Wars of Attrition

Vietnam, the Business Roundtable, and the Decline of Construction Unions

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[O]ur experience covering a period of over twenty years clearly indicates that having to deal with unionism in the building industry was unavoidable primarily because the average owner is unwilling to have his building operation made a battle ground for deciding the issue as between a union and a non-union operation; whereas a manufacturer, if he is opposed to unionism, might justify a battle for two or three years to gain the open shop, the average building owner, who builds but one operation, is unwilling to wage a battle for posterity.1

The most powerful big business organization devoted to restructuring the construction industry was forged by the latter's largest industrial customers. The group's origins can be traced to efforts by larger general contractors during the waning months of the Johnson administration, as ENR reported, to “move toward an organized counterattack on soaring wage demands and declining productivity.” At a two-day national labor conference sponsored by the AGC in Washington, D.C. in May 1968, the organization painted a “dire picture of construction negotiations” by predicting 1,400 strikes and 10 million lost man-days for the year compared to 1,200 and 8 million in 1967; it also forecast an increase in collectively bargained wage rates of 8 to 10 percent compared to 6 to 8 percent the previous year. Winton Blount, the owner of the country’s 54th largest construction company (Blount Brothers Corporation in Montgomery, Alabama) and president of the Chamber of Commerce of the United States, declaring that “It’s time for a showdown,” proposed as one possible solution restructured bargaining on the state, regional, and national levels. Another reason for more centralized collective bargaining was offered by John Healy, also a construction company owner and future AGC president: “such bargaining by a unified management group will even help save the unions from themselves. The insatiable demands of the craft unions are usually generated on the local level by people not versed in economics and the effects of such demands on the industry. The internationals by and large know better but are afraid to buck the locals.” Blount also endorsed the proposal by NCA president J. M.

1“Part Ways with Award Enforcement,” 44 (35) AC 21 (Sept. 1, 1923) (printing letter of L. J. Horowitz, president, Thompson-Starrett Co.).
Graney that “[w]e...get rid of exclusive hiring halls....” The assembled employers also heard William Chartener, assistant secretary of commerce for economic affairs, describe some building trades wage demands as making “previous settlements look like an offer of free donuts during a coffee break.” He warned that such trends might price the industry out of its market.²

The first concrete step to create the requisite organized management cooperation took place on August 7, 1968, when Blount and AGC executive director William Dunn met “with top executives from some of the largest U.S. construction firms and their customers on ways to keep down construction costs.” In contrast to virtually all later accounts of the origins of the Business Roundtable, ENR depicted the contractors, and not their large industrial customers, as having taken the initiative: “A long-standing contractor complaint is that owners often worry more about finishing a project on time than higher cost caused by expensive labor settlements. So owner pressure—if any—is on the contractor to settle, and finish the job. Contractors seek owners’ support in resisting union demands.” ENR reported that those present had agreed that Blount’s Chamber of Commerce “should be the vehicle to bring together” all the parties influencing costs.³

The immediate organizational catalyst for the Roundtable’s formation was a two-day National Conference on Construction Problems sponsored by the Chamber of Commerce of the United States two weeks after Richard Nixon had been elected president in November 1968.⁴ The list of registrants included representatives of several NCA members such as Bechtel and Fluor, as well as numerous major users such as Ford, U.S. Steel, Monsanto, and First National City Bank.⁵ In highlighting the steps that owners and builders could take to “improve the state of the art of the contractors’ labor relations,” the Chamber pursued the “ultimate goal” of “slow[ing] the construction cost spiral.”⁶ Blount, soon to become Postmaster General in the new administration, set the agenda rhetorically by pronouncing construction labor

⁴“U.S. Chamber to Be ‘Catalyst’ for Problems Among Builders,” NYT, Nov. 24, 1968, sect. 1, at 114, col. 3.
⁵Registration List, in Papers Presented at the National Conference on Construction Problems (Nov. 18-19, 1968).
relations "chaotic at best—despotic or unbelievable may be better terms...." But Blount also identified the core substantive agenda by asserting that labor problems "in many instances are beyond the ability of the industry itself to handle alone and some drastic changes are needed so that some semblance of order can be restored." The nub of those changes was quickly revealed by consensus to be the active involvement of industrial customers in supporting construction firms to limit "outsized settlements and labor practices which hamper productivity."  

