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In a post on the recent New York City transit strike, Jonathan Wilde at Catallarchy wrote:

> In democracies, classes don't fight each other, organized groups do. Concentrated interests, regardless of "class", have far more incentive to engage in political activism than do dispersed ones.

That prompted Rad Geek to ask, in the comments:

> It seems that what you've offered here is just a claim that there are more classes than simply a monolithic managerial class and a monolithic working class, and that some classes of workers might seek to benefit at the expense of others?
>
> Or, to put it another way: if you aren't offering a class analysis of the transit strike, what level of analysis are you offering? Individual?)

Wilde:

> Yes. Individuals, in general, act for their own self-interest. When the yield from investment in government exceeds the yield from investment in civil society/market, they invest in government. They could act by voting, but the returns on voting are slim-to-none for any single individual, and thus voting is a mere exercise in self-expression. However, there is another outlet. The dynamics of the political marketplace are such that the highest return on investment in government occurs when self-interested individuals act together to get laws passed that favor them at the expense of everyone else (tariffs, quotas, licensing, etc). The costs are diffused over 280 million while the benefits are reaped by a small minority.
>
> I don't consider this a "class" analysis. The group created is a product of individual interests. Different competing groups are often of the same socioeconomic status, background, income level, and professions, often bidding on the same govt special privilege. The distinctions between different groups are small. Memberships between different competing groups can change easily as it becomes more rewarding for individuals to seek new allies. New groups can be created by members of already existing groups. I don't find it accurate to analyze the marketplace (free or political) as fundamentally class-driven. Economic action occurs at the level of the individual, not the group, not the class.

Rad Geek:

> Which individuals did you have in mind? The only person discussed in this post who is picked out as an indi-

> …the "union security" clause needs to be negotiated between the employer & the union, and is part of the union contract. Simply achieving representation does not automatically establish the union-membership or fee-payment requirement.

So maybe I don't have egg on my face after all.

> is NLRB-certified, the employer has no choice but to deal with it and may not bargain with individual employees, who must pay dues, or fees if they abstain from joining. It's called exclusive representation. That would not occur in a "right-to-work" state, of course. Another Freeman author, George Leef, points out in a forthcoming article that unionists James Pope, Peter Kellman, and Ed Bruno in the Spring 2001 "WorkingUSA" objected to exclusive representation, claiming it harms dissenters who would rather bargain alone or through a minority union. Their complaint is the standard one against any protected monopoly.

That criticism of the union shop's empowerment of "business union" monopolies is fairly common on the left wing of the labor movement, by the way. It's been expressed by Alexis Buss, among others (the author of the pieces linked above on minority unionism).

Anyway, I should state for the record that if (as seems increasingly likely, to my chagrin) NLRB certification automatically results in a union shop in the absence of right-to-work legislation, I consider that an injustice. But, as Sheldon suggests, the right-to-work law goes too far in the other direction in prohibiting union shop agreements by purely private contract. And it goes *way* too far in requiring unions to represent anyone not paying dues.

My apologies for the slipshod fact-checking.

P.P.S. This Just In (May 29, 2007): I may have gone too far in conceding the issue on the voluntary nature of union shops. On the discussion page concerning the "Right-to-Work-Law" article at Wikipedia, Miguel Madeira of Vento Sueste blog found the following answer:

vidual, as far as I can tell, is Megan McArdle. The analysis you offer seems to pick everyone else out on the basis of the interests presumedly shared by the members of five groups of people, differentiated from one another by socioeconomic factors: the MTA management, the TWU Local 100, poor commuters who use MTA busses and trains, well-off commuters who use MTA busses and trains, and folks who would be willing to accept scab work from the MTA management if it were offered. That seems like echt-class analysis. If it doesn't seem that way to you, I wonder what you think class analysis does look like.

Schuele suggested that the debate here has at least as much to do with miscommunication as with substantive disagreement. So, let's number off claims for convenience:

"[1] *The group created is a product of individual interests.* [2] *Different competing groups are often of the same socioeconomic status, background, income level, and professions, often bidding on the same govt special privilege.* [3] *The distinctions between different groups are small.* [4] *Memberships between different competing groups can change easily as it becomes more rewarding for individuals to seek new allies.* [5] *New groups can be created by members of already existing groups. …* [6] *Economic action occurs at the level of the individual, not the group, not the class.*"

Which of claims (1)-(6) do you think make for a disagreement between you and someone who thinks class analysis is a fruitful way to understand the transit strike (and significant patches of socio-economic life elsewhere)? Further, if there's more than one claim here that you take to cut against class analysis

> if true, do those separate claims cut it against it independently of each other, or only in conjunction with one another?

