsheviks and War, Sam Marcy, World View Publishers, 1985.

Labor's Giant Step, Art Preis, Pathfinder Press, 1974.

The Big Strike, Mike Quin, International Publishers, 1979.



Support Grows for Tri-County General Strike to Help Win Newspaper Strike & Stop Union Busting



The Labor/Community/Religious Coalition to Support the Newspaper Strike voted September 14 to urge the Metro Detroit AFL-CIO to begin preparations for a 1-day general work stoppage to beat back the anti-labor offensive of Gannett and Knight-Ridder! The resolution calls for all local unions to hold a referendum vote to authorize the AFL-CIO leadership to call such a strike. It is now being circulated and discussed in many local unions by leaders and members alike.

The Detroit area labor movement has come out in support of the striking newspaper unions on successive "Solidarity Saturdays." Thousands of workers from many unions have displayed militant support for the strikers. Around the country the Detroit strike is seen as a crucial battle to stop union busting and for the future of the labor movement. Many who have not yet participated have followed the strike and been inspired by the determination displayed on the front lines.

This mass support may be able to stop distribution of the Sunday papers. And pressure on advertisers will succeed in fewer ads and losses for the scab press. But all this may still not be enough to win the strike. That's because the owners of the News and Free Press, Gannett and Knight-Ridder, are huge corporations with investments and income from around the world. Gannett bought Multimedia, Inc. for \$1.7 billion just one week after the strike began.

These companies have made a strategic decision to break the unions. They are willing to lose millions of dollars in the local market and could even close down one paper in pursuit of this aim.

The banks and corporations are carefully watching the situation, giving active or tacit support to the DNA, to see if these union busting tactics can succeed in Detroit. If they do, workers everywhere will suffer a tremendous defeat.

How then can this anti-labor tide be stopped in Detroit? The UAW Constitution, for example, makes provision in Article 50 for calling a general strike, after a referendum vote of the membership is held, when "the existence . . . [and] economic and social standing of our membership" is threatened.

Only by the whole labor movement gathering our forces, along with the unemployed and unorganized, can we show Gannett and Knight-Ridder as well as all the bankers, GM, Ford, Chrysler and the rest of the business community that the cost of pursuing these tactics will be too great.

If the corporations fear a vast mobilization of the labor movement and losses to their own pocketbooks, they will put pressure on the DNA to back down. A general strike of all the workers and preparations for it will be powerful weapons that can successfully beat back this union busting and anti-labor assault!

☐ I endorse a 1-day general strike authorized by a referendum vote of all locals to help the newspaper workers & stop union busting.

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

PHONE _____

OFFICE OR POSITION, IF ANY _____

ORG/UNION _____

Return coupon to:

UAW Local 2334-SCATA

2727 2nd Ave., Rm. 314A

Detroit, MI 48201

Call: (313) 965-0074

Issued by Ad Hoc Committee for a General Strike. Contact David Sole, President, UAW 2334-SCATA, or Kris Hamel, former Newspaper Guild delegate and NOLSW UAW member for more information.

Here's how it could be done:

1. The Metro Detroit AFL-CIO Delegate: Body could go on record for a general strike if the DNA does not immediately back down. The Delegate Body should call for a referendum vote in all local unions in the tri-county area to authorize this action. This will require special meetings and literature to explain to every worker why a general strike is needed to win the newspaper strike and why it will benefit all workers.

2. The Metro AFL-CIO leadership could call expanded Delegate Body meetings of all union officers, committee persons, stewards, & representatives of community and religious organizations, to make preparations for the general strike.

3. During this period of preparation and voting, the unions would continue publishing our own newspaper to replace the scab rag published by the DNA. It will tell the truth about the strike and build support for a general strike. It could be distributed at every work site, church, school, etc.

4. The unions will be taken even more seriously if, as part of our preparations, we set up organization and plans for allowing emergency hospital service, food banks, and other special services to operate during the general strike under special union permits.

