

Labor Lost

Why the AFL-CIO's cynical survival strategy is doomed

By Michael McMenamin

Organized labor was a one-century phenomenon. Look it up. Union members were only 9.5 percent of the private sector work force in 1999, down from a peak of 37 percent 40 years earlier. The last time union membership was that low was in 1902, when union members were 9.3 percent of the private sector work force. And back then, unions were true member-based organizations poised to play a significant role in the new century's economic growth, not the government-coddled, coercive institutions they have become. The current union leaders, led by AFL-CIO President John Sweeney, have no realistic plans to change course. They are presiding over the final, terminal stage of organized labor. And they like things just the way they are.

Today union leaders, politicians, and employers conspire to take from their members, constituents, and employees hundreds of millions of dollars every year, in violation of the First Amendment. What was once a proud mass movement that improved and dignified the lives of its members in vital segments of the manufacturing-based economy is now no more than a special-interest adjunct to a political party, humored and tolerated less for the voting bloc it no longer commands than for the soft money it can deliver. Organized labor in the private sector no longer serves the interests of its members. It has failed to adapt to the new information economy, as it successfully adapted to industrialization in the early 20th century. It is dying before our eyes.

No one symbolizes the sad, cynical future of organized labor as just another special interest group with money to throw around better than Sweeney, the well-padded former president of the Service Employees International Union (SEIU). The SEIU, whose core members are janitors and low-level health care workers, is now the single largest union in the AFL-CIO. Sweeney, who majored in economics at Iona College, has been a union employee all his adult life; he started working for SEIU in 1960. He has never cleaned office buildings or emptied bed pans, as have the bulk of the SEIU's members, whose hard-earned dues paid his expense account and supported his comfortable, six-figure-income lifestyle while he headed up the SEIU.

Sweeney was elected president of the AFL-CIO in 1995, over the opposition of the old industrial unions. His campaign theme: *Do what I did*. Stop spending so much money on your current members, negotiating and administering their contracts and processing their grievances. Instead, trust their employers to do the right thing. Then spend more money on organizing new members. Sweeney's goal was to increase AFL-CIO membership by 3 percent annually, i.e., an additional 600,000 new members each year—a tough goal he has yet to meet. In 1998, for example, the AFL-CIO added a record 475,000 new workers to its member organizations. But with other union members leaving through plant closings and downsizings, the net gain was only 65,000.

Even the net gain is deceptive because the union members leaving through plant closings and downsizings are not being replaced by members holding comparable jobs. Organized labor grew in the 20th century as America changed from an agricultural to an industrial economy. Things are very different today, and organized labor has found no analogous role in the post-industrial economy.

Even academics sympathetic to unions concede that they're on the skids. In his recent book, *From the Ashes of the Old: American Labor and America's Future*, Stanley Aronowitz, a Marxist-leaning professor of sociology at the City University of New York, writes: "As we approach the new century, organized labor has fallen on hard times. Once the force that encouraged government intervention in every aspect of economic life, the labor movement, over the last twenty years, has become a symbol of what many see as a surpassed system. Many younger people, who never experienced the Depression, World War II, and the days of postwar prosperity, are now mesmerized by the ideology of individual initiative and the promise of a gleaming high-tech future."

Sweeney already knows that unions have nothing to offer to people "mesmerized by the ideology of individual initiative and the promise of a gleaming, high-tech future." The simple reason: They're making too much money. But if the New Labor of John Sweeney holds no attraction for employees in the post-industrial economy, and the manufacturing work force of the old economy continues to shrink, what is Sweeney's business plan for maintaining labor's cash flow from member dues? His new paradigm for labor is to organize the working poor, those people employed in minimum-wage or near-minimum-wage positions.

That paradigm is embodied in Sweeney's own SEIU, one of the few unions that consistently shows net membership gains. The SEIU spends 47 percent of its annual budget on organizing, and its locals devote approximately 20 percent of their funds to the same task—a total of more than \$60 million, \$33 million of it from the locals. To appreciate the magnitude of this, as recently as 1993 no more than 10 of the SEIU's 77 locals put *any* money into organizing, and in 1995 the SEIU and its locals spent only \$20 million on organizing. Even the SEIU's 1995 spending level is impressive when you consider that as recently as 1996, according to Richard Bensinger, director of the AFL-CIO organizing department, only 3 percent of union funds nationwide was spent on organizing.

