Collective Bargaining by Foremen
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COLLECTIVE BARGAINING BY FOREMEN

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The unionization of foremen in mass-production industries has set off a new series of problems in industrial relations. Immediate questions arise as to its effects on our industrial economy: Is the foreman a part of management? Does foreman unionism threaten a breakdown of management? Can a unionized foreman effectively carry out managerial policies? Will the unionized foreman help to increase or decrease production? What is the relationship between the rank-and-file labor movement and foremen's unions?

Although the present study does not attempt to answer all the issues that have been raised, any study of the present foreman's relationship to modern industry must surely concern itself with such problems.

Foreman participation in unions is not entirely new. They have traditionally been covered by union agreements in such trades as printing, building, metal, and railroads. Furthermore, there are nine long-established unions whose membership consists of foremen or supervisors in the maritime and railroad industries and in the postal railway mail service. But the unionization of foremen in mass-production industries such as steel, automobile, electrical products, rubber, and clothing was comparatively unknown until 1943. Several attempts to organize them had failed until independent groups began to obtain noticeable organizational results during the first years of the war.

The person termed a "foreman" in industry is a supervisor who directs and coordinates the work of production employees placed directly under his supervision by higher management. He does not set company policy but interprets this policy to his subordinates. Often an employee who works on the job with other production men is placed in charge of the men and given a title such as a "working foreman," "gangleader" or "strawboss." Such an employee is not here considered as a foreman or supervisor.
The Foreman's Traditional Status

Almost without exception, the foreman has been traditionally classified as part of management. To some of the workers, he was the only boss they knew and his absolute authority over them was rarely questioned. He had the power to hire and fire and to transfer his workers from one job to another. This man, known as "the boss," enjoyed a rather wide latitude in determining the wage rates of new employees and the wage increases of his workers.

Since the beginning of the present century, the growth of mass-production industry has been rapid. The large outlay of capital necessary for mass production has necessitated a change in the internal organization of management as well as in the form of ownership. Reorganization of operational methods has substantially affected the status of the foreman. No longer can one man, or one group of men, rely on general knowledge of the job as the basis of daily production. Rather, in mass-production operations, the component parts processed in individual departments must be so controlled that a smooth flow of the finished product may develop. Independent action of one section or department may throw the entire plant out of gear.

As the old operating method gave way to large-scale and more refined methods of production, a staff organization of technical assistants and advisors was introduced to serve as a consultative body to establish departmental controls, and to coordinate production operations. Although such staff organization may act only as an advisory agency without direct authority over production employees, this innovation takes away the foreman's power to set his own pace and maintain his control within his section of the plant process.

In order to obtain a uniform employment system, all jobs within a plant must be analyzed and grouped according to similarity of skills. With this information available, a centralized department of employment can investigate types of labor available and localities in which to make proper contacts. The foreman previously had to depend upon his own acquaintances or upon applicants who were friends of his workers to fill vacant jobs in his department. With the achievement of a centralized employment system, the foreman
has been relieved of his hiring and job placement duties and has lost control of transfers and discharges as well.

The rapid growth of industrial unions has also had a tremendous effect on the foreman's job relationship in the plant. In many cases the foreman has not been trained to work in a plant operating under a union contract and he has resented the restrictions the contract places on him. Companies that have the best records in labor relations have carefully instructed the foremen in the terms of the new contract and notified them immediately of any changes in policy.

Because of the grievance procedure provided by many union agreements, the worker need no longer bring his grievances to the foreman and rely solely upon him for help. Some top executives have been prompt to back the foreman whose shop-steward ignored him as the first step in the grievance procedure. Other executives have been indifferent, considering the problem one for the foreman to work out.

A New Role for Foremen

The foreman's role in industry has, indeed, altered from his previous managerial position. Centralized control over policies concerning production, employment, wage rates, and union contracts has abolished much of the authority the foreman formerly maintained. Although these controls are quite necessary, they have given rise to conditions which have weakened a vital link in the business organization — the foreman.

Often the foreman, whose job has not been so carefully defined by scientific study as that of the worker, does not know who is his actual superior. In present-day industry, the foreman may be conferring with his direct boss in the line organization, with one to a dozen staff specialists ranging from efficiency engineers to personnel counselors, and with department foremen whose work is coordinated with his. Again, he may be dealing with his subforemen, strawbosses, lead men, other section leaders assisting in his department, and with the shop steward (if the plant is organized) representing his workers.

With a large staff organization, the status of the foreman needs to be more carefully defined than under the old line organi-
zation. Management in general recognized the need for a more scientific approach in determining the actual duties and responsibilities of its supervisory employees. Often, however, high-sounding titles and symbols of office are substituted for precise definitions of authority and jurisdiction.

Although the foreman's authority has decreased, his responsibility for executing policies has increased. He is held to higher and higher production standards, and his relationship to the worker has become even more vital. Higher management must depend upon him for knowledge of the workers and of the job conditions. Not only must the modern foreman be more versatile in the immediate operations of his department, but his work demands that he understand operating methods and procedures in related departments. He must be well acquainted with company rules and policies. He must know the cost system, the payment system, and the general manufacturing methods. In order to check on adjustments in his department, the foreman must understand the mechanics of production control, cost control, and time-and-motion study, even though they are administered outside his department.

