

lated only remotely if at all to the company's original business. Similarly on the labor side, it appears that outlawing the national wage contract would be found highly disadvantageous by some employers and a statutory "right to work" inequitable by many workers. Until we have something more closely approaching scientific demonstration in numerous cloudy areas, we will do well to limit the law to statements of principle and purpose and rely on judicial or quasi-judicial procedures to articulate declared policy with ad hoc puzzlement. In discharging this vital role, some courts now avail themselves of economic counsel in balance with their use of legal counsel; others prefer, in the bright blue yonder of the economic stratosphere, to "fly by the seat of their juridical pants."

While my emphasis on the usefulness of the economists as expert witness in litigation and as staff member or consultant in the legislative area may seem to be in the nature of a commercial for our craft, in fact it is a sober challenge to us to forswear a good deal of academic boon-doggling in the name of research and come up with some illuminating answers or at least well-grounded and stimulating hypotheses as to the nature and potentialities for both good and harm of price and non-price competition between large economic units and some inventive proposals for capturing the benefits and avoiding the abuses of such massing of private power.⁴

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In thus seeking to devise a model of privately administered price-making and wage negotiation compatible with the purposes of the Employment Act, can we discover any hard core of theory as to the basic nature of our problem which might furnish theoretical keys to its situation? I venture to suggest two hypotheses.

First, I am persuaded that a basic reason why an irresistible force of union cravings meets an immovable body of managerial prerogative is that the scope of decision making on wages and work rules has become too wide and its situs too far removed from the core issues that need to be resolved. This proposition, however, must not be mistaken as the premise for a sweeping proposal for corporation-busting or union-busting; it simply points to a discriminating realignment of functions. The issue as to centralization versus decentralization in the private hemisphere of our economy runs closely in parallel with the same issue in the public hemisphere. While certain functions such as defense, international relations, and fiscal policy must be and remain the functions of government, in the great body of operational matters, both civil and criminal, we find it better to let local autonomy decide upon patterns of life which free citizens find best adapted to their peculiar circumstances and values. They may invent, experiment, learn by doing, and profit by the experience of other autonomous groups. Similarly, certain financial and related investment and technological policies of the modern corporation can most efficiently be centrally determined. Wage bargains and detailed work rules seem to me to fall in a distinguishably different category and to call for serious effort by all parties to discover principles and shape practices of local autonomy that would promote serviceable reconciliation of conflicting alternatives on both sides rather than creating a widespread, even national, impasse by trying to extend a single formula to quite unlike situations. Instead of the sort of centralization marked by the intrusion of AFL-CIO and its Industrial Union Department and by the industry-wide coalescence of major companies in the national wage bargaining which tied up the steel industry and the economy, we need more flexible differentiation of local situations and variety of accommodation through initiative, experimentation, and natural selection.

Of course any such suggestion will be greeted by the union hierarchy as a proposal to "weaken the unions" and evoke the real, and in its time, legitimate

⁴ But even under the institutions we now have and with the understandings we have already gained, we should be able to recognize and act upon a few extreme situations where concentrations of economic power are so massive—and still growing—that government should proceed actively, not merely to check, but to reverse them. On the corporate side, I would nominate the General Motors Corporation; on the labor side, the Teamsters Union (quite outside the issues of shady practices now under attack). Exemplary action in each of these extreme cases would serve as a warning to others who have not yet stretched so far the tolerances of our free enterprise doctrine. And, even more significantly, the size and importance of these cases would assure such thorough discovery proceedings and such appeal to economic analysis by outstanding experts by both prosecution and defense as would define national policy over the whole area and for a considerable time into the future. The logic of action in the two cases is not identical, but it is equally compelling—though it is not possible to elaborate it here.