The marketing strategy is working. In 1998 the SEIU won 66 percent of the elections in which workers chose whether to certify it as their representative. By contrast, the Teamsters won only 44 percent of their elections, and the rest of the AFL-CIO, other than the Teamsters and the SEIU, won only 49 percent.

The SEIU's success in winning certification elections underscores the rank cynicism of Sweeney's model, which gives the union a swelling stream of dues revenue. The fact is that unions achieve less for the working poor than the market does. A recent study by economists William Even of Miami University of Ohio and David Macpherson of Florida State University shows that during the last 20 years the median percentage wage growth for full-time minimum-wage workers in their first year of employment was 13.8 percent. For all minimum-wage workers, it was 10.1 percent. No union contract today even comes close to what the market produces on its own for the working poor, who rapidly move on to better-paying jobs.

The SEIU is the country's largest health care worker union, in both hospitals and nursing homes. Health care is the union's niche, and Sweeney's successor as SEIU president, Andrew Stern, is pressing his old boss hard for an allocation of markets to eliminate competition from other unions in the health care industry. Last year, the SEIU entered into a jurisdictional agreement with the Hotel Employees and Restaurant Employees Union (HERE) under which the SEIU agreed not to organize hotel workers or gambling employees and, in turn, HERE agreed not to organize janitors or health care workers. (If two companies made a deal like that, of course, they'd be violating the antitrust laws, but unions have long had a get-out-of-jail-free card when it comes to antitrust.)

Why target the health care industry? In a recent monograph, *Labor Pains: The Corporate Campaign Against the Health Care Industry*, Jarol B. Manheim, a political science professor at George Washington University, offers the same explanation Willie Sutton once did for robbing banks: That's where the money is.

Manheim points out that there are 6 million to 7 million potentially organizable workers in the health care industry, whose dues would produce a revenue stream of nearly \$3 billion a year. Moreover, as Manheim observes, “many of these workers are in low-wage, low-prestige jobs and many are women or minorities.”

He incorrectly considers this a barrier to organizing, because turnover in these jobs is well over 90 percent. Manheim suggests that high turnover “makes the workers to be organized something of a moving target.” Not really. In a dynamic economy, there will always be high turnover in low-wage, low-prestige jobs as the working poor move on to better-paid, higher-prestige jobs and have their places taken by other entry-level employees. This suits the SEIU just fine. All it has to do is win one election with the employees it has organized at that time. Once it wins, it pretty much can just sit back and let the dues roll in.

Unionization doesn't stop turnover in low-wage, low-prestige jobs. But the new employees who take those jobs after their predecessors move on to better things find themselves saddled with a union they didn't choose because the labor laws presume that the new employees support the union in the same proportion as the old employees did. The law does provide for decertification elections, but the National Labor Relations Board (NLRB) frowns on them. As a consequence, only 199 were held in the first six months of 1999, down from 247 in the first half of 1998. Besides, to win an initial election, unions need only a majority of those voting. Decertifying a union requires a majority of all eligible voters.

The SEIU is far less successful at representing its members than at organizing them. While it won two-thirds of its elections in 1998, it succeeded in actually negotiating a contract in less than half of those workplaces. The reason has to do with the economics of the health care industry, which is highly dependent on government financing and highly constrained by government regulations. Seventy percent of the revenue in nursing homes alone comes from Medicaid. Starting with the Health Care Finance Administration in Washington, every aspect of the health care delivery system is regulated by one, two, or more levels of government with respect to the quality of care, the type of care, conditions in health care facilities, and reimbursement. These rules and the level of Medicaid reimbursement limit the ability of employers to meet union demands.

In his description of a threatened statewide strike at Connecticut nursing homes in 1999, Manheim shows how government regulation can work to the SEIU's benefit. Given Medicaid-mandated cost controls, the nursing homes simply could not afford the pay increases demanded by the union. The impasse energized the state's governor, John Rowland, who met with legislative leaders and subsequently announced a 10 percent increase in Medicaid reimbursement rates in each of the next two years, for a total of \$179 million, \$150 million of it earmarked for salary increases.