5. The unions can strengthen our forces by appealing to the unorganized and unemployed to support the general strike. It must be shown that labor intends to use its growing power to demand jobs and a decent wage for all workers.

As the discussion and voting proceed, excitement and interest will mount among workers nationwide as the threat of a general strike takes hold and deepens. The press and TV news will howl about the illegality of it, and political pressure and legal threats may come to bear upon the union leadership. But it will all be answered when the DNA backs down, stops its union busting, and settles equitably with the unions!

This can be the beginning of a whole new labor offensive to raise the living standards of all working people!

The last general strike in the U.S. was in 1934 in San Francisco. It's an old idea whose time has come again!

This leaflet was widely distributed on the picket lines, especially among the many hundreds of militant Detroit newspaper strikers and supporters during the "Solidarity Saturday" mobilizations that shut down production and distribution during the September - November 1995.

WEST SIDE LOCAL 174, UAW

PROPOSED RESOLUTION

LOCAL OFFICERS, EXECUTIVE BOARD AND JOINT COUNCIL DELEGATES

Tuesday, November 7 and Wednesday, November 8, 1995.

WHEREAS: The strike against the Detroit News and Free Press has been going on for over three (3) months, and Gannett and Knight-Ridder have made no secret that they intend to destroy the unions entirely, and they have resources from their far-flung media empires to finance this plan,

BE IT THEREFORE RESOLVED THAT: West Side Local 174, UAW support the idea of a one-day, tri-county general strike to aid the striking newspaper workers and stop union busting, and that we call on the Metro-Detroit AFL-CIO to immediately proceed with a REFERENDUM VOTE of the membership of all local union affiliates to authorize such a strike if and when it is deemed appropriate.

opeiu42/aflcio/ew

The above resolution was passed by West Side UAW Local 174 on November 7 and 8, 1995 in support of a general strike preceded by a referendum vote in all local unions.

In the fall of 1995 there was widespread, serious discussion among metro-Detroit labor unions about calling a general strike to support the besieged newspaper strikers. As a contribution to that discussion, Detroit labor attorney Ellis Boal researched the legal aspects of general or sympathy strikes. The following pages contain the two memo's issued by Mr. Boal and circulated among labor activists.

To: Labor/Community/Religious Coalition in Support of the Striking Newspaper Workers
From: Ellis Boal
Re: Legal Notions Concerning Proposed General Strike
Date: September 21, 1995

I. INTRODUCTION

At its regular meetings of September 13-14, 1995, the Coalition approved the following motion:

The striking unions are urged to request the Metro Detroit AFL-CIO to ask its affiliates to conduct referendum votes to authorize the AFL-CIO to call a one-day work stoppage as a solidarity action in support of the striking newspaper workers.

In presenting the motion steering committee member and UFCW International Rep. Jerry Gordon emphasized before the vote that if such radical action were approved by unions it would most certainly be met with a spate of lawsuits and injunctions.

The purpose of this memo is to outline preliminarily some of the legal notions that would be applicable to such an action. Much of the law revolves around interpretation of particular contracts governing the involved unions and their employers, so this can be only general.

The memo assumes that the motion contemplates a pre-announced general strike. It assumes that the demands made by the "generalists" would not be directed at their own employers. That is, in conformance with the ordinary definition of a sympathy strike, there would be solidarizing unions which:

align themselves with other workers involved in a dispute with another employer (or perhaps the same employer.)¹

The sole purpose of the generalists would be to show solidarity with the newspaper unions, and to shut down three counties to that end.

The legal consequences are identical regardless whether the action is termed a strike, work stoppage or sickout.² While it is correct to say that sympathetic action is legally risky and courts will probably respond to demanding employers, the legal situation is not entirely bleak.

By way of analogy, recall that in Detroit in 1981 Judge Cohn refused to collect a \$100,000 civil contempt fine the government sought against the Detroit PATCO local even though the strike was completely illegal.³ Additionally, as is described in more detail below:

* Because of the Norris-LaGuardia Act employers will have trouble getting injunctions.

