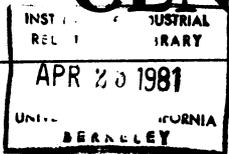


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UNION BUSTERS: THE NEW PROFESSIONALS

Mr. Stephen Cabot is a wealthy Philadelphia lawyer and businessman. He earns close to \$200,000 a year--the salary of the President of the United States--and charges up to \$1,000 for a single consultation. His income supports a lavish lifestyle which includes a private plane, a \$30,000 silver Mercedes, and a \$250,000 home.

Mr. Cabot's business is union busting. According to the Wall Street Journal which profiled him last year, Mr. Cabot specializes in "keeping unions out, dislodging unions that are already in, and extracting the best possible deal from unions that can't be removed." His tactics usually work. "I've seen very few instances," he told the Journal reporter, "where the smart company, planning in advance, has been unionized."

Mr. Cabot is not an isolated case. During the past decade, increasing numbers of attorneys, management consultants, and academic researchers, many organized into specialized firms, have gone to work for employers who seek to become or remain "union free." And the management consultant of today is different from his predecessors. "It's not the Homestead strike anymore, or the Pinkertons, or fight-the-bosses," says Anthony McKeown, President of Modern Management, Inc., the nation's largest anti-labor consulting firm. In place of yellow-dog contracts, hired company spies, goons, and strikebreakers, today's consultants use attitude surveys, "ventilation meetings," films broadcast over closed circuit TV, and endless numbers of legal documents.

The total number of active consultants is not known. Under the terms of the Landrum-Griffin Act, consultants who advise management during organizing drives are required to file a report with the Department of Labor. The number of such reports jumped dramatically during the mid 1970s. But a recent survey conducted for the Northwestern University Law Review disclosed that only 2% of responding management-labor attorneys had filed a report with the Department of Labor, although fully 65% admitted to engaging in reportable activity. If this study is accurate, the real number of anti-union labor consultants may be thirty times more than the 159 who reported to the Labor Department in 1978. The AFL-CIO estimated in October, 1980, that there are over 1,000 firms and 1,500 individuals engaged in full-time union busting. Employers now spend in excess of \$500 million annually on their services and use outside consultants in two-thirds of all organizing campaigns.

Paying to Stay--or Become--"Union Free"

Techniques of professional union busters vary. Some run one-time-only seminars --for up to \$500 per person--on topics like "Making Unions Unnecessary," "Employer Campaign Techniques," and "Labor and Employee Relations in a Union Free Environment." Others provide books and pamphlets (at up to \$50 a piece) on The Process of Deunionization; What to do When the Union Knocks; and Why Sonsofbitches Succeed and Nice Guys Fail.

Many of the law firms and high priced consulting firms become directly involved in union organization and decertification campaigns and collective bargaining. For employers who are non-union and want to stay that way, consultants

BERKELEY, CA 94720
(415) 642-0323

UNIVERSITY OF CALIFORNIA, BERKELEY

CENTER FOR LABOR RESEARCH AND EDUCATION
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offer sophisticated attitude surveys to identify dissatisfaction among workers. When unionization seems imminent, they advise their clients who to hire and fire, how to spread anti-union ideas, and if or when to make timely concessions.

For employers in the thick of an organizing campaign, strategies differ. Here lawyers go to work delaying the election as long as possible, while other experts use the time to advantage, training supervisors to harass and intimidate union supporters, stepping up anti-labor propaganda, and fostering "vote no" committees among the workers. Unions that win elections under such difficult conditions often find themselves bargaining to impasse with employers advised to demoralize the fledgling union by delaying a contract as long as possible.

Littler, Mendlesohn, Fastiff, and Tichy, a San Francisco based law firm well known locally for its union busting activities, used such tactics at the Seabrook Foods plant in Sanger, California. Bargaining with the Teamsters Union, which was certified by the NLRB in September 1978, was delayed for months while Littler attorneys filed 73 objections against the union--71 of which were thrown out by the NLRB. The Seabrook workers still do not have a contract (see LCR No. 16).

Employers who want to get rid of union contracts are coached in tactics of direct union busting. A favorite, although difficult, strategy: offer an unacceptable contract to force a strike, bring in scabs, and then covertly encourage a decertification election--to be held, naturally, while the non-union workers are eligible to vote. This tack is tricky, since employer sponsorship of decertification procedures is illegal. But the union-busting lawyers are more than happy to advise how to use "the gray areas of the law," (as one of them put it).

Unions Losing More Elections

The growing army of anti-labor lawyers and consultants seems to be making its mark. In 1978, unions won only 46% of all representation elections, down from over 60% in the mid-1960s. The number of decertification elections--in which workers vote whether or not to retain a union as their bargaining agent--has risen four-fold from 239 in 1968 to 803 in 1978; unions are now losing 74% of these elections, up from 65% a decade ago. These results add up: the total number of union members (excluding associations) in the U.S. has been on the decline since 1974. While it is impossible to say how many of labor's recent defeats are due to the activities of professional union busters, organizers cite many cases where their involvement has proved decisive.

Fighting Fire with Fire

Unions realize that they must counter the growing sophistication of the management consultants with growing sophistication of their own. The National Organizing Coordinating Committee, formed by the AFL-CIO in 1977, has worked aggressively to monitor the activities of employers' "hired guns," to pressure the government to crack down on those who do not register with the Department of Labor, and to develop strategies for conducting organizing drives under hostile conditions. On the local level, imaginative organizers and union members have developed new ways to combat the arsenal of tactics with which they are confronted. Some of these new strategies and tactics will be discussed in a future Labor Center Reporter.

- Anne Lawrence

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