The proposal met with an especially eager reception from representatives of industrial companies operating large facilities in the Houston-Gulf Coast area, who agreed that they could no longer "afford the luxury of standing by idly with open checkbooks and insist on scheduled completion of their industrial construction projects at any price." Indeed, some had already created a participatory role for themselves through membership in the major contractors associations' Employers Council in Houston; customers and builders reported to each other during labor contract negotiations especially with respect to the former's support for the latter during strikes. The arrangement, according to B. J. Kinsel, Dow Chemical's industrial relations manager in Freeport, Texas, helped moderate wage settlements.  

Kinsel also sparked an intense debate over national contracts (between large national construction firms and industrial customers) and their provisions calling for work to continue during local strikes in the area by asserting that users failed to understand that undermining local contractors had repercussions for themselves: the inferior "settlement that the local contractor comes up with is going to affect the economics of doing business in your neighborhood forever." The Dow representative then pointed out that if an owner wanted construction to continue during a local strike, it could accomplish that end without weakening local contractors' bargaining position by doing "the entire job open shop...."  

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designed to give national contractors steady employment while weakening local contractors' bargaining power, offered a preview of big business's union-free construction sector. Dow had built what was probably the largest chemical producing plant in the United States with union workers, but was currently building a plant in the same area with open-shop contractors as were two other chemical companies. "The reason," he added, was "strictly economics."10

After Shell Chemical Company's representative agreed with Kinsel, the NCA vice president defended the national agreements that his members frequently entered. In addition to observing that such contracts shielded industrial contractors and their customers from provisions of local agreements that were inappropriate to such projects, George McGuire made two empirical assertions: instances of working through local strikes were few, and as employers of only 1.5 to 2 percent of the construction labor force, nothing NCA members did could plausibly affect the problem of "wage escalation" one way or the other. Regardless of whether this latter argument was sound in an industry allegedly characterized by lock-step, coercively comparative wage bargaining, a representative of a specialty contractors association insisted with respect to the first argument that even where no strike took place, "the mere fact that a national agreement holder is working in an area where negotiations are taking place can transform a normally reasonable business agent into a demanding and belligerent negotiator."11

Just how seriously the large unionized firms took the restructuring campaign was evident in the remarks by J. M. Graney, labor relations manager at Ebasco Services, a former NCA president, and future Roundtable consultant and executive director for construction. Arguing that the deterioration in labor relations had progressed to the point at which "'tinkering'" would no longer work, Graney developed his earlier proposal for ousting the union hiring hall: for the industrial construction sector, he suggested a separate work force, "nonunion if necessary," that would be "computerized, inventoried, recruited, trained referred and managed by national hiring halls operated by professionals as a personnel office for industrial contractors." In a similar vein, the director of industrial relations

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at the American Iron and Steel Institute, an organization of large consumers, proposed the formation of a national human resources center. Others astutely noted that "the civil rights issue could be used as a lever to force labor reforms."

The overall mood of the conference was captured by participants who complained of an "industry dominated by unions...protected by a government the unions hold captive." To deal with this alleged systemic bias, "most agreed on the need for major labor law reforms to help contractors retrieve, then exercise, the management rights they have given or lost to unions." Herbert Northrup went so far as to propose repeal of the Norris-LaGuardia Act, which since before the New Deal had protected the labor movement from injunctions issued by a class-biased judiciary. These labor-law related complaints were curious since even at the height of labor influence during the Johnson administration, unions had failed to induce Congress to enact their highest-priority legislation—repeal of Taft-Hartley's authorization of state anti-union-shop laws and legalization of union picketing of whole construction sites to pressure general contractors not to hire nonunion subcontractors.

Leaving little trace of an open-shop crusade, the Conference Resolution recognized the "need for immediate action to...preserve the free collective bargaining process...." First among the resolution's desiderata was an inventory of manpower skills and requirements together with programs to recruit "disadvantaged and minority groups" and make the labor force more mobile. To strengthen collective bargaining it would be necessary to gain "the full support of owners." The resolution was less forthcoming with regard to decoding the proemployer content of the "legislation tailored to the needs of the construction industry," but its call for eliminating restrictive work practices required no explanation. The resolution created a task force charged with formulating a program to strengthen contractors' bargaining

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12 "Labor Problems May Find a Cure," ENR, Nov. 28, 1968, at 31, 32.
15 "Labor Expects Little from New Congress," ENR, Nov. 24, 1966, at 68. Whatever the reality-content of the claim of union legislative dominance, more realistic employers recognized that it was "a direct result of its solidarity and its ability to speak with one voice." "Local Groups Seek Management Unity," ENR, Mar. 14, 1968, at 87.
16 "Labor Problems May Find a Cure," ENR, Nov. 28, 1968, at 32.
Editorially, ENR applauded Blount and the Chamber of Commerce for having facilitated the unprecedented gathering of customers and constructors and union and open-shop firms; however, the magazine's assurance that the Chamber "has no desire to step on anyone's toes, or to usurp anyone's prerogatives" was premature.

