

New Areas of Collective Bargaining and the Public Interest; The  
Organization of White Collar, Technical and Professional Personnel

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Significance of the New York City Teacher Situation

For our discussion of the special topic of this morning's panel, I have chosen -- with the advance permission of the Seminar Director -- to center my remarks around a case study. This is the collective bargaining situation and the attendant organizing campaign among the teachers of New York City.

The teachers' collective bargaining election of last year in New York City, in and of itself, is a fact of major significance for our time. Forty thousand classroom teachers are in our bargaining unit, making this the largest representation election in the United States in 20 years.

But much more is involved here than numbers. It is universally recognized that this election is one of the most important events, if not the most important, in the field of education in our generation. In the face of the NEA-sponsored opposition which highlighted a so-called "professional" point of view and an anti-labor viewpoint, the teachers of New York City voted overwhelmingly for the United Federation of Teachers, an AFL-CIO local, as their bargaining agent. In doing so, they were telling us two related things: one, that for them the status-word "professional" can no longer be used as a scare word, to keep them from fighting for their rights; and second, that they are

determined to go along with the labor movement as the source of their professional salvation. What they were saying, in other words, was, to quote a lead editorial in the New York Herald Tribune, December 26, 1961, that they "considered that their future and that of public education, at least hereabouts, depend on trade unionism." The editorial, referring to our union as the elected bargaining agent, was pointedly titled "THE TEACHERS CHOOSE TO BE STRONG."

It should be noted in passing that the nature of the bargaining agent -- a teacher-oriented labor affiliate, rather than an administration-oriented company union -- is going to have a great influence, not only on the occupational status of the working teacher, but also on the educational status of every child within the bargaining orbit. This follows from the fact that the program of a teacher-oriented labor affiliate is more likely to be based on a philosophy that is progressive, that gives due emphasis to the rights of ethnic minorities, and that more sympathetically appreciates the needs of the children of the common man.

From another perspective, this election will have -- in fact, has already had -- an immense impact on the dynamics of the American labor movement. As we all know, the real organizing potential for unions lies in the great unorganized area of white collar, technical and professional workers. The forward movement of the 40,000 teachers of New York City has given an impetus for collective bargaining to teachers throughout the nation. As far as organizing is concerned, I begin with the telling statistic that the UFT has tripled its paid-up membership since its election as the bargaining agent in December, 1961. As the collective bargaining movement spreads, we

can expect that union organization, too, will expand its roots among the 1½ million teachers throughout the country. This should, in turn, cause an irresistible breakthrough in the general area of white collar employment. It is significant, in this connection, that the collective bargaining movement among the teachers has sparked a new zest for organizing by the AFL-CIO, and in particular by its Industrial Union Department.

I choose to make the teacher situation my case study not only because of the numbers involved, or because of its historic importance, or because of my intimate knowledge of and involvement with it, but also because this case study can serve, in a way which perhaps no other labor development can, to clarify our thinking on today's topic: "New Areas of Collective Bargaining and the Public Interest; The Organization of White Collar, Technical and Professional Personnel."

A moment's thought about this classification of workers will reveal its great breadth and complexity, for we are talking about personnel categories as different as typists and stenographers employed in the offices of large factories; X-ray technicians in hospitals; operators of modern electronic computing equipment; psychologists employed by non-profit agencies; and a million and a half public school teachers employed by Boards of Education. We are concerned with jobs which border on that of the blue collar to that of the fee-taking professional, and with employers ranging from individual private enterprise on the one hand to government on the other.

Obviously, it would be impossible to consider each type of

employment and each type of employer at this time. Of all these groups and categories of employees, the position of the teacher is one of extremes, in that it combines the problems and the difficulties of many of these groups. The teacher is a professional; he is also a governmental employee. His profession demands cooperation and teamwork with his supervisors in complex ways which are somewhat different than in other fields, and, therefore, the nature of his bargaining status is a rather delicate one. He works in an area where the layman feels he can and should have a strong voice in influencing the employer's (i.e. the Board of Education's) policies. Certainly if it can be shown that the extension of collective bargaining in education is in the public interest, then a fortiori will this be true of the other groups under discussion. I am not saying, as yet, that what is good for the teachers is good for the nation. I am saying that if collective bargaining for public school teachers, being in the public interest, is good for the nation, then collective bargaining for other white collar, technical and professional personnel is also good for the nation.

Fortunately, on the question of the relationship of collective bargaining for teachers to the public interest, we can offer more than mere speculation and rhetoric. We can study, in actual fact, if and how the public interest has been served.

