Disunity within the House of Labor: Change to Win or to Stay the Course?

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In September 2005, six unions representing 5.4 million workers held their founding convention as a new federation independent of the AFL-CIO. Infelicitously named "Change to Win Federation" (CTWF), the new alliance has called for a rededication of union resources and energies towards organizing the unorganized. Although CTWF has occasioned considerable interest and speculation among labor supporters and observers, it is difficult to determine why the break occurred, other than, perhaps, the personal agenda of some of its leaders. An unstated, significant reason may be a desire on the rebels' part to operate relatively free of "no-raiding" strictures of the AFL-CIO, even though the group disclaims any interest in challenging existing bargaining relationships and has penned "solidarity pacts" with some of its principal AFL-CIO competitors and with state and local units of the federation. Competitive forces are missing in the market for workplace representation services. The new group may reignite the rival unionism that spurred organized labor's marked growth from 1935–1954, but early returns suggest an emphasis on militant posturing and on trendy, implausible themes such as "global unionism" and "subcontracting out strikes."

I. *Introduction*

In September 2005, seven major U.S. unions—the Service Employees International Union (SEIU), the Union of Needle, Industrial and Textile Employees-Hotel and Restaurant Employees (UNITE-HERE), the International Brotherhood of Teamsters (IBT), the United Food and Commercial Workers (UFCW), the United Brotherhood of Carpenters and Joiners (UBCJ), the Laborers International Union of North America (LIUNA), and the United Farm Workers (UFW)—held their founding convention in St. Louis as a new labor federation independent of the AFL-CIO. (LIUNA has yet to formalize its break from the AFL-CIO, but President Terrence O'Sullivan has stated that it is only a matter of timing.) Representing 5.4 million workers (as compared to the roughly 8.5 million remaining with AFL-CIO affiliates), and claiming as its mandate the call to "organize the unorganized," this new federation, infelicitously named the "Change to Win Federation" (CTWF), occasioned a flurry of media attention. Some commentators likened this division within the labor movement to the convulsive forces unleashed in 1935. That year, unions seeking to organize the mass-production industries on a wall-to-wall or "industrial" basis, initially grouped together as the Committee (later Congress) of Industrial Organizations (CIO), split off from the then-dominant umbrella organization largely catering to unions representing skilled workers along "craft" or skill, lines, the American Federation of Labor (AFL).

With the union density rate plummeting in 2005 to 8.5 percent of private sector workers (14 percent of the total workforce given that nearly one-half of government workers are organized),[1] for supporters of the labor movement, hope springs eternal; perhaps this time labor will get its house in order, its priorities straight, and begin to devote real resources and energy to creating a union presence among the 100 million nonunion workers in private U.S. firms.

It is, of course, much too early in the game to make firm predictions, but one can hazard a guess that there may be much less here than meets the eye (or the ear).

Keep in mind that in the United States the umbrella labor organization, whether the AFL-CIO or the newly minted CTWF, is not a "peak" organization of the type common in Scandinavian countries: It does not organize workers or engage in collective bargaining. The AFL-CIO is a federation in an even looser sense than the Articles of Confederation that once governed the 13 colonies. The federation provides a useful public face for legislative and regulatory initiatives, but organizing and collective bargaining are matters most often handled by local unions operating under varying degrees of control by their parent organizations called "international" unions (because of the Canadian locals they have or once had). If organizing private sector workers has been a failure, the responsibility lies squarely with the affiliates, not with the federation.

II. *Explaining the Split*

So why the split? Part of the reason, others have suggested, may be the personal ambition of some of the leaders of the rebel unions, notably Andrew Stern, the University of Pennsylvania-educated president of the SEIU, who may be acting out an oedipal struggle of sorts with his one-time mentor, John Sweeney, former SEIU head and AFL-CIO president since 1995.

Part of the reason may be money. The AFL-CIO charges per capita dues of 61¢ (recently raised to 65¢) per member per month for the services it provides. CTWF says it will be charging 25¢, generating approximately $16 million per year; the rebels promise that 75 percent of these per capita taxes and any savings from what it would have paid over to the AFL-CIO will be devoted to organizing drives. If these savings are sustainable over time,[2] the new group may indeed be a more efficient provider of coordination services. On the other hand, this may simply be a case of the upstarts free riding on the services they know will continue to be provided by Sweeney's group, the benefits of which will accrue generally to organized labor, whether the unions are member organizations or not. It is hard to see, for example, why it is cheaper for CTWF to run its own OSHA lobbyist-economist staff when the AFL-CIO has a well-established expertise in the area with the right relationships on the Hill and within the Department of Labor. Indeed, to avoid costly duplication of political activity, CTWF and the AFL-CIO have agreed to a "Protocol" for "Solidarity Chapters" that permits CTWF local unions to remain members of State Federation and Central Labor Council bodies, the units which are largely responsible for political action efforts. The AFL-CIO graciously dropped its demands that these local unions take a "loyalty pledge" and pay an extra "solidarity bonus."