Since the growth of widespread unionization, our national and state governments have passed an increased number of labor laws. As a supervisory official whose acts are considered to be in accord with company policy, the foreman must be familiar with the labor laws of the United States and of the state in which he is employed as well as with a specific contract which the company may have with the workers' union.

**Foreman's Advantage Narrowed**

In the past, the foreman has had a better industrial position than that of the worker. He has enjoyed vacations, time off, sick leave, and other so-called privileges that the worker did not receive. With the rise of industrial unions, however, workers began to receive some of these advantages, as well as increased pay. As these unions developed, the foremen recognized that their previous advantages were less important when compared with the new gains of the workers. Furthermore, the new terms were stated in written contracts and were no longer merely favors granted by management.
Previous to the war, little attention was paid to wage differentials between the foreman and his workers because it was thought that the foreman's job security was much greater than that of the men he supervised. Although this may have been true in many cases, this advantage was largely eliminated during the war years. The foreman's job-tenure was seldom greater than that of production workers when production was high and full employment at a peak. As production workers' wages increased, the differential between the foreman and the worker became narrower. According to one study, many foremen were actually receiving lower wages than the workers they supervised.¹

When management did not re-establish adequate wage differentials in such cases, foremen frequently tried to strengthen their bargaining position through unionization. The War Labor Board recognized that in general prewar wage differentials between production workers and foremen should be maintained. For example, in May, 1944, the Sixth Regional War Labor Board granted the Bader Meter Company permission to increase the wage rates for foremen to an extent that the wage differential between foremen and production workers would be restored.

As a rule, information as to the foreman's compensation has been reluctantly released. For instance, the foreman's wage issue was discussed in a panel hearing before the War Labor Board; yet the report readily admitted that no comparative data on compensation was actually presented to the panel.² With only a small amount of such data available, generalizations are dangerous.

However, there appears on the whole to be no evidence for complaint concerning the basic wage rate. There is perhaps more criticism over the inequalities among foremen with similar responsibilities than over the basic wage rate itself.

Although unions have traditionally opposed an incentive method of payment, the wage-stabilization policy maintained during the war led to an increase in the number of incentive payment plans. By 1943, the majority of workers had received all the wage-rate increases allowed by the War Labor Board under the Little Steel Formula, which limited the increase in the basic rate to 15 per cent over rates in effect on January 1, 1941. But, the introduction of an incentive payment plan would often enable the worker to achieve
an additional increase in his take-home pay. The extent to which many local unions joined with employers in requesting approval of incentive wage plans resulted largely from the wage stabilization program. With an increase of this form of payment, a further complication arises in a comparative analysis of foremen’s compensation. A wage differential is much easier to maintain when the actual wage rates are determined on an hourly or a time basis. When an incentive plan is introduced for production workers, the plant’s entire wage structure may need to be readjusted in order to retain the differential. For example, a worker may increase his operating efficiency and thus his take-home pay, to the extent that his average weekly earnings equal or exceed those of his immediate supervisor.

**Overtime and Seniority Issues**

Prior to the war, supervisors did not, as a rule, receive overtime payment. It was considered a part of their job to have the necessary services, reports, and plans prepared ahead of the regular production schedule. The Fair Labor Standards Act of 1938 provides that a worker covered by this act be paid time and one-half his regular rate for all hours worked over forty, but the act exempts foremen and minor supervisors who are classified as administrative, executive, or professional employees. The foreman has usually received his regular salary regardless of overtime. Although this wage partiality to the production worker had been apparent for some time, its inequity did not become critical until the war period. As the amount and regularity of overtime increased, most companies continued to work their salaried foremen overtime without additional payment. Foremen maintained that workers frequently received more take-home pay than the foremen because of overtime payments. In fact, some production workers during the war refused promotion to foremanships because a loss of as much as $100 a month would result from this difference in wage policy.³

Because many companies do not systematically review their wage structure, wage inequities continued to increase. Few employers realized this situation before the wage-stabilization program was in effect, and needed improvements in wage structure could not then be made without the approval of the War Labor
Board or the Treasury Department. For the inauguration of overtime rates, the employer had to have special permission from the WLB or the Treasury Department. If overtime rates were not paid before the war to employees subject to the jurisdiction of the Treasury, the employer had to ask for a salary increase rather than an overtime rate.

Along with the increase of employees in industrial production during the war period, the number of foremen doubled in some plants. Such a large influx of minor supervisory officials increased the desire for a recognized form of job tenure in order to clarify the manner in which some of them would be laid off as the peak employment in manufacturing plants declined after the war. Many older supervisors felt that they would lose their jobs to younger men who had been promoted to foremanships during the war. The rather recent demands for job seniority are apparently the result of failure to give sufficient attention to length of service when promoting foremen during the war.