* Damage suits against unions would depend on the particular interpretation of the wording of no-strike clauses in contracts, and the courts seem to have rejected an NLRB attempt in the 1980's to try to expand unclear clauses to include sympathy strikes. Regardless of the express wording of a no-strike clause, if there were evidence that there was no intent that it was to cover sympathetic action, a court may read it to mean that right has not been waived. Additionally, an employer might be required to go through an arbitrator first.

* Damage suits based on contracts against individual strikers are not allowed.

* So long as the generalist unions do not demand of their employers that they curtail business

with the Detroit Newspaper Agency, there should be no secondary boycott liability for themselves.

* A Court of Appeals ruled in June that where a union acts solely out of feelings of solidarity with a union which has a primary labor dispute, the solidizing union is not the primary union's legal agent in an action against the primary union for secondary boycott.

II. INJUNCTIONS BASED ON NO-STRIKE CLAUSES IN CONTRACTS

In 1976 the Supreme Court ruled in the Buffalo Forge case that a sympathy strike cannot be enjoined, even though it might violate the contract.⁴ In the case, a local of Steelworker clerical employees put a line around a plant, and Steelworker production employees honored it. The employer tried to enjoin the production local. But the Norris-LaGuardia Act⁵, signed by President Hoover, generally prohibits injunctions in labor disputes. With certain exceptions not applicable here, the national labor policy is for the courts to stay out of disputes if the strike is over something that cannot be handled through the grievance procedure. A sympathy strike is the classic example: there would be no demand of the generalists their employers could grant which would stop it. The Buffalo Forge rationale has been used by Federal judges in Detroit to deny injunctions.⁶

If an employer believes a general strike violates the contract, it could try to get an order from an arbitrator to that effect⁷, in which case the arbitrator's order could then be enforced by injunction.⁸ A "class action" – wherein all employers as a class sued or grieved against all the unions as a class – would be out of the question, because so many different contracts would be involved.⁹

If an injunction were granted, punitive criminal contempt penalties could only be imposed after a jury trial. Civil contempt, fines, which seek to coerce compliance or compensate the employer, could be imposed without a jury. Because there was no jury, last year the Supreme Court vacated \$52,000,000 in fines against the UMWA for widespread, ongoing, out-of-court violations of a complex injunction.¹⁰

III. DAMAGE ACTIONS OR DISCHARGES BASED ON NO-STRIKE CLAUSES IN CONTRACTS

It is not likely that an employer would try to fire everyone if a whole shift stayed out, though it might try to nail a few leaders.¹¹ Nor could the employer sue individual peaceful strikers for damages.¹²

If a union happens to be working without a contract, such as the Teamster carhaulers today who do not work for struck Ryder, there would be no union liability for a general strike. Though employer-employee working conditions continue after contract expiration, employer-union relations including the no-strike clause don't.¹³

A strike where there was a contract with a no-strike clause would be more problematic. An employer might try to sue its union, though it might be required to go through the grievance procedure first.¹⁴

The bottom line on any threat to sue or arbitrate is the wording of the no-strike clause itself, if there is one, and how an arbitrator would ultimately interpret it. Despite seemingly absolute language in a clause barring all strikes, decided cases show this may not actually be the case. An arbitrator or judge might possibly allow a sympathy strike if:

1. The no-strike clause excludes sympathetic actions such as honoring picket lines, or
2. The no-strike provision is merely inferred, or is narrow in that it is considered a quid-pro-quo for the grievance procedure and not for the no-lockout clause, or
3. The no-strike clause is broad, but there is a bargaining history in which the parties have disagreed whether sympathy strikes are covered by the no-strike clause, or the company has historically permitted honoring picket lines or other sympathetic action.