Further evidence that employers had begun to forge a consensus on the construction industry was furnished by the NAM's publication in April 1969 of its provocatively entitled report, "Chaos in the Construction Industry." The NAM underscored the importance of contractors' undercapitalization for their inability to endure strikes or lockouts and chastised industrial customers for undermining contractors' bargaining position by insisting that they work through local strikes. It also appealed to users' narrow economic self-interest by explaining: "Industrial employees will no longer remain content with contract settlements which do not provide for the inflationary increases won by their counterparts in the construction field." The NAM, which, in contrast to the Roundtable, purported to represent small and medium-sized firms, established a special task force to "promote programs to solve labor-management problems in construction." This allegedly clear line between big and small business was clouded by the fact that a vice president of U.S. Steel became chairman of the task force.

The task force met during the following months "with the intention of bringing owners and contractors together..." The Roundtable's own history then adds the non sequitur: "It was obvious to the task force that an owner organization was necessary." (One of the ways industrial users set out to bring contractors together was to warn them that "major clients would move independently if the industry did not get its house in order.") Among the 23 people attending the first task force meeting in December 1968 were...
David Luckenbill of Shell, Weldon McGlaun of Procter & Gamble, and Jack Turner of Dow, who were all to play vital roles in the 1970s; together with the executive secretary of the NCA they served on the Committee on Collective Bargaining.\textsuperscript{22}

Another Task Force meeting in February 1969 focused on ways to overcome the owners' fragmentation and divergent interests, which were as great as construction companies'. The unifying theme was that users, "not the contractor, ultimately pay the bill." A subcommittee also proposed that owners could strengthen contractors' negotiating position by shutting down all projects in a geographic area and influencing the news media to bring about early settlements. Moreover, it recommended consolidated, wider-area bargaining and common expiration dates for agreements to deprive unions of the leverage to play one firm off against another.\textsuperscript{23}

Despite this activity, the next few months witnessed little progress. In an illuminating letter to his boss, S. D. Bechtel, Jr., R. Eric Miller, vice president in charge of labor relations at Bechtel and its liaison with the task force, reported as late as April 1969 that the participants until then had "tended to 'spin their wheels'.... We really need a new 'leader' such as Blough to get us 'off the dime' and working toward the definition of goals and the accomplishment of these. Otherwise, I say let's not expend our Bechtel efforts on a treadmill, rather, let's turn them totally to the pure Bechtel problems." One of the obstacles, according to Miller, was the reluctance of some owners in the refinery, chemical, and utility equipment industries to participate for fear of antitrust liability: "However, I am pleased to hear some of them (Shell, Dow, G.E.) say that they intend to find the 'proper legal advice' which will sell their firm on taking a continued part...."\textsuperscript{24}

A few days later, Virgil Day, who was in charge of labor relations at

\textsuperscript{22}Construction Committee Summary of Dec. 9, 1968 Task Force on Construction Problems Meeting, in BR, 1968: CCH.

\textsuperscript{23}National Chamber of Commerce Task Force on Construction Problems, Meeting of Feb. 14, 1969, in BR, 1969: CCH.