The organized foremen appear to recognize that a straight seniority policy would restrict the freedom of management to give ample credit for ability or merit. Instead, they have urged that management include seniority as a factor in promotion, transfers, and demotions.

**Foremen Turn to Organization**

The foreman has experienced the effects of the revolutionary changes that have taken place in mass-production industry over the past few decades and the consequent changes in his role and function. Correctly or not, he has concluded in many instances that he is no more a part of policy-making management than he is a part of the working group he supervises. His accumulated grievances, together with vivid examples of what organization can do to improve job conditions, have turned his thoughts and activities toward organization.

One of the first foreman’s unions in mass-production industry was The United Foremen and Supervisors organized in 1938. The union was at first rejected when it sought affiliation with the CIO. The union was accepted, however, in December, 1938, and later won agreements in two plants. Soon the organization was fairly well
established in eleven plants and had about 900 dues-paying members. During a strike at the Chrysler plant in 1939, the union requested a conference with management. In a public protest, the company denounced the organization and asserted that unions were trying to sit on both sides of the bargaining table. The incident proved rather embarrassing to the CIO and the foremen's issue was withdrawn in order to settle the rank-and-file workers' dispute. In 1940 the charter of the union was revoked by the CIO.

**Foreman's Association of America**

The Foreman's Association of America was founded in November, 1941, by about 1200 foremen of the Ford Motor Company who met in the Fordson High School. By November, 1942, an agreement had been signed with the company. After the Maryland Drydock decision in 1943, in which the National Labor Relations Board ruled that supervisors were not a unit appropriate for collective bargaining within the meaning of the National Labor Relations Act, the Ford Company refused to recognize the union for the adjustment of foremen's grievances. The company reversed this stand, however, during the May, 1944, strike and signed a contract with the Association.

The program of the Association is similar to that of a rank-and-file union in that it is based on wages, hours, working conditions, and job security through a form of job control. The Association differs from most unions in that it makes overtures to management for a definite form of cooperation between the two. Merit, for example, is emphasized along with seniority as a basis for promotion or discharge. The union has requested more training from management on company policy and in industrial relations. Such instruction, FAA officials maintain, will enable the foreman to answer the complaints of workers and thereby settle many grievances within the department. The Association, proposing to be a partner with management, has emphasized the need for scientific management and industrial discipline in order to obtain maximum plant efficiency.

When the National Labor Relations Board ruled that foremen did not constitute a unit appropriate for collective bargaining, the Association continued to marshal its forces for ultimate employer
recognition. Throughout the year 1943, numerous small work stoppages took place at the Ford Motor Company. Toward the end of the year, the Association filed notice under the War Labor Disputes Act that strike votes were to be taken at four plants of the Briggs Manufacturing Company and the De Soto plant of Chrysler Company in Detroit and at the Republic Steel Company in Cleveland.

During a series of rather serious strikes in Detroit in May, 1944, the foreman's union movement gained national recognition. Foremen in 17 plants of 6 corporations walked out. So great was the power and aggressiveness of the foremen that the War Labor Board had to invoke all its pressure to stop the strike. According to the Monthly Labor Review of May, 1945, there were at least thirty strikes of foremen in 1944. These strikes involved 130,000 workers and caused 650,000 man-days of idleness. The largest strikes involved the Foreman's Association in Michigan during May; the United Clerical, Technical and Supervisory Employees (District 50 of United Mine Workers of America) during August and September in Pennsylvania, West Virginia, and Kentucky; and the Wright Aircraft Supervisory Association of the Wright Aeronautical Plant in New Jersey during September and November.

Despite the aggressiveness of FAA, the national labor organizations have tended to remain aloof from the Association. Union officials have felt that this new union might prove to be too much trouble to their own organizations; however, their attitude toward foreman unions has been what might be described as benevolent neutrality.

By September, 1946, the Foreman's Association of America had 308 chapters with approximately 40,000 signed members. Several contracts had been signed. The master contract with the Ford Motor Company covered the Detroit chapter with the Company and with six supplements, covered six chapters in various parts of the country. Other Ford plants under the master contract included plants at Iron Mountain, Michigan; Chicago, Illinois; Hamilton, Ohio; Green Island, New York; and Buffalo, New York. In addition, contracts were signed by United Stove Company, Ypsilanti, Michigan; Baldwin Rubber Company, Pontiac, Michigan; General Ceramics Company and Steatite Corporation, Keasbey, New Jersey;

Miners' Supervisory Union

The Mine Officials' Union of America was organized in December, 1940, as an independent union. The union was organized as a result of a shift from a monthly wage to a daily wage rate which effected a wage reduction at one of the Ford Collieries. By 1943, this organization claimed a membership of 12,000 to 15,000. In October, 1942, the union requested admission to the United Mine Workers of America. Consequently, the UMWA constitution was amended so that this new group might be admitted. The supervisors were then organized as a branch of District 50 of the UMWA and were called the United Clerical, Technical and Supervisory Employees of the Mining Industry.