1. Teamster contracts commonly contain clauses which protect the right to honor primary picket lines at

other employers' premises. These clauses are legal and enforceable.¹⁵ They would undercut employer claims that the Teamster contracts prohibit all sympathetic action.

2. Where there is only an inferred or a narrow no-strike clause the traditional rule, following the rationale of Buffalo Forge, is that it is coterminous with the grievance procedure. Hence a sympathetic strike imposes no liability.¹⁶

3. In 1978 over a dissent the NLRB decided Davis-McKee,¹⁷ holding no-strike clauses generally are coterminous with arbitration clauses. The Board reasoned that a clause's waiver of the right to strike must be "clear and unmistakable." Since there was no specific reference to sympathy strikes in the clause's wording or in the bargaining history the right was held not waived. In effect, there was a presumption that even a broad no-strike clause does not waive sympathetic action.

In 1985 in two cases on the same day, the NLRB overruled Davis-McKee and adopted the reasoning of the dissenter that absent evidence to the contrary a clause should be construed to prohibit sympathy strikes.¹⁸ In effect the pro-union presumption was reversed. The unions appealed in both cases.

In the first case, in 1986, the Ninth Circuit reversed the NLRB. It did not reach the broad Davis-McKee issue whether no-strike language generally includes or excludes sympathy strikes. But it reminded the NLRB that strike waivers must be clear and unmistakable. It approved the ALJ's original ruling in the case, made while Davis-McKee was still in effect. The ALJ had found no express agreement about crossing picket lines, and the no-strike clause was a quid-pro-quo for the arbitration clause. The court held it improper for the NLRB to establish an irrebuttable presumption that a broad no-strike clause prohibits sympathy strikes.¹⁹

In the second case, the DC Circuit also reversed and remanded. Though the express language of the no-strike clause was broad and unlinked to the arbitration clause, and therefore seemed on its face to bar sympathy strikes, the court noted the right to honor picket lines was fundamental to unionism. There was evidence that in negotiations the parties had agreed to disagree on the question of sympathy strikes. Accordingly there was no unmistakable waiver, the NLRB's "inflexible presumption" was rejected, and the case was remanded.²⁰ On remand, the NLRB contended that the reversal of Davis-McKee remained valid. But it "clarified" its doctrine to require consideration of bargaining history and past-practice. It held the no-strike clause – which was linked to the no-lockout clause not the grievance procedure – did not cover sympathy strikes. A concurring NLRB member felt the NLRB should own up to holding that it was reversing its rule once again.²¹ The employer then appealed to the Seventh Circuit. That court, finding the clarified interpretation "reasonable and consistent with the act," affirmed. It agreed with the concurring NLRB member that:

the inquiry has come full-circle back to the Davis-McKee approach; the burden is on the employer....

It discounted that the union twice had attempted unsuccessfully to bargain express language allowing certain sympathetic actions.²²

One other case should be noted. In 1987 the Third Circuit approved the 1986 NLRB's reversal of Davis-McKee. It found the no-strike clause before it was in exchange for the no-lockout clause, not the arbitration clause. Further the law in effect when the clause was negotiated contemplated that broad no-strike clauses generally did cover sympathy strikes, and two arbitrators had interpreted the particular contract before it just that way. But the court agreed the NLRB may not erect an "inflexible presumption" against sympathetic action.²³

After the Third Circuit decision the NLRB changed its rule, as noted above. The Third Circuit decision was barely mentioned in the Seventh Circuit opinion, which is the most clear-cut.

IV. SECONDARY BOYCOTT LIABILITY

A mere request or informational picket at an establishment that does business with Detroit Newspaper Agency is legal.²⁴

Striking generalists would not be liable for boycotts unless they demanded of their employers that they or their subcontractors stop doing business with DNA.²⁵ A secondary or tertiary²⁶ boycott that did include such

demands would be illegal.