#### Boards of Education and the Public Interest

In the field of public education, Boards of Education claim to represent the public interest, as distinguished from the teachers

who allegedly do not. The Boards are, in most cases, elected, and in others, appointed by elected officials. What better way to insure the public's being properly served?

If this claim on the part of Boards of Education were true, then collective bargaining for teachers would not be in the public interest. It would be the setting up of a special interest group in opposition to the public interest. Again, if this were true, then decisions in the educational area should be made unilaterally by Boards of Education and school superintendents, because they, unlike the teachers, represent the public interest.

This brings me to the thorny question: Do Boards of Education represent the public interest more than the teachers' organization does? While superficially the answer would be in the affirmative, I contend that this is an over-simplified view. I cannot believe that the typical Board of Education composed of real estate men and lawyers -- or even a more representative Board like the one in New York City -- is more informed about the real needs and interests of the children than are the teachers. I cannot believe that by reason of their political election or appointment they are endowed with more knowledge of educational needs than the teachers who have been specifically trained for an educational function. Nor can I believe that they care more for the improvement of education than the teachers.

Actually, there are many ways in which a Board of Education, subject as it is to political and other non-educational pressures of all kinds, does not necessarily or usually decide on the basis of objective criteria of public interest. This can be verified

by observing what has happened to public education in the absence of collective bargaining -- on the basis of unilateral decisions of Boards of Education.

Boards of Education generally pay <sup>salaries</sup> too low to attract a sufficient number of qualified teachers; they lower standards for teacher recruitment; they have inadequate construction programs; they resort to such stratagems as two school sessions per day and increasing class size; they fail to provide adequate guidance and specialized teaching services; and so on. They often set up programs that are "easier to sell to the public" rather than programs that are preferable from an educational point of view.

The results are easy to see. For example, when I entered the New York City public schools, there were many qualified teachers who were waiting for appointment. Many waited for as long as five or ten years. At present, it is impossible to obtain teachers to fill all the vacancies in the system, and, almost one-third of the positions are filled with teachers who are not regularly licensed.

All of this leads to the conclusion that Boards of Education need very much to be checked and balanced in their present positions of absolute and unilateral decision-making by teachers who are closest to the students whose needs are being evaluated and met.

Undoubtedly, Boards of Education would object rather violently to this description of their shortcomings. They might very well answer that they do not have the power to raise sufficient funds, and that usually they are dependent upon state and municipal governmental bodies for appropriations. There is no doubt that

this is true, but it is also almost universally true that when Boards of Education have been granted woefully insufficient funds, they have not raised a hue and cry which would embarrass the political powers-that-be. They have not resigned their Board positions in protest of financial allocations which would lead to further deterioration of their school systems.

This, in brief, has been the story of how the public interest has been served -- or rather, has not been well served -- in the absence of collective bargaining for teachers.

The fact of the matter is that even the best-intentioned Board needs and should encourage an alert and militant teacher organization to check it and to goad it on. (To the credit of the present Board in New York City, it should be said that they have accepted the collective bargaining relationship.)

My point of view receives added confirmation when we try to answer the question: Who is management in education? Most members of Boards of Education have contended that they are not management at all, but again, the representative of the public. As such they see themselves as completely impartial when making decisions on the alternative uses for budgeted money: for example, teachers' salaries, as against textbooks or smaller classes. It is my contention, however, that the Board of Education is indeed in a management position; that it is part of a multiple complex of institutions, which altogether constitute management. And from this it follows that if the total public interest is to be represented, the teacher needs very much to be heard as an equal partner in negotiations, both as a worker and as a special

pleader for the children.

Collective Bargaining and the Public Interest

Let us now turn our attention to our case study: the operation of collective bargaining among New York City teachers, in its relation to the public interest.

I must at this point make my declaration of economic faith. Rejecting the thesis of Edward H. Chamberlin and others, that the interests of labor and of the public are in conflict, I hold to the view that, as Corwin D. Edwards has put it, "The most important aims of the organized labor movement -- are consistent with the objectives of a healthy economy."

I posit the thesis that, in the area of education, perhaps more than in any other segment of our society, the aims of the organized workers (that is, the teachers) are in the closest possible harmony with those of the "consumers" (the children) and, therefore, clearly in the public interest. This applies not only to items like smaller class size, where the identity of interest is direct. It applies also to innumerable items where the identity of interest is indirect, like higher salaries, which attract better teachers, and better working conditions (for example, a lighter teaching load) which improve teacher morale and reduce turnover.