Does the rift create any new money for organizing? CTWF claims that it and its affiliates will devote $41 million to organizing: $12 million of per-capita dues and $29 million that its unions will save by no longer paying AFL-CIO dues. But of this $41 million total, a portion represents resources that the AFL-CIO had spent, and no longer will be able to spend, on training organizers. The claimed $41 million, even if it is indeed new money, will not finance much of an increase in union density. If we assume that organizers receive $50,000 each in annual salary and that a similar amount is required for back-office support, this sum would only support about 410 additional organizers.[3]

Perhaps the most important factor was the perception on the part of the CTWF unions that their organizing efforts were being hampered by the no-raid provisions in Articles XX–XXI of the AFL-CIO Constitution, arguably the principal *raison d'être* for the formation of the federation in 1954. There are three relevant provisions here. One, Article XX, § 2, protects "established bargaining relationship(s)," defined as situations where a union either has been voluntarily recognized by the employer as a collective bargaining representative for a period of one year or more or has been certified as such by the NLRB or other appropriate government agency: "Each affiliate shall respect the established collective bargaining relationship of every other affiliate. No affiliate shall organize or attempt to represent employees as to whom an established collective bargaining relationship exists with any other affiliate. . . ."

The second, Article XX § 3(a), which is rarely invoked, deals with interference with "established work relationship[s]" of affiliates: "Each affiliate shall respect the established work relationship of every other affiliate. For purposes of this Article, 'an established work relationship' shall be deemed to exist as to any work of the kind which the members of an organization have customarily performed at a particular plant or worksite, whether their employer is the plan operator, a contractor, or other employer. . . ."

The third, § 2, Article XXI, which may be the most important, provides: "Any AFL-CIO affiliate that is actively engaged in organizing a group of employees and seeking to become their exclusive representative may invoke this Procedure to seek a determination affirming its ability to do so without being subject to ongoing competition by any other AFL-CIO affiliate. . . ."

When AFL-CIO affiliates hewed closely to fairly well-established jurisdictional lines, these strictures raised no serious difficulties; a decent consensus held over which unions could claim primacy over particular industries or workers. Technological change often blurred some lines, but most of these disputes were resolved under the Article XX–XXI process. However, with the massive reduction of jobs in traditional union strongholds, such as the mass production industries (autos, steel, rubber, paper), trucking, transportation, mining and utilities, many of the larger affiliates have absorbed unions outside their traditional industry and have turned into "general purpose" unions—adopting the unstated jurisdiction of the Teamsters: "anything that moves." For all practical purposes, the process has turned into a rule of "first in time, first in right." This has been particularly true of the public sector, where union jurisdictional boundaries have all but disappeared.[4]

CTWF says its sights are set exclusively on the unorganized and that it has no interest in "raiding" AFL-CIO affiliates. Yet, an important part of its message, crafted while still a coalition operating within the AFL-CIO, was to "put an end to the 'race to the bottom' caused by employers who pit one affiliate against another." The proposed method included (1) identifying those unions "with significant density in core industries"; (2) developing standards to protect these unions' "long-term programs to organizing in their core industries . . . from interference"; and (3) creating "Industry Coordinating Committees" comprised of unions "with significant density in the particular industry, sector, area or occupation" which would take charge of the overall organizing initiative, promote standards, and prevent other unions from undercutting those standards (CTWC, Amendments & Resolutions: 17–18). The concern here appears to be that the Article XX–XXI process ignored the claims of unions with significant density in the industry or market and often allowed weak unions to undercut the standards that would have been insisted upon by their "significant density" counterparts.