Personally, I think the traditional notion of class is a lot more useful when it's developed in terms of the power elite theory of Mills and Domhoff. Since what Mills called the "corporate restructuring of the capitalist class" in the twentieth century, the ruling class is shaped more by the institutional structures it acts through than by birth, marriage, and social mores. Still, I don't understand the instinctive revulsion so many libertarians have toward the idea of class in principle. Methodological individualism is all very well. But few practitioners of class analysis, I'm guessing, would object to the majority of the points Rad Geek enumerates above. Aside from some pseudo-Hegelian metaphysical buncombe emanating from the most vulgar of vulgar Marxists, I don't think much class analysis requires any kind of collective consciousness or will–just patterned interactions between individuals.

There were a couple of other interesting fibers in the comment thread, as well. One concerns the question of how far organized labor depends on the state:

> **Dave:** Only if propped up by political power can unions survive.
>
> **Rad Geek:** There were a good six and a half decades between the foundation of the Knights of Labor, and the establishment of government patronage of unions under the Wagner Act. I conclude that unions can survive quite well without being propped up by political power, and that there's nothing intrinsic to unions that's antagonistic to market survival.

Brandon Berg, if inadvertently, called into question the vulgar libertarian orthodoxy that the Wagner Act simply privileges unions against employers:

union shops are enforced by private contract between the employer and the bargaining agent. In other words, the employee is required to join the union and pay union dues by the *employer*. I believe the usual libertarian response to grousing about terms of employment is "if you don't like it, work somewhere else," or something to that effect. The right-to-work law is a form of state intervention in the market, prohibiting private employers from negotiating union shop clauses with their employees' bargaining agent, and compelling unions to represent non-members.

Kennedy, finally, took up the gauntlet in a post of his own at No Treason:

> Libertarians enthusiastically defended oil companies that raised their prices in the wake of Katrina, but they've had little appetite for defending the NY transit workers who decided to raise their prices.
>
> It was amusing to see someone who calls herself Jane Galt chiding workers for striking selfishly. Bloggers at Catallarchy were particularly vocal in defending the oil companies, but the only mention of the strike I can find on that blog just quotes Galt lamenting how strikers made victims of millions of New Yorkers. I can't imagine them letting similar charges against oil companies pass without comment.

Yeah, that *is* a little ironic, now, isn't it? It's been a long time since I read *Atlas Shrugged*, but didn't the folks in Galt's Gulch actually refer to their withdrawal as a "strike"?

Addendum, re my statement above on the basis of union shops in voluntary contract. Sheldon Richman, in the comments, has gone a long way toward convincing me that I probably put my foot in it:

> Charles Baird, a labor economist, union critic, and Freeman author, has often stated that once a union

> practicable route toward destatization could there be? The principle in the Communist countries should be: land to the peasants and the factories to the workers, thereby getting the property out of the hands of the State and into private, homesteading hands.

In L. Neil Schulman's *Alongside Night*, likewise, the leaders of the victorious agorist revolution suggested that government employees (at least those engaged in providing goods and services for which there would be market demand in a free society) should organize themselves as syndicates or producer co-ops and claim homestead rights to the property of the former government agency.

In the case of state universities, Rothbard argued, the rightful owners would be either the students or the faculty–in either case a return to the medieval status of universities as scholars' guilds. So in the case of a state-owned subway system, the rightful owners would be…?

John T. Kennedy also got into the fray with KipEsquire. Kip gloated that "the striking workers will… forfeit 6 days pay for their illegal acts, give or take…" Kip allowed himself to be provoked into the following non sequitur (rather remarkable for one who describes his blog's theme as "libertarian, individualist and laissez-faire…"):

> **Kennedy:** Why aren't libertarians commenting on the obvious injustice of outlawing strikes?
>
> **KipEsquire:** Because libertarians believe in freedom of contract. If you don't like the terms of employment, which are made clear upfront, then don't take the job.
>
> Now how about the injustice of requiring people to join unions, or at least to pay union dues, against their will?

With the exception of skilled trades unions, where the monopoly of the hiring hall is upheld by the state's licensing power, most

> Either you give in to avoid a disruption, or you start replacing strikers and then collect what damages you can from them afterwards. A credible threat to do the latter might cause some would-be strikers to change their minds.
>
> Anti-union clauses help to prevent this sort of situation—if they didn't, unions wouldn't be so vehemently opposed to them—but they're not foolproof, especially if workers unionize secretly. One way to help enforce this might be to reward workers for reporting union activity and then firing the instigators to make an example.