A brief glance at the UFT agreement with the Board of Education will quickly show that less than one year under collective bargaining resulted in revolutionary improvements, not only for teachers, but for education as well -- improvements which were not made in the absence of collective bargaining. Some of these

improvements are as follows:

\*\*\* The appointment of school aides to all schools in order to relieve teachers of such non-teaching chores as policing duties in halls, toilets and cafeterias, so that they may have more time for lesson preparation and curriculum development.

\*\*\* The introduction of specialized instruction in the elementary schools in such areas as music, reading, library, physical education, etc., providing expert instruction for pupils and giving elementary school teachers time for professional preparation.

\*\*\* A reduction in the teaching load in junior high schools located in slum areas in the city where it is difficult to attract and retain teachers.

\*\*\* Reduction of class size in the elementary schools.

\*\*\* The guarantee of a full 50-minute duty-free lunch period to elementary school teachers. Up to now, many elementary school teachers had little or no time for lunch for a number of days a term.

\*\*\* The granting of leaves without pay for teachers who wish to continue study.

\*\*\* Full-pay sabbaticals.

\*\*\* Procedures to prevent principals from assigning teachers to specific classes and school duties on an impartial basis, and free from prejudice or favoritism.

\*\*\* A salary schedule which has stopped the flow of

of Education, but the over-all situation of benefits was undoubtedly an outcome of the newly-instituted institution of collective bargaining

teachers out of the city and which is attracting not only new teachers but also experienced teachers from other communities.

It is true that some of these benefits would have come by the Perhaps most important of all is a remarkably advanced

grievance procedure. It provides for exclusive organizational representation by the union; that is, a teacher may be represented by the union at all levels of appeal, and representatives of minority organizations are specifically excluded. A grievance involving the application or interpretation of the agreement may be brought to a final step of impartial arbitration through the agency of the American Arbitration Association. Obviously by agreeing to outside arbitration the Board of Education voluntarily gives up a good deal of its sovereign power, in the interest of sound staff relations. In like manner, the Board agrees that "With respect to matters not covered by this agreement which are proper subjects for collective bargaining ---it will make no changes without appropriate prior consultation and negotiation with the union." (This is, significantly, in sharp contrast to the position of the former Board of Education which, in its aborted plans for collective bargaining, went so far as to state that "Understandings arrived at as a result of collective bargaining must contain a provision that they are terminable at will by the Board of Education.")

This grievance machinery is now under legal challenge by teacher organizations which object to the exclusive feature of representation. But I am confident that the procedure hammered out will be upheld as being in the nature of the functioning of

an exclusive bargaining agent, albeit in a professional and governmental employment.

Finally, a word must be said of the teachers' strike on April 11. Was this in the public interest? Did not the use of the strike, the violation by teachers of the State's anti-strike law, the picketing in the presence of students, outweigh the benefits which accrued to the schools as a result of collective bargaining?

Before judging the April 11 strike, one should have a few facts. The Board of Education, the parents, civic groups, the public officials, and the teachers all agreed that the funds provided prior to the strike were inadequate. Before the strike, the UFT, after a careful analysis of the budget, pointed out to the Board of Education and public officials that an additional \$12 to \$17 million could, under the state aid formula, be made available for educational purposes. One day after the strike, \$13 million were actually made available by use of the formula which the UFT had insisted upon before as the proper one to use. The public officials could just as easily have found this money the day before the strike as the day after. Need I ask the questions: Who was really to blame for this strike? Who, on the other hand, really represented the public interest?

The many unique benefits that we have achieved in this contract have led us to give a quid pro quo. We have given a no-strike pledge, for the duration of the contract, and of course this is common practice. The language of the clause, however, appears to be strong: "The Union and the Board recognize that strikes and other forms of work stoppage by the teachers are

contrary to law and public policy."

Now everyone knows that the strike weapon has twice been used by the UFT, and that it played a major role in the collective bargaining process in the New York City schools. We have believed, and still believe, that the principle of the right to strike must always be reserved to us. However, we are not strike-happy people, and we have never considered the strike as a routine device. We have always made the qualification that it is an ultimate weapon, for the attainment of really crucial demands, and as a very last resort, in the assertion of our moral and civil rights.

For the present, in the spirit of the progressive bargaining contract in New York City, we are ready to forego the strike as a collective bargaining weapon. But I emphasize the fact that this pledge is to be read in the context of the total contract and on the assumption of continuing sound bargaining relationships. I need hardly remind you that a strike may be the fault of management, as likely as that of labor; and it may be consonant with the public interest.

At any rate, we are hopeful that, having gone through the birth pangs of collective bargaining in a new and difficult area, we will be able, bilaterally, to settle our negotiating problems through peaceful channels.