But regardless what other unions did, the striking newspaper unions would only be liable if it were found that the solidarizing unions were their legal "agent." In a case decided this summer, the ILA had a dispute with nonunion stevedoring companies. The ILA asked Japanese unions not to unload fruit that was loaded nonunion in Florida. The Japanese unions, which are beyond the reach of U.S. law, complied. The ILA later thanked them in writing and stated their action was responsible for the diversion of work out of nonunion ports. The DC Circuit held that since the Japanese unions acted solely in "a spirit of labor solidarity" with the ILA that did not make them ILA's legal "agent." In so holding, it disagreed with the NLRB and with an earlier decision of the Eleventh Circuit in the same case.²⁶

One of the implications of this case seems to be that actions of community supporters of the strike, such as members of this Coalition, should not be used against the newspaper unions. For instance, the blockading of driveways by community supporters in Sterling Heights should not result in liability for the unions under Judge Cashen's injunction.

NOTES:

- 1 Operating Engineers Local 18 (Davis-McKee Inc), 238 NLRB 652, ___ n13, 99 LRRM 1307, n13 (1978). Sympathetic and general strikes have a long and distinguished history in American labor history. For accounts of the successful four-day 1934 general strike in San Francisco, involving 160 AFL locals and 127,000 workers, see Richard Boyer & Herbert Morais, Labor's Untold Story, 282-289 (UE, New York, 1955); Art Preis, Labor's Giant Step, 31-33 (Pathfinder Press, New York, 1972). The UAW Constitution authorizes its International Executive Board in certain emergency situations, by a two-thirds vote and after membership referendums, to declare a general strike in the industry. Article 50, Section 8.
- 2 Laborers Local 616 (Bruce & Merrilees Electric Co.), 302 NLRB # 136, 137 LRRM 1144 (1991).
- 3 U.S. v PATCO, 525 F Supp 820, 108 LRRM 2999 (ED Mich, 1981). The government had fired the controllers, making compliance with the injunction impossible.
- 4 Buffalo Forge Co. v Steelworkers, 428 US 397, 96 S Ct 3141, 92 LRRM 3032 (1976).
- 5 29 USC 101 et seq.
- 6 Automobile Transport Inc v Ferdnance, 420 F Supp 75, 92 LRRM 3610 (ED Mich, 1976). Judge Joiner's rationale was also adopted by Judge DeMascio in unreported related litigation.
- 7 Steelworkers v Warrior & Gulf Navigation Co., 363 US 574, 80 S Ct 1347, 46 LRRM 2416 (1960).
- 8 Steelworkers v Enterprise Wheel & Car Corp., 363 US 593, 80 S Ct 1358, 46 LRRM 2423 (1960).
- 9 FRCP Rule 23(b).
- 10 Mineworkers v Bagwell, ___ US ___, 114 S Ct 2552, 146 LRRM 2641 (1964).
- 11 Schramm v Complete Auto Transit, 101 LRRM 2178 (ED Mich, 1979). Cf. Metropolitan Edison Co. v NLRB, 460 US 693, 103 S Ct 1467, 112 LRRM 3265 (1983); Indiana & Michigan Electric Co., 273 NLRB # 193, 118 LRRM 1177 (1983).
- 12 Complete Auto Transit Inc. v Reis, 451 US 401, 101 S Ct 1836, 107 LRRM 2145 (1981).