But this sort of thing doesn't work very often, which is why the SEIU can't successfully conclude more contracts and keep its campaign promises to secure higher wages. The employers cannot afford to pay more, and the people in the low-wage, low-prestige jobs that are the SEIU's stock in trade cannot afford to go on strike. Without the strike weapon, the SEIU has little leverage unless it can find a pushover like John Rowland who doesn't have the experience or sophistication to recognize a bluff when he sees one. Even then, the SEIU has to have enough of a state's nursing homes under contracts with a common expiration date to mount a credible bluff.

The SEIU's continued expansion in the health care industry depends less on its ability to deliver higher wages than on its political clout. In July, for example, the Health Care Finance Administration delivered a report to Congress recommending new rules that would force thousands of nursing homes to hire more nurses and health aides. But that will happen only if Congress dramatically increases Medicaid payments to nursing homes.

Organized labor's future was far brighter 100 years ago, even if its market share was no greater than it is today. Early in U.S. history, unions were organized around skilled trades or crafts: bricklayers, plumbers, pipe fitters. Unions established apprentice programs to train employees and ensure quality. They served as clearinghouses and hiring halls. Samuel Gompers, the legendary head of the American Federation of Labor (AFL), was a cigar maker's son who apprenticed as a shoemaker and later as a cigar maker. As industrialization increased throughout the United States in the late 19th and early 20th centuries, the labor movement adapted by forming industrial unions, such as the United Mine Workers, headed for many years by John L. Lewis, the son of an immigrant Welsh miner and a mine worker himself. The early unions were bottom-up associations, organized and run by the members. While often resisted by employers, collective bargaining during the first third of the century unquestionably served to improve safety and conditions in a wide range of American industries, from the mines to the mills.

Led by Lewis, the industrial unions split from the AFL in 1934 and formed the Congress of Industrial Organizations (CIO), a split that continued until 1955, when the rival groups merged. The rivalry between the AFL and the CIO did not prevent them from uniting to secure the passage of the National Labor Relations Act (NLRA) of 1935, which marked the end of labor unions as voluntary organizations. The NLRA not only permitted but encouraged compulsory union membership as a condition of getting and keeping jobs.

The power of the federal government had a predictably dramatic effect on the fortunes of labor unions in the 1930s and '40s. In 1902, 9.3 percent of all private sector nonagricultural workers belonged to unions. By 1935, the figure had increased only to 14 percent. But by 1940, unions had nearly doubled their size, to 24 percent of private sector workers. At the end of World War II, union membership had soared to almost 34 percent of private sector workers. That figure inched up to 35 percent in 1955 and hit a peak of 37 percent in 1960. The years that followed were all downhill for unions in the private sector, which gradually dropped to 31 percent of nonagricultural workers in 1970, 28.5 percent in 1975, 20.6 percent in 1980, 14.6 percent in 1985, 12 percent in 1989, and 9.5 percent today.

A major reason for the decline is that free markets are natural enemies of monopolies. Scratch a trade union, and you always find a would-be monopolist underneath. While few succeed, they openly seek to eliminate wages as an element of competition in an industry. As United Steelworkers General Counsel Arthur Goldberg wrote in 1956, "Any labor union is a monopoly [whose purpose is to] eliminate competition between working men for the available jobs in a particular plant or industry [and] increase by concerted economic action their wages."

This is not easy to do. If a union fails to organize all of the companies in a particular industry, it cannot maximize its power. So long as nonunion competitors are not paying the same labor costs, unionized companies in a competitive industry are not in a position to pass on all their wage increases to their customers in the form of higher prices. Or if they pass on their wage increases, they are likely to suffer severe losses in sales volume to their nonunion competitors. As a consequence, unions in highly competitive industries usually are not very powerful. Labor cost remains a competitive factor. Unionized companies are hard bargainers. They know wage increases can't be passed on to their customers unless their nonunion competitors raise their prices at the same time.

The Teamsters faced such problems in the 1930s with the fledgling over-the-road trucking industry: It was decentralized, with many small nonunion firms, and entry for new companies was relatively easy because of low capital investment requirements. Labor costs were the single largest expense in the trucking industry. Because of the intense competition, wage increases could not be offset by price increases. That fact frequently led companies to move their headquarters to cities where labor costs were lower.