From the results of our short experiment in collective bargaining, I conclude that the public interest has been served through this process -- and that it has been served much better than it has been and is being served in those communities where there is, as yet, no collective bargaining for teachers.

The Subject Matter and the Process of  
Collective Bargaining in Education

Obviously, I have not said that only organized teachers represent the best interests of public education. What I am saying is that the teachers' bargaining agent must be central in any sound administrative system that governs our schools. What I am saying is that teachers, because of their training and because of their intimate involvement in the actual classroom where learning takes place, can make an educational contribution in the public interest in a way which no other group can.

It would hardly be necessary to make this self-evident statement were it not for the fact that in New York City, in some quarters, there has been strong opposition to the role that the United Federation of Teachers has been seeking to establish for itself as bargaining agent. Objections have been raised in regard to the alleged impropriety of our participating in negotiations on matters involving "educational policy, professional relationships and school administration." On these matters the Board of Education denies the right of negotiation, while granting the right of consultation.

Before stating my position on this matter, it is important that we clarify just what is meant by educational policy. If what is meant is the setting of the aims of education in a democratic society -- such aims as educating for citizenship, or the desire that each student learn to read, to write, and to have a familiarity with current national and world problems -- there can be no disagreement that it is the function of the public through the Board of Education. However, if we mean by educational policy

such matters as: which textbooks and methods of teaching can best accomplish these aims; what are the limits of class size which will provide for varying degrees of success in reaching these aims; or, in the light of a limited budget, whether these aims will be achieved best by giving priority to the purchase of new texts, the reduction of class size, or the addition of guidance counsellors -- then I say that the public interest will best be achieved by the meeting of minds, primarily, of the Board of Education and its administrative staff with the teachers' union, through negotiation. We teachers have the expertise, and as workers, we are affected by every decision which is made.

This brings us to a pertinent question in regard to the decision-making process. How far can we go in negotiations in the government service? Having been thrown into a situation where very strong feelings exist as to the proper role of the collective bargaining agent in the highly sensitive area of education, it became necessary to find a viable solution. For the present, at least in this early stage in the collective bargaining process, a hedging device has been formulated. In drawing up our contract, we have agreed that some items have been negotiated, but that on others the Board has made decisions after "discussion" or "consultation" with the union.

Frankly, I cannot find in the contract any clear line of demarcation, based upon firm principle, between the items that grew out of negotiation and those that resulted from consultation. It seems that the distinction sought by the Board of Education is, as indicated previously, between working conditions, which are subject to negotiation, and educational policy or administrative

matters, which are in the lesser category of consultation. Salaries were obviously negotiated, and so were sabbatical leaves of absence with full pay, and apparently also the provision for duty-free lunch periods for elementary school teachers. On the other hand, the consultative role is said to have prevailed, for example, in regard to class sizes, the procedures to be used for programming of teachers, and the suggested use of teacher time when school aides are used to relieve them of administrative duties. But we can go back and find negotiated provisions that deal with closely related if not identical subject matter.

I suppose that negotiation and consultation shade into each other, when both are part of the collective bargaining process. So long as both parties understand that the total content of the school set-up is subject to varying degrees of co-determination, we are off on the right foot. True, there are some aspects of our work -- for example, the curriculum -- where negotiation in the literal sense <sup>may be</sup> ~~is~~ out of place. <sup>though I am not quite sure of this.</sup> ~~But~~ <sup>And</sup> even in this case we can negotiate on the question of how the curriculum should be drawn up, and we can formulate procedures for consultation in the actual making of the curriculum. The over-all context, therefore, is still a collective bargaining situation.

And so I return to the foundation principle upon which the United Federation of Teachers operates, namely, that all aspects of the teacher's job are properly the subject of collective bargaining. We reject any hard-and-fast distinctions between working conditions and professional matters. Being realistic,

we recognize the need for compromise and for specific types of adaptation in individual situations. I am hopeful that practical solutions can be worked out, empirically, as we move on from one contract year to another. In a way, the age-old drama of labor's impingement on the managerial prerogative, is here being re-enacted.