- 13 Indiana & Michigan Electric Co., 284 NLRB # 7, 125 LRRM 1097 (1987).
- 14 Drake Bakeries v Bakery Workers, 370 US 254, 82 S Ct 1346, 50 LRRM 2440 (1962); Cf. Briggs & Stratton Corp. v Local 232, 36 F3d 712, 147 LRRM 2531 (CA7, 1994).
- 15 NLRB v Rockaway News Supply Co., 345 US 71, 73 S Ct 519, 31 LRRM 2432 (1953); Laborers Local 300 (Jones & Jones Inc.), 154 NLRB 1744, 60 LRRM 1194 (1965). Cf. Redwing Carriers, 137 NLRB 1545, 50 LRRM 1440 (1962), enfd sub nom Teamsters Local 79 v NLRB, 325 F2d 1011, 54 LRRM 2707 (CA9, 1963), cert denied 377 US 905 (1964).
- 16 US Steel Corp v UMW, 548 F2d 67, 94 LRRM 2049 (CA3, 1976), cert denied 431 US 968 (1977); Delaware Coca-Cola Bottling Co. v Teamsters Local 326, 624 F2d 1182, 104 LRRM 2776 (CA3, 1980).
- 17 Operating Engineers Local 18 (Davis-McKee Inc.), 238 NLRB 652, 99 LRRM 1307 (1978).
- 18 Indianapolis Power & Light Co., 273 NLRB # 211, 118 LRRM 1201 (1985); Arizona Public Service Commission, 273 NLRB # 210, 118 LRRM 1277 (1985).
- 19 IBEW Local 387 v NLRB, 788 F2d 1412, 122 LRRM 2304 (CA9, 1986).
- 20 IBEW Local 1395 v NLRB, 797 F2d 1027, 122 LRRM 3265 (CA9, 1986).
- 21 Indianapolis Power & Light, 291 NLRB #145, 130 LRRM 1001 (1988).
- 22 Indianapolis Power & Light v NLRB, 898 F2d 524, 133 LRRM 2921 (CA7, 1990).
- 23 Electrical Workers Local 803 v NLRB, 826 F2d 1283, 126 LRRM 2065 (CA3, 1987).
- 24 DeBartolo Corp. v Florida Gulf Coast Building Trades, 485 US 568, 108 S Ct 1392, 1400, 128 LRRM 2001 (1988).
- 25 29 USC 158(b) (4) (B).
- 26 Local 450 Engineers v Elliott, 256 F2d 630, 42 LRRM 2347 (CA5, 1958).
- 27 Longshoremen, ILA v NLRB, 56 F3d 205, 149 LRRM 2449 (CA9, 1995).
- 28 Dowd v ILA, 975 F2d 779, 141 LRRM 2489 (CA11, 1992).

To: Labor/Community/Religious Coalition in Support of the Striking Newspaper Workers
From: Ellis Boal
Re: Update on Sympathy Strikes
Date: December 13, 1995

"Sympathy strikes are a common manifestation of traditional union solidarity."¹

On September 13-14 and October 24 the Coalition called on the Detroit Metro AFL-CIO, based on a vote of its affiliates, to call a one-day work stoppage of area unions as a solidarity action in support of the striking newspaper workers. As of today memberships of three of the six striking unions (printers, engravers and pressmen) have supported this.

On September 20 I wrote a memo discussing legal notions of general strikes. The gist was that while it was wise to counsel "generalist" unions contemplating action of the dangers of sympathetic action, there should not be a knee-jerk view it would necessarily be held illegal. The memo noted that employers would have trouble enjoining sympathy strikes, suing individual members for damages, claiming there was an illegal secondary boycott, or suing unions such as certain Teamster carhaul locals at the time whose members were working without a contract.

As for damage suits against the generalist unions, the memo noted this would depend on the interpretation of specific no-strike clauses. It reviewed the NLRB's evolving rule of construction. Currently, regardless of the broad and express wording of a particular clause, if the "extrinsic" evidence – the legal landscape, the linkage of the clause with the grievance procedure and/or no-lockout clause, the existence and placement of other related clauses in the contract, and the history of bargaining, company enforcement, and arbitral decisions – shows the intent is unclear or ambiguous on the issue of sympathetic action, the NLRB protects it. Union waivers of such important rights which are not "clear and unmistakable" are ineffective.