In May, 1946, the government seized the mines as a means of keeping them in operation when the mine operators and the officials of the United Mine Workers failed to reach an agreement. An agreement covering supervisory employees was later signed by the Union and the Federal Coal Mine Administration. The coal operators had previously refused to recognize the supervisors' union, and the Jones and Laughlin Steel Company had maintained that such a contract with the government would weaken its efforts to obtain a court decision on unionization. The contract between the Coal Mine Administration and UMWA included a clause that the union, upon the request of the Coal Mine Administrator, would file a charge with the National Labor Relations Board stating that the Jones and Laughlin Steel Company had refused to bargain with the supervisors. Such a charge would enable the company to obtain a judicial review of the appropriateness of the foreman units for purposes of collective bargaining.

United Foremen of America

With foreman unionization developing rapidly, the CIO chartered the United Foremen of America during the summer of 1945. This union began to organize foremen particularly in the
steel mills of western Pennsylvania. This group is a loose organization of local unions in the steel industry and, as yet, has no national organization. It is chartered directly by the CIO.

Are Foremen "Employees"?

With the inauguration of such laws as the Railway Labor Act, Section 7 (a) of the National Industrial Recovery Act, and the National Labor Relations Act, collective bargaining in the United States became compulsory when a majority of employees in an appropriate employee unit made such a request. Not only does this federal legislation recognize the right of organization, but it is designed to protect the employee in the organization of his choice. As a result of wartime exigencies, the National War Labor Board was established by executive order on January 12, 1942, to settle labor disputes by peaceful means. By executive order on October 3, 1942, its authority was increased to include all industries and all employees.

Foreman organizations, in their attempt to gain recognition from various managements, have sought certification as units appropriate for collective bargaining under the National Labor Relations Act. The decisions of the National Labor Relations Board have been somewhat inconsistent on this score, thus intensifying the controversy over the question of foreman unionization. Whether foremen may obtain certification depends upon the interpretation of the term "employer" and "employee" in the Act. According to section 2 an employer "includes any person acting in the interest of an employer, directly or indirectly"; yet in section 2 (3) the Act maintained that an employee "shall include any employee . . . and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice. . . ." Although the Labor Management Relations Act, 1947, as it amends the National Labor Relations Act, has revised this definition, it seems advisable to include the older definition here in order to treat properly the history of the NLRB decisions regarding foreman unions. Details of the amendment pertaining to supervisory employees will be given at another point.
NLRB Decisions

A foreman's union was first certified by the National Labor Relations Board for collective bargaining in 1942. A majority of the board maintained that the minor supervisors of the Union Collieries Coal Company had no voice in company policy and no actual power to hire or discharge. NLRB Member Reilly, in his dissenting opinion, declared that there was need to limit the broad definition of the term "employee" in the Act. The failure to do so, he maintained, would remove these minor supervisors from the side of management and, thereby, make a gap in the managerial hierarchy since these supervisors present grievances of the workers to higher management.

In the Union Collieries Coal Company decision, the NLRB was concerned only with an independent group of supervisors, but in the subsequent Godchaux Sugar Company case, the Board upheld a group of supervisors who were represented by a rank-and-file union as a unit appropriate for collective bargaining.

Board approval of the two groups seemed to clarify the status of minor supervisors under the National Labor Relations Act. Supervisors of the same supervisory level were considered an appropriate unit, and employers were forbidden to discriminate against those who desired unionization.

On April 6, 1943, however, the National Labor Relations Board conducted a hearing on foreman unionization to serve as a guide for a reconsideration of the entire question. The hearing was particularly important because Member William Leiserson, who had concurred with Chairman Millis in the Union Collieries and Godchaux cases, had resigned. The new Board member, John N. Houston, had not yet committed himself on foreman unionization.

NLRB reversed its former policy on May 11, 1943, and held in the Maryland Drydock Company case that supervisors with substantial managerial authority could not be considered units appropriate for collective bargaining within the meaning of the Act.

Members Reilly and Houston, forming the majority, reiterated the minority position in the Union Collieries case and further maintained that, while the traditional status of foremen had changed somewhat, union activity of supervisory employees would
be detrimental to production efficiency and to the free organizational activity of the production workers.

Chairman Millis, in turn, offered a vigorous dissent. He charged that the majority had attempted to predict all possible consequences of the decision. Should management suffer as a result of foremen's unions, he believed that this problem would have to be met by labor through its organizations, by management through its disciplinary powers, or by the National Labor Relations Board through its ability to determine the appropriate bargaining units and its findings and orders against unfair labor practices. He maintained that foremen, as employees, had the right to organize and that their removal from the protection of the Act would merely force them to use their economic power when they felt aggrieved, a method the Act was intended to discourage.

The complete reversal not only withdrew the right of certification for foremen who desired to bargain collectively, but also a foreman's right to protest discriminatory practices by the employer was eliminated. The decision affected the long-established craft unions as well. Any unionized supervisor would now have to function outside the jurisdiction of the Act.