\textsuperscript{24}Letter from R. Eric Miller to S. D. Bechtel, Jr. (Apr. 11, 1969), in BR, 1968: CCH. According to another internal account, two months were wasted trying to persuade Fred Kappel, the former CEO of AT&T, to replace Blount. Peter J. Pestillo, "Construction Problems: In Search of a Solution" 16 (Mar. 14, 1969), in BR, 1969: CCH. GE's intense involvement in the Roundtable's formation was in part a function of its status as a general contractor for nuclear power plants, which were allegedly not profitable because the firm had failed to gauge construction inflation accurately. Peter J. Pestillo, "Construction Problems: In Search of a Solution" at 1 (Mar. 14, 1969), in BR, 1969: CCH.
GE, wrote his boss that the "chemical people have been out front on this project. They've organized owner groups in some areas already.... Shell and Dow have taken substantial losses to bring about some stability." More significant still was Day's revelation that Steve Bechtel had been "instrumental in an effort to recruit Roger Blough to this venture."25 Later, David Luckenbill, Shell Oil's manager of construction relations, informed the firm's vice president that GE and Bechtel had been "the prime corporate forces which precipitated the action" to form the CUAIR, Shell and U.S. Steel being "the principal supporting companies...."26 The fact that the world's largest construction company and staunch union employer, the key member of the NCA, was not merely accommodating its largest customers, but was actively promoting the formation of the Roundtable, suggests that at least Bechtel early on had welcomed big business's assistance in enhancing its bargaining power with unions. To be sure, Stephen Bechtel was a unique hybrid figure: one of the richest capitalists in the United States and a member of the board of directors of J. P. Morgan & Company, he had long invested a substantial proportion of his family's capital in industries outside of construction.27

The other cause of delay, as Miller noted in a report to Bechtel, was Blount's acceptance of Nixon's offer of a cabinet position. Some progress was achieved, however, on April 1, when the task force met with the NAM and the Labor Law Reform Group, which were vitally interested in the same problems. They agreed both on the need to form a single group and that: "A leader of national stature (Blough or equal) is required to give overall direction to the activities...and to 'sell' these recommendations at 'top board levels' and 'top government levels'..." Leading top executives of a cross-section of important industries would be needed to "assist the 'leader.'" That Bechtel was primarily interested in dealing with rather than eliminating unions was clearly visible in Miller's conclusion that "at some point in time" a labor counterpart "certainly has to become a partner...." Miller judged that unions could probably "buy" "something unusual and big...more readily...than 'patches on patches.'" For the long term, Miller could envision a National Construction Industry Council, consisting of contractors, owners, government, and labor, to establish ground rules for working projects during

27Linder, Projecting Capital at 131.
local bargaining breakdowns, and to deal with jurisdictional disputes and manpower utilization, but for the immediate future the main point was to “glue the contractor/owner segments together and to tie down our leader.”

The Roundtable was “formed as a result of presentations and discussions at the May 1969 meeting of the Business Council at the Homestead,” in Hot Springs, Virginia, at which “a group of...Chief Executive Officers convinced Roger M. Blough that he was the appropriate person to lead such an owners organization.” He had been the board chairman of the United States Steel Corporation between 1955 and 1969 as well as chairman of the elite Business Advisory Council and Business Council during the Kennedy administration; after his retirement from U.S. Steel he became associated with the Wall Street law firm of White & Case. The Roundtable’s founding members were Fred Borch, the president of General Electric, J. K. Jamieson, president of Standard Oil of New Jersey, Birny Mason, Jr., chairman of Union Carbide, Frank Milliken, president of Kennecott Copper, James Roche, chairman of GM, and H. I. Romnes, chairman of AT&T. Blough, who had retired as CEO of U.S. Steel in January, agreed to overcome his reluctance only on the condition that “all CEOs present in the meeting would support the organization and would personally participate on a Policy Committee....” The new organization met for the first time at the Wall Street offices of White & Case on June 3 (the so-called vice presidents’ meeting) with representatives of 15 major corporations agreeing to serve on a coordinating committee. Having adopted the name Construction Users Anti-Inflation Round Table, the group, consisting solely of users, “quickly recognized the need for contractor advice and input....” It therefore set up a Contractor Advisory Council, made up of CEOs of large construction firms and designed to work with the policy committee, and a Contractors Task Force, consisting of construction and labor relations experts, who worked with the coordinating committee. During the summer, the new group, as yet unknown to the public, held a series of meetings with “high level members” of the Nixon administration, including the Attorney General, Labor Secretary, the chairman of the Council of Economic Advisors, and Postmaster General Blount, “to insure their support and understanding of the Anti-Inflation Round Table’s purpose.” Interestingly—in light of a report in the Wall Street Journal that the group did not want unions to have advance knowledge of its

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formation—"[m]eetings were also held with George Meaney [sic] and Lane Kirkland of the AFL-CIO."²⁹