Ease of entry and cutthroat competition: not a pretty picture for a union. Fortunately for the Teamsters, they had the Motor Carrier Act of 1935 and the Interstate Commerce Commission (ICC) on their side. The New Deal brought competition in over-the-road trucking to a rude halt. Interstate truckers had to apply to the ICC for a “certificate of public convenience and necessity,” which rigidly specified the routes to travel, terminals to use, and territory in which to operate. The ICC also eliminated competitive rates, establishing rate bureaus run by the truckers themselves. In other words, the ICC took a growing, highly competitive, decentralized industry, in which anybody who could buy a truck could go any-where there was a road, and substituted a rigid, stultifying cartel under which government consent and fixed rates replaced market demand and competitive prices.

Lucky for the Teamsters, who by the 1960s had the country’s largest union. Lucky for organized crime, which drew on the Teamsters’ pension fund to jump-start its hotel and casino empire. Without the iron hand of the federal government to bring order out of the imagined chaos of trucking in the ’30s, the Teamsters never would have been able to achieve a nationwide contract; organized crime would have had to find different sources of funding for its Las Vegas investments; Teamsters boss Jimmy Hoffa wouldn’t have spent the late ’50s and early ’60s fighting off the Kennedy brothers; and James Hoffa Jr. would know where his father is buried. Jimmy Hoffa understood the vital role the ICC played in the Teamsters’ success. He knew that trucking companies were woefully weak bargainers on economic issues because the ICC was always there to grant rate increases. In response to a question about whether he anticipated a strike over a 1962 dispute, Hoffa said, “Only if we need one to convince the ICC to grant a rate increase.”

The market eventually catches up to monopolies. Deregulation did in the Teamsters. Unions also once had a virtual monopoly in three major U.S. industries: autos, steel, and rubber. The preeminent position of American automobile companies in the U.S. market was substantially altered by foreign competition. Honda and Toyota now have plants in America, all nonunion. Something similar happened with the U.S. rubber industry. Michelin of France has many nonunion plants in the United States, and there are only two American-owned tire companies left. Foreign companies bought the rest. The United Steelworkers saw their membership drop from more than 1 million in 1981 to barely 600,000 in 1988. Even today, after merging with the United Rubber Workers, their membership is only 670,000.

As a generation of economists has demonstrated, monopoly positions cannot be maintained by corporations for any extended period without government assistance. Without legal barriers to entry, the prospect of high profits lures competitors into the market. Unions are no different. It is virtually impossible for them to achieve monopolistic goals in highly competitive, growth-oriented industries where new jobs are being created, like the businesses of the new information economy. As a consequence, unions have a vested interest in government regulation, and they tend to be strongest in stagnant or decaying industries, where seniority or union hiring halls raise barriers to entry, and in heavily regulated industries with little price competition.

Let’s not forget the public sector. Like transportation in the past and health care today, government is a monopoly to which ordinary economic rules don’t apply. Accurate statistics weren’t kept on union membership in the public sector before 1983, when 35.7 percent of all public sector employees belonged to unions. During the next 10 years, unions managed to increase that by only three percentage points, to 38.7 percent. Since then the trend has been down, with the figure dropping to 37.3 percent in 1999. Meanwhile, however, the importance of government employees to the labor movement has been rising. Back in the early 1980s, only one of every three union members was a public employee. Now it’s closer to one out of every two. Low-paid service workers on the one hand, government employees on the other: That is the face of New Labor.

In its role as a left-of-center special interest group relying on campaign contributions rather than votes for political clout, Old Labor does not have much of a future. What about New Labor? Fifteen of the 25 biggest-spending political action committees in 1998 were labor union PACs. Well over 90 percent of organized labor's political contributions and expenditures go to Democrats. More important, during the '90s five of the top six and six of the top 10 soft money contributors to the Democratic Party were New Labor unions—i.e., unions representing government employees and workers in heavily regulated service industries. The big givers included the SEIU, Communications Workers of America, the United Food and Commercial Workers, the National Education Association, the American Federation of Teachers, and the American Federation of State, County, and Municipal Employees.

It's a strange list, but it proves the point: Where are the great names from labor's fabled past? Where are the Auto Workers? The Steelworkers? The Mineworkers? The Teamsters? Anyone trying to understand why Al Gore wants to expand government and spend the surplus rather than give it back to the people who earned it need look no further than this soft money list. Unlike Clinton, Gore is no more of a New Democrat than Walter Mondale. They both sold their souls to the unions, the quid pro quo being more public spending because that will increase the number of public employees, the most readily available pool of new union members and New Labor's best chance for improving its cash flow.