Although the National War Labor Board was not concerned with unit certification, it was established to settle all labor disputes by peaceful means. On January 6, 1944, the Board held hearings to determine whether or not its jurisdiction included the disputes of the foremen. After the hearing, the foreman's position was clarified to some extent, when the National Labor Relations Board ruled in the Soss Manufacturing Company case (May 8, 1944) that while a supervisory group could not be certified as a unit appropriate for collective bargaining, the foremen did have the right, under the National Labor Relations Act, of protection from unfair labor practices.9

Packard Foreman Unit Upheld

Soon after the Soss Manufacturing case, the NLRB reversed itself again. The Board maintained that since unionization of foremen was no longer a "future possibility" but an "existing fact," the foremen in the Packard Motor Car Company constituted a
unit appropriate for collective bargaining. To deny the group the protection of the Act, the majority declared, would simply invite a greater amount of industrial strife. Furthermore, the majority recognized the need for rigid controls in modern corporate industry and stated that foremen must follow the policies of higher management. Unlike the earlier decisions in the Union Collieries Company, and the Godchaux Sugars Company cases, this ruling placed four classes of foremen in one bargaining unit, although they exercised a degree of supervision over one another. The majority recognized that a common bond of sympathy may exist between supervisors and supervised, but they asserted that sympathy strikes and refusals to cross picket lines were not proof that the supervisor's union was dependent upon the rank-and-file labor movement.

In his dissent, Member Reilly related that the Packard decision would cause great damage to the relationship between management's minor supervisors and the workers. He believed that a foreman's union could function only in harmony with the workers' union.

The significance of the Packard decision is twofold: (1) the Maryland Drydock case was reversed and foremen who were members of an independent supervisor's union were granted the right of certification under the National Labor Relations Act; and (2) the decision broadened the scope of a foreman unit appropriate for collective bargaining. In the Union Collieries and subsequent decisions, for example, the Board had refused to recognize collective bargaining units that included men of various supervisory levels. In the Packard case, the Board recognized four levels of supervision as one unit appropriate for collective bargaining.

The Board may have been influenced by the fact that the Ford Motor Company had accepted six classes of supervisors in its contract with the Foreman's Association of America. In fact, the Board majority mentioned that the Ford Company unit of six levels of supervision was broader than the unit proposed in the present case.

The Packard company refused to recognize the newly certified foreman's group and the Foreman's Association formally charged
the company with an unfair labor practice. After the second presentation of the case to the NLRB, Paul Herzog, the new chairman, wrote the majority opinion which upheld the previous Packard decision. Mr. Herzog stated that the concern of the Board was not to decide whether or not foremen should join unions, but rather to determine how the Act may be made available to organized foremen as it is to unionized production workers. Despite this ruling, the company refused to follow the directive of the Board, in order to obtain a court review of the case.

In the L. A. Young Spring and Wire Corporation decision, the Board made clear that a group of supervisors need not have only limited supervisory powers in order to be certified as a unit appropriate for collective bargaining. Such a decision indicated that the Board would recognize higher levels of supervision so long as they were appropriately grouped according to duties and responsibilities.

**Rank-and-File Affiliation Approved**

In the Packard case, the union involved had been the Foreman's Association of America, an independent foreman's union. When the NLRB ruled on the Jones and Laughlin Steel Company case, however, it was confronted with the United Clerical, Technical and Supervisory Employees Union which was affiliated with the United Mine Workers of America, a rank-and-file labor union. The decision granted this union right of collective bargaining under the protection of the National Labor Relations Act.

In the majority opinion, the Board members maintained that the Board had no right to refuse to recognize a freely chosen labor organization which was not company dominated. The Board, they declared, must concern itself with the problems of grouping employees. To select the representatives or to say a group should have no representation seemed to them to be outside the jurisdiction of the Board.

Member Reilly, voicing his opinion in a dissent, charged that the objectives of the National Labor Relations Board were so distorted as a result of the Jones and Laughlin decision that legislative or judicial correction was essential. With broader unionization and a closer alliance with the rank and file, Member Reilly believed that
the doctrine developed in the last decade to insure the freedom of the workers had been repudiated and that managerial ability to operate the mines efficiently had been "seriously impaired." Without doubt, the Jones and Laughlin decision increased the scope of foreman organization. The decision gave the "green light" to foremen who wished to affiliate with a rank-and-file union.

As a result of the Packard and subsequent decisions, supervisors, as employees, received legal protection in their right to collective bargaining under the National Labor Relations Act. Some of the controversial legal issues that were settled include:

1. various levels of supervision having similar powers but a moderate degree of supervision over one another might bargain as one unit;
2. the extent of duties and responsibilities of foremen were important to NLRB only in so far as they aid the determination of the appropriate bargaining unit;
3. the type of industry was unimportant in determining whether a unit of supervisory employees was appropriate for collective bargaining;
4. foremen might be represented by an independent supervisors' union or by a rank-and-file labor union; and
5. employers might still be cited for an unfair labor practice should the supervisors, upon the authorization of the company, attempt to dominate production employees.