In early July, John Harper, the chairman of Alcoa, sent telegrams to his counterparts at large corporations inviting them to an introductory meeting. The telegram to Edward McI. Tittmann, the chairman of American Smelting & Refining Company (ASARCO), read: "Accelerated costs in the construction industry are of deep concern to all of us. To this end a Construction Users Anti-inflation Round Table has been formed. You are urged to attend a presentation on this matter by Roger Blough on...July 22...in the Links Club, New York. The meeting will also be of interest to your industrial relations officer."³⁰

Blough’s paper, "Construction Users Anti-Inflation Roundtable: A Statement of Program," which formed the core of the testimony that he was to give to the Joint Economic Committee of Congress in January 1971, focused on the impact that “unbelievable” construction wage increases would inevitably have on industrial employers—the gap between the two sectors was “certain to ‘suck up’ all wages”—and the risk that the compulsory arbitration or wage controls suggested as possible remedies for construction “could soon permeate the entire economic system.” After sharing an example of how U.S. Steel had successfully cooperated with construction firms in Pittsburgh to hold down union wages, Blough nevertheless insisted that the


Roundtable was "in no sense a union-busting group. Many intelligent union leaders are as concerned as we are." According to the CUAIR's organizational chart, its highest operating level was the Policy Committee, consisting of "a few of those who participated in the early discussions... They, in turn, will seek advice from some of the leading executives in the construction industry who form a Contractors' Advisory Committee," to which in turn was subordinated a Contractors Task Force, consisting of those executives' subordinates. Similarly, operating under the Policy Committee was the Roundtable Coordinating Committee to which "[f]ifteen of the principal members of the Roundtable have assigned competent men of stature in their organizations...." This working committee, in turn, supervised several task forces covering the following areas: expanding supply of skilled craftsmen, eliminating restrictive work practices, strike insurance, seasonality, legislative reform, overtime, and improving contractor bargaining. While promising that the Roundtable would not interfere with any member's freedom to act, Blough urged the assembled executives to join in a "united front." Among the most important steps that they could take were: refraining from scheduling overtime; not interfering with local contractors' strikes by continuing to build; supporting expansion of supply of skilled labor by including minorities; and supporting stronger collective bargaining by contractors.31

What the vice president for industrial relations at one of the CU AIR members chose to take notes on is worth mentioning. He set an exclamation point after the datum that only 1,200 of 870,000 contractors had more than 100 employees, adding that the balance of power was the "real culprit." Without drawing any negative conclusions, the official jotted down that Blough had met with leading Nixon administration economic policy officials (such as George Shultz, Arthur Burns, and Paul McCracken), who reported

31 Roger Blough, "Construction Users Anti-Inflation Roundtable: A Statement of Program" 1, 2, 9, 23-26, 28-29, 34-35 (Preliminary-Confidential, July 15, 1969), in SP, Box 5, File-CU AIR 1969-1970. An attorney at Blough's law firm sent Soutar a copy the day after the meeting, stressing that it was "still quite confidential...." Letter from [ ] to D. H. Soutar [sic] (July 23, 1969), in SP, Box 5, File-CU AIR 1969-1970. By Aug. 1, 1969, three other Coordinating Committee task forces were added—restoration of management to contractors, jurisdictional disputes, and compilation of statistics. Each task force was chaired by a coordinating committee member. For example, J. Warren Shaver, U.S. Steel vice president for labor relations, chaired the task force on restrictive work practices, while Virgil Day, GE vice president for industrial relations, headed that on legislative reform. Construction Roundtable, "Coordinating Committee Task Forces" (Aug. 1, 1969). SP, Box 5, File-CU AIR Membership.
that they had political problems with Labor, while the construction unions had given the administration “more support than others.” From the ensuing discussion the industrial relations manager noted a question by William F. May, the chairman of American Can Company, as to the legality of a construction company formed by a number of larger companies. Such a radical restructuring of the construction industry, however, never entered the Roundtable’s agenda. Frank Milliken, the president of Kennecott Copper and one of the Roundtable’s founding members, also explored an issue that the Roundtable, for all its propagandistic references to the harm done to home buyers, never took up: what pressure could be put on residential construction? Replying that the best route was through banks, Blough added that he had met with the five top bank executives including David Rockefeller, who had explained that they could not make joint agreements not to make loans.\(^3^2\) But Rockefeller and the officials of First National City Bank, Morgan Guaranty Trust, Metropolitan Life Insurance, and New York Life Insurance all expressed “considerable interest in the project and offered to be of help if feasible wasys [sic] could be found.”\(^3^3\)