This is a risky strategy. Since 1980, according to *The New York Times*, between 32 percent and 40 percent of the voters in union households have voted Republican. In 1996 the AFL-CIO conducted a special \$35 million campaign to unseat the Republican Congress elected in 1994. Yet a survey showed that 62 percent of union members opposed that spending and fully 59 percent of them would have liked their share of that money given back to them.

Fortunately, they have the support of the U.S. Supreme Court. In the 1988 case *Beck v. Communications Workers*, a decision written by its most liberal member, William Brennan, the Court said it violates the First Amendment to force employees, over their objections, to pay union dues that are used to support political candidates or causes. President Bush's only attempt to enforce *Beck* came in 1992, when he issued an executive order requiring federal contractors to inform their employees of their *Beck* rights. That order was soon rescinded by President Clinton. Since 1993, the Clinton administration, Democratic members of Congress, federal judges, and NLRB members appointed by Clinton have been engaged in a vast ruling class conspiracy with union leaders to keep employees covered by union contracts ignorant of their First Amendment rights under *Beck*, making it as difficult as possible for them to object and recover the political contribution portion of their dues.

Beck is the labor movement's unacknowledged Achilles heel. If the rights of employees recognized by the Supreme Court in that decision are ever enforced, it will doom John Sweeney's strategy of organizing the working poor along with more public employees in an attempt to reintroduce class warfare into American life through political campaign contributions. *Beck* doesn't just make it illegal to take union dues from employees over their objections and use them for political contributions. It says you can't use their dues for anything other than what directly benefits them: collective bargaining, contract administration, and processing grievances. What that means, in plain English, is that when an employee objects you can't legally spend his union dues for political campaigns or for organizing other workers. The NLRB, labor's lapdog, predictably disagrees, but its recent decision to that effect will be reversed on appeal.

In *Beck* the Court found that fully 79 percent of union dues were spent on activities that did not directly benefit the dues-paying workers. In Washington state, where voters passed a Paycheck Protection Initiative in 1992, 85 percent of the state's teachers declined to have their dues spent on political contributions. Imagine what would happen to New Labor if it lost two-

thirds of its revenue. No one in Congress would ever return John Sweeney's phone calls.

Most employees in unionized workplaces are unaware of their rights under *Beck*. A 1996 survey of 1,000 union members by Americans for a Balanced Budget revealed that 78 percent did not know they had a right to obtain a refund for that portion of their dues spent on political contributions. You can be certain that figure would approach 100 percent if they were asked about their right to refunds for dues spent on organizing.

Why aren't companies doing more to educate their employees about *Beck*? Largely because it's not in their interest for unions to increase spending on contract administration or grievance processing, expenditures approved by *Beck*. That would cause problems, possibly reduce productivity. Plus, any company that tried to inform its own employees of their *Beck* rights would face union reprisals.

Nor are we likely to see a concerted national effort by unionized companies to educate their employees. The Business Roundtable and the National Chamber of Commerce are too focused on bottom-line issues such as tort reform to be bothered with the constitutional rights of blue-collar stiff. They probably think it serves them right for voting for a union in the first place.

New Labor could not survive without its continuing cash flow unconstitutionally confiscated from employees ignorant of their rights. Could Congress enact legislation enforcing *Beck* rights in a meaningful manner, as the initiative in Washington state did by requiring explicit approval for political spending? A Republican one might. Such legislation has been narrowly defeated in the past. Would a new president sign it? Not if his name is Al Gore. And only maybe if it's George W. Bush. Keep in mind that a lot of those don't-rock-the-boat Business Roundtable types have given money to the Bush campaign.

Unions as we knew them in the 20th century are near death. An unconstitutionally acquired cash flow may keep them afloat for a while, but it's only a matter of time. New Labor, public employees and the working poor, will fare no better. They have only a marginal role in the 21st century's post-industrial economy. Government can't save New Labor now, any more than it could save Old Labor 40 years ago, when it started its downhill slide. It can only delay the inevitable.

The leaders of New Labor have chosen a path that will not lead to recovery. It is based almost entirely on support from the ruling political class, which allows them to exploit public employees and the working poor to generate the revenue for contributions to Democratic politicians. By turning their backs on their members, New Labor's leaders are living precariously. Because of *Beck*, they are just one election away from ruin—a sad end for a once proud movement that now puts cash flow ahead of its members.

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