The Board had not, however, given a clear ruling on the appropriateness of a unit of production employees represented by a foreman's union or of a unit whose membership consisted of both production and supervisory employees.

Courts Uphold Packard Ruling

Officials of the Packard Motor Car Company indicated that they desired a court review of the NLRB decision giving the supervisory employees the protection of the National Labor Rela-
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When the company was cited for an unfair labor practice in December, 1945, because of refusal to recognize the foremen's collective-bargaining unit, the Board members said they agreed with the company on "the importance of judicial review" and that they would cooperate with the company in an effort to speed final adjudication.

On August 12, 1946, the Sixth United States Circuit Court of Appeals, in a two-to-one decision, upheld the NLRB order that the Packard Motor Car Company bargain collectively with its supervisory employees. The United States Supreme Court, on March 10, 1947, in upholding the decision of the lower court, declared that foremen were employees and that the context of the Act left no room in which they might deny the organizational privilege to employees, just because in some cases these employees may act in the interest of an employer.

The judges of the Sixth Circuit Court made clear in their opinion that the decision concerned only supervisors who were members of an unaffiliated union of supervisors and that it did not consider the legality under the National Labor Relations Act of a union affiliated with a production workers' union. The Supreme Court, on the other hand, apparently rendered an even broader decision than the appellate court in the Packard case. The decision recognized that an individual who acted in the interest of the employer still had interests of his own as an employee. In this case, the majority of the High Court maintained that Congress, not the Court, created exceptions to the Act.

A decision on the appropriateness of a unit affiliated with a rank-and-file union for collective bargaining purposes has not been made by the U. S. Supreme Court. The U. S. Court of Appeals of the District of Columbia, however, upheld the government's right to recognize a supervisors' union affiliated with a rank-and-file union as an exclusive bargaining agent of supervisors, limited to the period of the government's possession of the mines. The decision was based upon the ability of the government to effect changes in wages and conditions of employment under the War Labor Disputes Act. This case was apparently ended by a denial of a writ of certiorari May 19, 1947, by the Supreme Court.
Because of recent labor legislation, the Supreme Court probably will not rule on the appropriateness of the affiliated union for collective bargaining purposes in the Jones and Laughlin Case.

**Congress Acts on Foreman Unions**

Since the Supreme Court has generally upheld the decisions of the National Labor Relations Board, employers opposed to the organization of foremen tried to prevent supervisors' unions by legislative measures. Numerous requests were made to Congress that a law be passed in which the supervisory employee would be removed from the jurisdiction of the National Labor Relations Act.

A bill, introduced in the 79th Congress and popularly known as the Case Bill, contained a clause which would have denied the foremen the protective features of the National Labor Relations Act. After passing both Houses of Congress, however, it was vetoed by President Truman in June, 1946.

The 80th Congress in June, 1947, passed the Taft-Hartley bill which excluded supervisors (foremen) from protection of the National Labor Relations Act. Although President Truman vetoed the measure, Congress overrode the veto to make the bill a law, titled formally, Labor Management Relations Act, 1947. "Any individual employed as a supervisor" is specifically excluded from the definition of employees to be covered by the Act.¹⁵

The term "supervisor" has been given a very broad definition by the new measure. It includes "any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."¹⁶

This amendment does not prohibit a supervisor from joining a union, either a rank-and-file union or one only for foremen. But the employer is not compelled "to deem individuals defined herein as
supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.”

The employer may now interfere with the union activity of his foremen and may refuse to recognize the representatives selected by the majority of these supervisors, without legally committing an unfair labor practice. The law in effect puts the foremen in the same position they were in after the Maryland Drydock case which refused recognition to them. If the foremen in a plant desire recognition by the employer for collective bargaining purposes and are refused, they must now disestablish their union or resort to their own economic power to secure such recognition.

Just prior to the passage of the new labor law, the Ford Motor Company cancelled its contract with the Foreman’s Association of America. Ford spokesmen stated that the action had been taken because they believed that the union was undermining the foreman’s sense of responsibility to the company. Union officials also cancelled the contract in order to call a strike as a means of obtaining demands for which they had been negotiating for about five months. After a 47-day strike, the foremen returned to their jobs without a contract and with no concessions gained.

With the expiration of the provisions of the War Labor Disputes Act on June 30, 1947, the bituminous coal mines which had been operated by the Federal Coal Mines Administration (under terms of the Krug-Lewis Agreement of May 29, 1946) were returned to private hands. The new bituminous coal agreement reached by the United Mine Workers of America and the northern operators, which provided substantial economic concessions for the union, specifically exempted from the coverage of the agreement: mine foremen, assistant mine foremen, coal inspectors and weigh bosses at mines where men are paid by the ton, clerks, engineering and technical forces of the operator working at or from a district or local mine office. In addition the union agreed “not to seek to organize or ask recognition for such excepted supervisory employees during the life of this contract.” The termination date of the agreement is June 30, 1948.