The new federation allows CTWF affiliates to maintain a no-raid pact among themselves (CTWF, Constit., Art. XV: 6), while retaining the thinly veiled option to raid AFL-CIO affiliates where appropriate, if they have not separately signed "solidarity charters" with the new group. Evidencing considerable progress here, the new group has inked a no-raid deal with the AFL-CIO's Metal Trades Department. Interestingly, even though the SEIU, a principal charter member, has been at loggerheads with the American Federation of State, County and Municipal Employees (AFSCME), an AFL-CIO affiliate, over claiming rights to child-care workers in Illinois and elsewhere (Myerson, 2005), SEIU, UFCW, and UNITE-HERE have inked deals with AFSCME not to raid each other's existing bargaining relationships (Amber, 2006). What goes for ferment in this story may take place in the construction industry, where the Laborers and Carpenters are poised to spark work assignment disputes with AFL-CIO affiliates in the building trades.

III. *Not Rival Unionism*

As I and others have observed (Estreicher, 2000, 1993; Pawlenko, 2006; Schwab, 1992; Brooks, 1976), the union movement can have no hope of making a dent in the ever-growing nonunion sector unless unions are required by a healthy competitive market for representation services to bid against each other for the hearts and minds of working people. Contrary to the widely held perception among unionists that rival unionism is bad for the cause of organized labor, the evidence points the other way. Labor's greatest period of growth was between 1935–1954 when there were two rival federations fighting for market share (Bernstein, 1970; Galenson, 1940).[5] It is also noteworthy, although not necessarily dispositive, that unions have had greater success winning NLRB elections when there were two or more unions on the ballot than in single-union contests (Chaison, 2001; Freeman, 1985; Krislov, 1959–1960). People and institutions do not usually change because they want to but, rather, because they have to. The forces that compel an IBM or a General Motors to shed its layers and refashion its products to capture and hold consumer loyalty seem attenuated, if not absent, in this market.

The CTFW may offer this promise of renewed competition, but for organized labor to make substantial inroads it will need to figure out what nonunion workers want from a workplace representative and reshape not only its image but also its package of services. Consider the observations of Thomas R. Donahue (2006), former AFL-CIO secretary-treasurer and (for a short while) president, on the "Change to Win" developments:

> Perhaps what was most seriously lacking in the "debate" was any examination of why the labor movement isn't growing, of the movement itself or of its appeal to new workers, and only a rededication of the idea of throwing more money at the problem. Quite apart from the substantial legal problems in organizing, a "physician heal thyself" approach might have occasioned an examination of the product being offered to workers and a searching examination of whether they want it.
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> In the service industries, where the boss is a distant figure and where the foreman is easy to hate, the old militant arguments and appeal for organization and traditional collective bargaining continue to appeal. But that approach has no traction in the new industries and little in small shops or offices where the modern-day worker simply doesn't hate the boss and won't be attracted by militant posturing. . . .

SEIU president Stern speaks in terms of focusing on "sectors in the economy that aren't going overseas," thus seemingly writing off vibrant U.S. companies operating in competitive product markets; "outsourcing" strikes by "paying workers in Indonesia or India to go on strike against the same global employer"; and working towards "a convergence of a global labor movement, a global corporate-responsibility movement, and nongovernmental organizations" (Mendoca, 2006). Heady stuff, and perhaps there will be some further gains among Las Vegas hotel workers, San Francisco office-building cleaners, and government-funded child-care workers. But do we have here the clear-eyed, pragmatic focus on the hopes and aspirations of real-world working people typified by John L. Lewis of the Mine Workers when he and his CIO compatriots bolted the AFL to embark on a new way of representing unskilled and semi-skilled workers in the growth areas of the economy of the 1930s?

NOTES

[1]Although the unionization rate fell slightly, the overall number of employees represented by unions rose from 17.08 million in 2004 to 17.22 million in 2005 (DOL, 2006).

[2]Presumably, the SEIU, IBT, and UFCW will first have to pay the $10.3 million in back per capita dues that were not paid prior to their disaffiliation.

[3]Even without the split, some additional resources would have gone to organizing. Trying to counter the CTW coalition, Sweeney in April 2005 had proposed a $22.5 million "Strategic Organizing Fund" (AFL-CIO, Winning for Working Families, 2005: 8). This initiative is likely to be scrapped now that the AFL-CIO faces a $28 million budget gap out of a projected income of $126 million in 2006.

[4]For proposals to reform the AFL-CIO process, see Pawlenko (2006) and Petruska (2003).

[5]According to one oft-cited source, unions represented 13.5 percent of U.S. workers in 1935 and reached their high of 32.5 percent in 1953 (Troy and Sheflin, 1985, App. A).

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