The note-taking industrial relations manager, a well-connected link in the increasingly dense national network of big business’s antiunion groups, doubtless spoke for many of his colleagues in a confidential memo to his boss characterizing the Roundtable as a “worthwhile project and a major problem and factor in the inflation equation. ... This is one of our nation-wide industry participation projects like the Labor Law Reform project, utilizing the same talent.”\(^3^4\)

In early August, the well-informed Construction Labor Report reported that, following a seven-month study, the task force, consisting of representatives of some of the largest industrial project owners, power companies, the American Iron & Steel Institute, the AGC, NCA, various subcontractors associations, Bechtel, and the Chamber of Commerce, recommended the creation of an organization of users and construction firms to promote cooperation in coordinating labor relations policies and inventorizing manpower skills to combat “extravagantly inflationary” wage settlements, artificially created labor shortages, and restrictive work practices

\(^3^2\) Untitled notes, in SP, Box 5, File-CUAIR 1969-1970.
\(^3^4\) Memo from [ ] to EMT (July 25, 1969), in SP, Box 5, File-CUAIR 1969-1970.
while strengthening collective bargaining.  

CUAIR's policy committee was composed of the top executives of eight of the largest U.S. corporations, including General Motors, Standard Oil (N.J.), AT&T, and GE. The CUAIR's 17-member coordinating committee also included executives of Dow Chemical, Texaco, Shell, Procter & Gamble, Goodrich, Alcoa, du Pont, U.S. Steel, and International Paper. In addition, Graney, a former NCA president, served as a consultant. Focusing on the "astronomical" wage increases that it saw as underlying the "alarming" rate of construction cost increases, the CUAIR initially projected itself as a research group designed to promote "wider public understanding of the industry's problems and the inflationary threat they present to our economy." Such a role was necessary because big business's ignorance of the construction industry had caused it "unwittingly to accelerate the rise in building costs"; Blough's group intended to "stiffen resistance to additional union wage increases...."

The Roundtable's choice of an educational public image was, according to the Wall Street Journal, dictated by fear that a group of the country's largest firms collectively seeking to lower their costs might prompt the government to initiate an antitrust investigation. The Journal, in a perceptive front-page scoop published shortly before the CUAIR was formed, not only waxed ironic about Blough—who had provoked President Kennedy in 1962 by raising steel prices—as "inflation fighter," but stressed that the organization had "kept quiet" about its formation largely to preclude early union opposition; after all, the Journal surmised, "union leaders' normal instincts probably would prompt them to view the Round Table as a sinister big-business conspiracy against them." In "mustering tremendous economic pressure" to de-escalate construction costs, the organization was as focused on keeping its own members in line as construction unions and firms. Any member that tried to pressure a contractor to acquiesce in a high wage

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settlement or provided work to unionists on strike elsewhere would be subject to the organization’s “collective displeasure.” They will monitor each other in a sort of internal police system.” Exactly how members would make violations “more painful” without imposing some tangible penalties, for example, by withholding intercorporate business, the Journal’s inside informant failed to confide.\(^3\)

Like employers’ resentment of the consequences of a free labor market at the height of a boom, the Fortune 100’s preemptive approach to one another’s competitive optimum profit strategies seemed to view the free market as an evil to be avoided by oligopolists. In practice, however, Roundtable companies rarely if ever refrained from pushing for as rapid completion as possible of their plants in favor of a shut-down to undermine construction unions’ long-run control of the labor market and negotiating leverage.\(^3\)

The type of public education that the Roundtable envisioned was exemplified by a press release from Blough’s successor as chairman of U.S. Steel, Edwin Gott, in April 1970. Blough quickly circulated it to the Roundtable members, calling it a “good example” of the kind of public statement by user executives that could be especially effective in connection with local negotiations.\(^3\) Gott’s statement highlighted a recent contract in Kansas City, which provided that “the annual employment cost of an unskilled highway construction laborer working forty hours per week will

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\(^{3}\) James Gannon, “Industry Quietly Forms Group to Curb Spiral of Construction Costs,” \(WSJ\), Aug. 14, 1969, at 1, col. 6, at 16, col. 1. A copy of this article is found in SP, Box 5, File-Construction Committee. The BCTD president, Frank Bonadio, characterized the building trades unions as “‘victims of a conspiracy’” with the Roundtable as one of chief conspirators. “Building Trades Seek the Best of Two Worlds,” \(ENR\), Jan. 11, 1973, at 22. When the Roundtable was strongly urging members to refrain from scheduling overtime for construction projects, its Coordinating Committee noted that one company (Commonwealth Edison) that had not gone over to the 40-hour basis, “will be approached to discuss this matter further.” \(BR\), CC, Minutes, June 26, 1970, at 3, in \(BR\), 1970-Vol. II: Minutes.