One of the most important effects of Wagner was to channel union activity into 1) state-certified majority unionism, 2) a contract regime relying heavily on the state and the union bureaucracies for enforcement against wildcat strikes and direct action on the job, and 3) reliance on conventional strikes rather than on forms of direct action more difficult to detect or punish. In short, Wagner channelled organized labor into the kinds of activity most vulnerable to employer monitoring and countermeasures. What's more, Wagner got the federal government's foot in the door for subsequent labor legislation like Taft-Hartley, which prohibited the secondary strikes that were so successful in the 1930s.

Without Wagner, the typical pattern of union activity would likely be far different. Without NLRB certification votes and NLRB-enforced contract regimes, the organized labor paradigm might be a lot closer to the Wobbly practices of "minority unionism"…

> U.S. & Canadian labor relations regimes are set up on the premise that you need a majority of workers to have a union, generally government-certified in a worldwide context, this is a relatively rare set-up. And even in North America, the notion that a union needs

official recognition or majority status to have the right to represent its members is of relatively recent origin, thanks mostly to the choice of business unions to trade rank-and-file strength for legal maintenance of membership guarantees.

The labor movement was not built through majority unionism-it couldn't have been. One hundred years ago unions had no legal status (indeed, courts often ruled that unions were an illegal conspiracy and strikes a form of extortion) — they gained recognition through raw industrial power…

Unionism was built through direct action and through organization on the job. But in the 1930s, the bosses found it increasingly difficult to keep unions out with hired thugs, mass firings and friendly judges. Recognizing that there was no way to crush unions altogether, and tired of the continual strife, they offered a deal: If unions would agree to give up their industrial' power and instead work through proper channels — the National Labor Relations Board in the United States, various provincial boards in Canada — the government would act as an "impartial" arbiter to determine whether or not the union was the bona fide representative of the workers.

In the short term unions were able to short-circuit the need to sign workers up one by one and collect dues directly. The bosses traded union busters in suits for the gun thugs they had previously employed. And after a short burst in membership, unions (particularly in the United States) began a long-term downward spiral. Under this exclusive bargaining model, unions do not attempt to function on-the job until they gain legal certification. That legal process affords the bosses al-

> the transit authority could accomplish the same thing with contracts. As a matter of principle, I'd prefer the first scenario. But since the difference seems to be purely symbolic, I can live with the second.
>
> Of course, if we're talking about private businesses, it's a different story altogether. I would oppose a law imposing a blanket ban on strikes by private employees, because the government doesn't have the authority to set policy for private businesses.

That sounds a lot like Rand's sympathies for administrative defenders of "law 'n' order" at state universities, during the campus unrest of the '60s.

Murray Rothbard's sympathies were considerably different. Since the state's title to property is illegitimate, the real owners are those occupying it and mixing their labor with it.

> Suppose… that Messers. Brezhnev and Co. become converted to the principles of a free society; they than ask our anti-Communists, all right, how do we go about de-socializing? What could our anti-Communists offer them?
>
> This question has been essentially answered by the exciting developments of Tito's Yugoslavia. Beginning in 1952, Yugoslavia has been de-socializing at a remarkable rate. The principle the Yugoslavs have used is the libertarian "homesteading" one: the state-owned factories to the workers that work in them! The nationalized plants in the "public" sector have all been transferred in virtual ownership to the specific workers who work in the particular plants, thus making them producers' coops, and moving rapidly in the direction of individual shares of virtual ownership to the individual worker. What other

ties entailed in demonstrating non-performance by any particular worker would probably be considerable. And in a stateless legal regime, where the cost of court services was based on the cost of providing them, an employer might find all the transaction costs involved in enforcing a no-strike clause to be more than it was worth. Without the state to subsidize those "strong information-gathering mechanisms," society might well be considerably *less* large and complex.

Anyway, my experience at just about every job I've ever held in "right-to-work" Arkansas has been that the employer explicitly stated up front, in writing, that the position was "at will." There was no contractual obligation for either of us to give notice for ending the employment relationship. The law, in its majesty, forbids both rich and poor to sleep under bridges and urinate in public. But every once in a while, a rich guy *really needs* to take a leak. You want a society in which there are no bonds of loyalty between employer and employee? Fine–it works both ways.