As a result of this agreement, the UMW severed from itself the organization which had been known as the United Clerical, Tech-
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chnical and Supervisory Employees branch of District 50. This organization has been succeeded by an independent organization called the United Clerical, Technical and Supervisory Association of America. Whether it will be able to maintain the organization built up under the UMW is a question that cannot be answered at this time.

Industrial Effects of Foreman Unionism

Company executives, in their endeavor to rid themselves of foremen's unions, have said that the foreman is management at the "grass roots" level and that he cannot be affiliated with a union and at the same time retain his status in the managerial hierarchy. These spokesmen believe that the supervisor cannot be loyal both to management and to the union. Should the foremen be unionized, management asserts, the unions will be sitting on both sides of the collective bargaining table, and this situation in turn will give an unfair advantage to American unionism, and produce inefficiency in production.

Many foremen maintain that as a result of the changes in industry during the past several decades, they are a part of neither management nor labor. Instead, they argue that they form a distinct group in industrial relations, a group that executes the company policy which has been formulated by higher management.

Production Efficiency

Some industrialists fear that the additional negotiations required by unionization of foremen would greatly increase the drains on the managerial time and efficiency. They believe that such negotiations would tend to increase strikes and company costs. Some have contended that foremen's unions would effect a loss of discipline and efficiency among production workers. For instance, C. E. Wilson, President of General Motors Corporation, stated that the unionization of foremen "would take another 10, 15, or 20 per cent out of the (production) activity."

FAA foremen, on the other hand, have maintained that their organization has promoted a more harmonious relationship among the supervisors. W. Allen Nelson of the Ford chapter of FAA asserted that production at the Ford Motor Company increased 20
per cent during the first year the foremen were organized. He made no attempt to credit the entire gain to the Association; Mr. Nelson said that industrial relations noticeably improved during that year.

**Seniority**

Industrial leadership has depended principally upon the promotion of capable men from the minor supervisory levels. Company officials declare that such competent men must be promoted regardless of the fact that other men may have been employees of the company for a longer period of time. The organized foremen, however, claim the right to protest a promotion if their union believes that a man equally capable and with more seniority should have received the position filled.

The proper balance between complete freedom for possible merit advancement and restrictions for the maintenance of job security is difficult to determine. For the improvement of our productive forces, ample opportunity for job advancement must be given in order to attract the best-equipped individuals to mass production industries. On the other hand, job security cannot be ignored. As the productive forces have become more complex, workers have demanded greater protection against any form of discriminatory discharge. This is a problem that must be solved by the combined groups concerned with industrial relations. So long as unions fear discriminatory promotions and discharges, disputes concerning seniority and other issues will arise.

**Abolition of Foreman Level**

Some industrial executives believe that the managerial problems created by the unionization of foremen can be solved only by the abolition of the foreman level of supervision. C. E. Wilson, for example, has said that he would replace the unionized foreman with a group of specialists such as cost analysts, labor-relations experts and technologists. Modern industry has so developed that centralized control over departmental policies is no doubt necessary. Such statements, however, tend to evade the issue. Whereas the foreman may have lost his personal association and participation in policy-making with higher management, his functions in
executing company policy have increased. No matter what title is given to the men who are necessary for direct supervision of the workers these men may still desire unionization.

The foreman's duties and responsibilities must become less haphazard and more strictly defined. A manual to acquaint the foreman with general plant organization and policy should be provided. His sphere of authority needs to be defined and not circumvented except in a real emergency. His salary scale, hours of work, sick leave, and vacations should be reviewed regularly and should be compared with those of the production workers. He needs to participate in foremen's discussion groups, and conference contacts should be established between him and top management.

**Foremen and the Rank and File**

The American Federation of Labor has no established policy on the question of membership in foremen's unions. In some unions, foremen have retained their union membership when promoted to a supervisory position from the rank and file, and in others workers have had to forego union membership when promoted to a supervisory level. Yet Lewis G. Hines, legislative representative of the AFL, declared that "... it would be impossible for the American Federation of Labor to charter a separate and possibly hostile union for foremen and supervisory employees in the same plant."18

On the other hand, the CIO chartered a separate foreman's union in 1939 and again in 1945 chartered the United Foremen of America. Whether this new organization will function in certain industries exclusively remains to be seen. The UAW-CIO apparently has made no attempt to unionize foremen in the automobile industry. Should an outside union such as District 50 of the UMW or the AFL attempt to absorb the independent Foreman's Association of America, the Automobile Workers might however try to take over the foremen in the automobile industry.

Because of their dominance in numbers and in organizational strength, the rank-and-file unions may be a constant threat to the independence of a supervisors' unit even if it is unaffiliated. In fact, the rank-and-file unions may attempt to absorb the organized foremen as a means of eliminating what might become a threat to their
own jurisdiction and also to augment their own strength in dealing with the employer. That is, the rank-and-file union may try to control the supervisors’ collective bargaining unit either as a representative of a distinct supervisory group or as the representative of an all-inclusive unit which admits both supervisors and production men.