\(^{3}\) Telephone interview with Robert McCormick, president, NCA, Washington, D.C. (Mar. 11, 1999). The Roundtable’s objective was not unprecedented: in 1887 building owners in New York City had permitted delays so that master plumbers could continue their ultimately successful struggle against the plumbers union over control of the apprenticeship system. “The Strike in the Plumbing Trade,” 6 (10) \(BJA\) n.s. No. 62, at 85 (Mar. 5, 1887). When the Plumbers abandoned the strike (“systematic warfare against the bosses”) in favor of “incessant guerrilla warfare” in each shop, the union (incorrectly) predicted that people erecting buildings would insist that the plumbing work be done promptly. “Really But Not Officially Ended,” \(NYT\), Apr. 10, 1887, at 7, col. 3.

increase to almost $20,000” by 1971. He urged the public: “Contrast this to the incomes of the millions of highly skilled men and women with years of costly preparation behind them and it becomes obvious that something is critically wrong when an industry can get to a point where such an imbalance could occur.”

As a public educator, Gott, who apparently saw nothing wrong or imbalanced about his own $309,834 annual compensation, omitted to mention that virtually no construction laborers worked year round. Even the laborers’ employers in Kansas City contended that they worked on average only 1,700 hours, while their union put the figure at closer to 1,200. Special surveys that the BLS published just as Gott spoke impressively documented how few hours they (or their colleagues in any other construction occupation) worked annually. In Detroit, Omaha, and Milwaukee, the average number of hours that laborers worked in a twelve month period amounted to 765, 626, and 590, respectively; even excluding all laborers working fewer than 700 hours raised the averages only to 1,540, 1,467, and 1,416, respectively. Those working more than 1,800 hours accounted for only 14.4, 10.0, and 8.9 percent, respectively, of all laborers in those cities. An unprecedentedly detailed BLS study for 1970 revealed how low construction laborers’ annual wages were. The median earnings of year-round, full-time union construction laborers were only $8,730, and exceeded $15,000 only for 1.2 percent of them; the corresponding figures for nonunionists were only $5,419 and 0.9 percent.

Later the Roundtable portrayed its original raison d’être as having been the “terrible shape” in which construction found itself in the later 1960s and early 1970s: “the industry was becoming increasingly noncompetitive in the world marketplace.” To be sure, this claim was untenable: at that time U.S. construction firms dominated the world market, very few non-U.S. firms operated in the United States, and any labor problems in the form of high union wages or work rules did not apply in the world market since by this

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44BLS, Seasonality and Manpower in Construction, tab. 78 and 79 at 71 (Bull. 1642, 1970). The data were collected in the latter part of the 1960s.
time U.S. firms operating abroad employed very few U.S. workers, instead recruiting third-world workers.47

Even if construction customers yielded to competitive pressures in their own product markets by disregarding construction costs for the sake of quick completion of projects, they soon understood the untoward ramifications. GM’s president may have apologized to his fellow Roundtable members for the construction contretemps at Lordstown by referring to his firm’s problems,48 but GM’s vice president and director of labor relations (and Roundtable participant) explicitly articulated its interest in the struggle against construction unions:

“Prior to our auto negotiations in 1970, the construction industry got extravagant salary increases. . . . There’s no damn way we can afford to raise salaries 18 percent for construction or any other group and remain competitive.