Brandon Berg:

> Consider the following scenarios:
>
> 1. The legislature passes a law requiring all government employees to sign a contract, as a condition of employment, promising that they will not strike.
>
> 2. The legislature passes a law forbidding public employees from striking. All public employees are informed of this law before they are hired.
>
> Correct me if I'm wrong, but I don't think you'd have an objection to the first. I don't think the government should be running a subway any more than you do, but as long as it does, the legislature has the authority and responsibility to manage it properly.
>
> And I don't see any functional difference between these two scenarios. If the anti-strike law didn't exist, most unlimited opportunity to threaten and intimidate workers, and to drag proceedings out for years.

* * *

> We must stop making gaining legal recognition and a contract the point of our organizing…
>
> We have to bring about a situation where the bosses, not the union, want the contract. We need to create situations where bosses will offer us concessions to get our cooperation. Make them beg for it.

and "direct action on the job."

> The best-known form of direct action is the strike, in which workers simply walk off their jobs and refuse to produce profits for the boss until they get what they want. This is the preferred tactic of the AFL-CIO "business unions," but is one of the least effective ways of confronting the boss.
>
> The bosses, with their large financial reserves, are better able to withstand a long drawn-out strike than the workers. In many cases, court injuctions will freeze or confiscate the union's strike funds. And worst of all, a long walk-out only gives the boss a chance to replace striking workers with a scab (replacement) workforce.
>
> Workers are far more effective when they take direct action while still on the job. By deliberately reducing the boss' profits while continuing to collect wages, you can cripple the boss without giving some scab the opportunity to take your job. Direct action, by definition, means those tactics workers can undertake themselves, without the help of government agencies, union bureaucrats, or high-priced lawyers.

For example, Wal-Mart may be about to find out what it's like to deal with de facto unions organized without the state's imprimatur, and playing by their own rules instead of ones written by the bosses' state. Rad Geek, in a post of his own, linked to a story about the Wal-Mart Workers Association: "Even Without a Union, Florida Wal-Mart Workers Use Collective Action to Enforce Rights." But as Rad Geek says, it *is* a union–a fighting union. With no NLRB certification and NLRB-enforced collective bargaining, the Association is using one of the most powerful forms of leverage the average worker has in today's economy: the company's public image. In time-honored practice, Wal-Mart workers are resorting to what the Wobblies call "open-mouth sabotage": taking their case directly to the public.

There was another interesting exchange in the Catallarchy thread that bore on questions raised earlier at Libertarian Underground, which I linked to in an earlier post. Several people in the Libertarian Underground discussion kept asserting, in general terms, that strikes were a breach of contract.

> **John T. Kennedy:** I've yet to hear of anything the union did wrong in the transit strike.
>
> **David Masten:** Isn't violating the terms of existing agreements (no collective strike) wrong?
>
> **Rad Geek:** The MTA's employees didn't "agree" to the Taylor Law. It was imposed on them by an interventionist state government with the power but not the authority to ban peaceful coordinated strikes.
>
> **John T. Kennedy:** That is my understanding. But even if there were an agreement not to strike nobody would be entitled to specific performance.
>
> **Jonathan Wilde:** You're throwing around the term "specific performance" without a full understanding of it. Contracts arise out of agreements to performance or an exchange of promise. The point of preferring the contracts be enforceable is to create some measure of assurance that the parties will carry out the terms of the contract. Should one side or the fail to live up to the terms, awarding of "remedies" by a court may include remission of the contract, monetary damages, or specific performance. Specific performance is usually not awarded as it is generally not feasible for the court to ensure adequate performance. If a string quartet breaks a contract to play at a wedding, it's not practical for the court to compel them to play. The court would have to send an officer to monitor the performance, and the quartet may give a poor performance on purpose. Thus, it makes more sense that they would be ordered to pay monetary damages to the aggrieved party. Sometimes it does make sense to compel specific performance if the terms of the contract refer to the exchange of a unique item, like a one-of-a-kind jewel or the Mona Lisa.
>
> Not awarding remedies would render contracts meaningless. Reputational effects are usually not sufficient without strong information-gathering mechanisms. They may have been enough in hunter-gatherer villages, but are lacking in large, complex societies without enterprises that gather information like credit bureaus.
>
> Lack of compelling specific performance does not mean lack of remedies. Fining and jailing people for [not] living up to contracted terms is not somehow "unlibertarian". As just one example, CEOs get jailed for failing to live up to their fiduciary responsibilities.

But without an NLRB-approved procedure for striking, and with unions resorting to de facto or undeclared strikes, the legal difficul-