Employers and union men have been aware of these possibilities. Contracts of the Foreman’s Association with the Ford Motor Company and the American Stove Company specifically stipulate that the Association will not affiliate with a labor organization. The United Automobile Workers, CIO, has given strong indications that it would not tolerate control of the FAA by outside international unions. The findings of the War Labor Board Panel on foremen’s problems carefully state that the men who are responsible for discipline, work assignments, promotions, transfers, and rate adjustments should not be subjected to the control of the men who are supervised.10

Jurisdictional Disputes

Should the AFL represent the supervisors and the CIO or District 50 of the UMW represent the production workers, jurisdictional disputes could cause an internal warfare within the labor movement and weaken its drive for collective action. Rivalry between the large unions would interrupt the working relationships between the supervisors and the production men, as well as cause innumerable conflicts with management.

Future Uncertain

The entire issue of foreman unionization is not one that will soon be settled. Most corporation spokesmen have taken the position that foreman organization would disrupt industrial relations. Even the labor movement has been cautious in accepting the foreman as a “union man.”

No law can be expected to cover this problem in an adequate manner. The definition of a foreman, itself, is so loosely used from plant to plant that the new law on foreman unionization may be very difficult to administer. For example, in a steel plant there may
be a pusher, a gang leader, an assistant foreman, a foreman, and a
department foreman. Which is a supervisory employee? To make
administration even more difficult, an assistant foreman in one
plant may be called a foreman in another plant, although the duties
are similar.

Some indication of the trend to be expected in court and NLRB
decisions may be seen in two recent decisions. On September 29,
1947, the United States Court of Appeals set aside the original
ruling of the NLRB in the L. A. Young Spring and Wire case. The
Court held that the original ruling, certifying a chapter of the Fore-
men's Association of America as exclusive bargaining agent for
foremen in the plant, was correct at the time, insofar as it was
based on the National Labor Relations Act. However, passage since
that time of the Labor Management Relations Act, 1947, has
amended the National Labor Relations Act with respect to super-
visors. In the words of the Court, it is "now unmistakably clear . . .
that the Eightieth Congress intended to deny, and has denied, the
benefits of the act to 'supervisors'." The Court held, therefore:
"Since the statute as now amended is to be applied, we shall set
aside the order of the respondent board [NLRB], which if allowed
to stand, would operate in future in a manner contrary to the
amended statute."

The NLRB itself likewise recognized this principle in its first
decision since passage of the new Act. On September 30, 1947, the
Board dismissed a complaint of the FAA that Westinghouse
Electric Corporation of East Springfield, Massachusetts, had re-
fused to bargain with the union.

Neither punitive measures nor restrictive legislation can be ex-
pected to stop foreman unionization. Only by a thorough study of
the status and problems of minor supervisory employees in industry
and the adoption of appropriate remedial measures, can the exist-
ing situation be stabilized.
Footnotes

3. Ibid., p. 706.
7. GODCHAUX SUGARS COMPANY, INC. (Reserve, Louisiana) and UNITED SUGAR WORKERS, LOCAL INDUSTRIAL UNION NO. 1186 (CIO). Case No. R-4114, October 7, 1942. (44 NLRB No. 172). 11 LRR 318 (September-February, 1942-43).
8. For citation, see Footnote 4.
9. SOSS MANUFACTURING COMPANY and FOREMAN'S ASSOCIATION OF AMERICA (IND.) Case No. 7-C-1148, May 8, 1944, 14 LRR 325 (March-August, 1944).
10. PACKARD MOTOR CAR COMPANY (Detroit, Michigan) and FOREMAN'S ASSOCIATION OF AMERICA (IND.). Case No. 7-R-1884, March 26, 1945 (60 NLRB No. ....). 16 LRR 168-173 (March-August, 1945).
11. L. A. YOUNG SPRING AND WIRE CORPORATION (Los Angeles, California) and FOREMAN'S ASSOCIATION OF AMERICA, CHAPTER NO. 155 (IND.). Case No. 21-R-2815, January 8, 1946 (65 NLRB No. 59) 17 LRR 687 (September-April, 1945-46).
15. Labor Management Relations Act, 1947, Sec. 2 (3).
16. Ibid., Sec. 2 (1).
17. Ibid., Sec. 14 (a).
19. For citation, see Footnote 2, p. 749.
EDITORIAL NOTE

This bulletin is based on material assembled for a master's thesis which was accepted by the Graduate School of the University of Illinois in partial fulfillment of the requirements for the degree of Master of Arts in Economics. Much of the material appeared in a more extensive article published as Bulletin No. 65 of the University of Illinois Bureau of Economic and Business Research under the title Foremen's Unions: A New Development in Industrial Relations.

This briefer development of the subject attempts to cover major points of a topic which has occasioned wide discussion. The enactment of the Labor Management Relations Act, 1947 has to some extent relegated to the realm of history the material covering rulings on foremen's unions by the National Labor Relations Board. However, that history remains pertinent to an issue which is still very much alive.

Mr. Cabe, formerly a graduate assistant in the Institute, has accepted an appointment as instructor in economics at Purdue University.

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