Two NLRB cases not noted in the memo continue this view:

In 1985, relying on the just-issued and as yet unclarified Indianapolis Power & Light² decision, the NLRB considered a 1980 sympathy strike which resulted in one-day suspensions of 240 OCAW members. The no-strike clause stated simply there will be no strikes, work stoppages, slowdowns, lockouts, or other intentional interferences with production. At first, instead of deciding the merits of the case, the NLRB deferred to a 1978 arbitration decision which had upheld discipline in such a strike. At the time of the 1980 strike under review, in addition to the 1978 case, the evidence was that the company had once previously allowed sympathetic action by members to go undisciplined, the union had proposed and withdrawn a change in the no-strike clause claiming the proposal was only meant to clarify existing understandings, and Davis-McKee³ with its 180° - different pro-union burden of proof was in effect. Then on appeal, the Ninth Circuit remanded, holding the NLRB should have considered the extrinsic evidence. On remand in 1987, the NLRB applied the resuscitated Davis-McKee rationale and rejected the 1978 arbitration decision. Without relying on the doctrine of coterminous application, it reasoned that the parties had agreed to disagree on the meaning of the no-strike clause at the time the union had proposed and withdrawn its change in the language. Therefore the sympathy strike was protected.⁴

In a 1989 nursing home case, the NLRB reviewed a contract clause that prohibited both strikes and lockouts and said any differences will be resolved through arbitration. There was no extrinsic evidence of the parties' intent one way or the other. Though the no-strike clause was separate in the contract from the grievance procedure, the functional linkage with arbitration convinced the NLRB under the clarified 1988 Indianapolis Power & Light⁵ that it was coterminous with the arbitration clause. Employer statements made during the two-month sympathy strike that strikers could lose their jobs or be replaced were ambiguous; they could have meant merely sympathy strikers were replaceable; this would have been consistent with sympathy strikes not being prohibited by the contract. Accordingly the company should have reinstated 11 unreplaced strikers at strike's end and 9 more when it began hiring later. Backpay was ordered in amounts to be determined.⁶

NLRB decisions concern individual union members being disciplined, not unions being sued under section

301⁷ for damages. My previous memo did not discuss damage suits. The news from this front is less encouraging.

In 1984 a split Sixth Circuit sitting en banc upheld a \$26,238.50 damage award against a Teamster local. Termed a "molehill," the strike – which assumedly protested the trespassing arrests of two fired drivers – was not a sympathy strike. But like a sympathy strike, it was over a non-arbitrable issue. The majority treated the rule of coterminous application as one of contract construction not of law. Claiming to view the contract in light of the law when it was made, it held the Teamsters' national master freight agreement and southern conference OTR supplement barred strikes even over non-arbitrable issues. Without citation to bargaining history it held the no-strike clause was given in exchange for the no-lockout clause, not for the grievance procedure. It also relied on the existence of specific contractual allowances of certain non-arbitrable sympathetic actions: supportive actions to assist other Teamster locals having disputes with the generalists' employers, and refusals to cross primary picket lines. The court reasoned these allowances meant other non-arbitrable issues were therefore not strikable. In the previous memo I argued the presence of these clauses tended to establish the contract generally allowed sympathetic action. This decision may undercut that view. But perhaps the court would view a genuine sympathy strike differently from a "molehill." The decision came before the several remands by other courts of the unclarified 1985 Indianapolis Power & Light doctrine.⁸

Finally in a split 1990 decision the Eight Circuit affirmed jury verdicts of \$24.6 million for a company against a local and its international union because members honored picket lines of a sister local in a 1987 dispute with the company. The no-strike clause was expressly linked to the grievance procedure. Against a union argument that therefore the contract on its face allowed sympathy strikes, the court noted it also required members to accept struck work from other company plants. Also union negotiators had agreed an earlier no-strike clause barred sympathy strikes, had tried unsuccessfully to change the present one to explicitly allow them, and had agreed the present one barred wildcat strikes. The court held the contract ambiguous. Under general rules governing commercial contracts, the meaning of an ambiguous contract is a jury question. So the court sent it to the jury with the instruction that to win the company had to prove the unions had clearly and unmistakably waived sympathy strikes. The jury said the company had proved this. The court also vacated an arbitration decision upholding the unions. The court noted the company had not consented to arbitrate the issue of sympathy strikes in the submission, and it held the jury verdict should have precluded a contrary arbitration decision. The dissent agreed with the unions that the contract was unambiguous and therefore not jury-submissible. But even if it were ambiguous, it continued, that would necessarily mean any waiver was not clear and unmistakable, and therefore it did not bar sympathy strikes.⁹