Collective Bargaining: The Role of Civic Groups

The bargaining situation in public education is sui generis in that there exists a proliferation of non-employee groups which have staked out jurisdictional claims in the decision-making process. I refer to the parents' associations and the miscellaneous civic organizations working in the area of education, all of whom claim to represent the public interest. This complicates our problem no end. For, some of the leading ones of these lay groups, in New York City at least, only recently took the position that the United Federation of Teachers is seeking too much in its effort to bargain on matters involving educational policy, and that in these matters we should have no greater role than the consultative one accorded to these lay groups. We believe, on the other hand, that the public interest will best be achieved by the meeting of minds, primarily, <sup>As I have said,</sup> ~~of~~ <sup>between</sup> the Board of Education and the teachers' union. We teachers have the expertise, and, as workers, we are affected by every decision that is made. Let me hasten to add that lay groups do have a role to play, but it is an advisory or consultative one, and it is not in the same dimension as the role of the teachers. We believe they most effectively play their role in the formulation of the aims of education. Aware of the impossibility of achieving these aims with the insufficient funds currently provided, they play a major

political role in seeing to it that larger appropriations are made. But with respect to the allocation of funds and the establishment of priorities, they should not operate in the same role as teachers.

When I made a similar statement in an address at the American Federation of Teachers Convention last August, the report in a major New York City newspaper quoted me as having said that parents should not "meddle" in school affairs. This is much too strong a word, and I did not use it. What I am saying is that the lay groups should accept the realities of the new era of collective bargaining in this area of education. They must stay within their proper spheres, and they must not minimize the total bargaining role of the teachers. There can be no peace in the schools unless they accept the bare and essential facts of the collective bargaining process in education. The agencies expressing the public interest are pluralistic, but there is a primary order of power and rights that has to be recognized, based upon differences in function and role. It is significant and gratifying to note that in very recent weeks these lay groups have taken a position much closer to the realities of the situation as we see them.

#### Implications of Our Case Study

In November of 1960, Mr. Justice Arthur Goldberg aptly anticipated a major phase of the theme of this morning's panel. At that time he was special counsel for the United Federation of Teachers in our uphill fight for the right to have collective bargaining. He stated that the decisions then to be made in New York City on how to implement bargaining rights for school

employees would set far-reaching patterns for civil servants in all parts of the country. While it is still too early to describe the exact design of those patterns, we can discern the basic configuration. Varying in degree of clarity and certitude, the following are some of the discernible patterns: the evolution of a pluralistic concept of the custody of the public interest; a refinement of the relative roles of management, workers, and related civic groups; a molding of bargaining procedures which, in the guise of "discussion" or "consultation," <sup>tentatively</sup> allow for the softening of otherwise hard positions; a pragmatic redefinition of the subject matter of the bargaining process, in a situation where the union claims the entire field as within its bargaining jurisdiction; the establishment of broad bargaining rights for teachers, as a model for others to follow; a progressive grievance machinery that brings strong benefits to the membership and security to the union.

A few years back, Dr. Myron Lieberman wrote in The Future of Public Education; "We are at the threshold of a revolution in education -- a revolution which will alter drastically every important aspect of education as a social institution and as a profession." We are now beyond the threshold. It is the collective bargaining process, operating in a grand manner, that has begun to make a reality out of this dream.

I wish to return to the thesis which I presented earlier: that if collective bargaining for teachers is in the public interest, then so is collective bargaining for white collar, technical and

other professional employees. If I have shown benefit to the public interest in the extension of collective bargaining for public school teachers -- what legitimate objections can be raised to the extension of collective bargaining to private school teachers, to typists and secretaries, to medical technicians in hospitals, to psychologists and social workers employed by private or governmental agencies?

The significance of what we have done lies not merely in our conformity to the public interest but also in the fact that our actions have encouraged and will continue to encourage these groups to follow in our path, and to take the necessary actions to achieve collective bargaining status. In the last analysis, collective bargaining rights will be won, by these groups as they have been won for others, sometimes by logic and by persuasion, but more generally by the kind of organization, action and strength which gives the employers no other choice.

There is one final thought that I would like to leave with you. In our changing society, the teacher is evolving into a new personality. Under the impact of the movement for collective bargaining -- a dynamic nationwide movement that the UFT is proud to have generated -- the teacher has, first of all, a feeling of collective strength. Because of his identity with a strong organization, he feels individually strong. Because he perceives himself strong, individually and collectively, he now dares to seek new satisfactions out of his job.

This new image of the teacher, as much as anything else, is a step in the public interest. When teachers can change both their

self-image and the image that they project, from the traditional timid, weak, and passive type to a proud, courageous, strong, and dynamic one, this is something very much to be cherished by society at large. It is a new image which, in the course of the teaching process, cannot help but be transmitted to those whom we teach. We have reason to believe that this will be reflected in a better society.

I am confident, in conclusion, that in bringing collective bargaining to the area of education, we are vitally serving the public interest. I believe, also, that the public interest will be enhanced by the expanded organization of white collar, technical, and professional workers generally.