Considering these cases, the question of generalist union liability in damage suits is still governed by a union's particular contract and surrounding history. The idea that unions agree to no-strike clauses just to get no-lockout clauses lacks any basis in history,¹⁰ and should be easy to refute. But bad historic union admissions with a particular employer could hurt. If there has been no history of negotiations on sympathetic action at all, as in Bristol Convalescent Home it may be permitted.

Courts of appeals are to use the same standards construing a contract, whether in the NLRB or 301 context.¹¹ But they should defer to the NLRB's interpretation of a contract if it is reasonable and consistent with the policies of the law.¹² (Arbitration proceedings on the other hand seem to be getting very little deference.)

The most recent NLRB pronouncements amount to re-instatement of Davis-McKee, as the Seventh Circuit has observed.¹³ In NLRB proceedings the burden is now back on the employer.

So if any generalist local observes a call to sympathetically strike its own employer in response to calls from the striking unions, perhaps its best legal response to a threat of a damage action would be to start a preemptive NLRB case first against individual threats or reprisals. Then hope to get a favorable NLRB construction of its no-strike clause, which the court would defer to in any subsequent damage action.

NOTES:

1 Black's Law Dictionary, 5th Revised Edition, 1979, p. 1276.

2 Indianapolis Power & Light Co., 273 NLRB # 211, 118 LRRM 1201 (1985), remanded IBEW Local 1395

v NLRB, 797 F2d 1027, 122 LRRM 3265 (CADC, 1986).

3 Operating Engineers Local 18 (Davis-McKee Inc.), 238 NLRB 625, 99 LRRM 1307 (1978).

4 Chevron USA, 275 NLRB # 132, 119 LRRM 1238 (1985), reversed, 842 F2d 1141, 127 LRRM 3164 (CA9, 1988), supplemental opinion 296 NLRB # 73, 133 LRRM 1064 (1989).

5 Indianapolis Power & Light, 291 NLRB # 145, 130 LRRM 1001 (1988), aff'd 898 F2d 524, 133 LRRM 2921 (CA7, 1990).

6 Bristol Convalescent Home, 293 NLRB # 73, 132 LRRM 1070 (1989).

7 29 USC 185 (a).

8 Ryder Truck Lines v Teamsters Local 480, 727 F2d 594, 115 LRRM 2912 (CA6, 1984) (en banc), cert denied, 496 US 825 (1984).

9 John Morrell & Co. v UFCW Local 304A, 913 F2d 544, 135 LRRM 2233 (CA8, 1990), cert denied 500 US 905 (1991).

10 Textile Workers v Lincoln Mills, 353 US 448, 455, 77 S Ct 912 (1957); Steelworkers v Warrior & Gulf Navigation Co., 363 US 574, 578, 80 S Ct 1347 (1960); Teamsters Local 174 v Lucas Flour Co., 369 US 95, 105-06, 82 S Ct 571 (1962); Boys Markets v Retail Clerks, 398 US 235, 248, 90 S Ct 1583 (1970).

11 Local 1395 IBEW v NLRB, 797 F2d 1027, 1030, 122 LRRM 3265 (CADC, 1986).

12 Electrical Workers v NLRB, 786 F2d 733, 736, 121 LRRM 3259 (CA6, 1986); NLRB v Southern California Edison, 646 F2d 1352, 1362, 107 LRRM 2667 (CA9, 1981).

13 Indianapolis Power & Light v NLRB, 898 F2d 524, 528, 133 LRRM 2921 (CA7, 1990).