“We have building trade union members rubbing shoulders with our own auto worker union skilled mechanics who perform the same jobs. The building trade people are not above saying: ‘Hey, buddy. If you were a member of the electrical workers union instead of the auto workers, you’d have this kind of check.’ They jab them and they irritate them, so that our electrician goes down to his UAW local and says, ‘Goddamn. How come that guy gets $8.50 an hour and I get $5.80’?”49

That the CUAIR Coordinating Committee took its mission seriously is obvious from the fact that it met 63 times (twice a month) from the time of its establishment until the merger that created the Business Roundtable in 1972. Blough, according to the Roundtable’s self-history, “attended all but one of these meetings, providing dynamic leadership . . . .”50 He addressed various employers association meetings to mobilize their support for the CUAIR’s “fight against . . . runaway wages and restrictive work practices in construction.” If the mere mention of $19,000 annual incomes for laborers failed to galvanize members of the American Textile Manufacturers Institute, Blough’s assertion of their “‘magnet-like pull’ on the general level of industrial wages” may have provoked managers to join the struggle.51

The access that the Roundtable was able to secure quickly became

47Linder, Projecting Capitalism.
48Haynes Johnson & Nick Kotz, Unions 144 (1972).
49Haynes & Kotz, Unions at 137 (quoting George B. Morris, Jr.).
apparent. Blough and others met with John Dunlop on October 1 and with the Cabinet Committee on Construction on October 23, 1969.\textsuperscript{52} In December Under Secretary of Labor James Hodgson sent a memo to Secretary Shultz informing him that he had just learned that the first half hour of the next meeting of the Cabinet Committee on Construction would be “devoted to giving Roger Blough an audience.”\textsuperscript{53} In his review of the industry’s problems, Blough included among possible long-term solutions (in addition to strengthening contractors’ bargaining power by means of multi-employer bargaining units) two suggestions to which the CUAIR otherwise gave no prominence: binding arbitration of disputes and creation of a Labor Court of Justice.\textsuperscript{54}

By February 1970, the Construction Roundtable numbered 106 members—many of the country’s largest manufacturing, extractive, utilities, communications, transportation, and retail firms—all of whom were represented by the president, chairman of the board, and/or CEO.\textsuperscript{55} Members-companies paid annual dues based on their combined gross sales and stockholders equity; in 1971, these dues, which ranged from $2,500 for those with less than $500 million combined sales and equity to $35,000 for those with more than $6.5 billion, totalled between $1.5 and $2 million.\textsuperscript{56}

On June 10, 1970, Roundtable officials met with Paul McCracken, chairman of the CEA and of the Cabinet Committee on Construction, and Secretary of Housing George Romney. Blough, Virgil Day, Peter Pestillo, and J. M. Graney urged a three-point program: suspension of the Davis-Bacon Act; creation of a Construction Manpower Procurement Agency within the U.S. Employment Service to “reform” union hiring halls; and


\textsuperscript{55}Construction Roundtable, “Members of Roundtable” (Feb. 1, 1970), in SP, Box 5, File-CUAIR Membership.

\textsuperscript{56}“Messrs. Murphy, Blough and Borch: Dues Schedule Based on Combined Gross Sales Plus Stockholders Equity” (Oct. 6 [1971?]), in SP, Box 5, File-CUAIR. The total amount of dues has been estimated because, although this schedule includes the number of companies falling into the brackets, the number of companies in at least one bracket was omitted and the number in the highest bracket was too indistinct to be deciphered. See also “Dues Schedule Based on Combined Gross Sales Plus Stockholder Equity” (Oct. 16, 1972), in BR, CCH: 1972.
creation of a Temporary National Construction Review Panel to improve productivity, reduce collectively bargained-for wage increases, and restructure construction industry organization. Suspending the Davis-Bacon Act, "that depression-born anachronism," which caused the federal government to underwrite and propagate "excessive settlements," would not only "show decisively that the White House means business" in controlling inflation, but as an administrative act would not require congressional action. The proposed government-operated system of referral offices, based on computerized listings of all construction workers by classification and special skill, was designed to weaken unions' control of the labor market and collective bargaining position. The Construction Review Panel was intended to obviate the need for a general incomes policy, of which there was much talk in Washington at the time. Its first mission was to improve productivity by laying the "foundation for handling unnecessary work restrictions, job maintenance attitudes, methods of introducing modern equipment, and utilization of skills on the job." How the panel would have gone about implementing such a highly intrusive plan, which would have encroached on unions' defensive controls as well as managerial prerogatives, Blough did not explain. Nor did the proposal set forth what the panel would be empowered to do in considering recommendations for "restructuring the basic make-up of bargaining, the organization of unions and contractors..., work policies, and similar matters."57 A half-year later Nixon did suspend the Davis-Bacon Act for a few weeks, but the Roundtable's other proposals were both too radically invasive and vague to persuade a president who just a few days earlier had sworn everlasting gratitude to the leaders of the rampaging hard hats.58

The Roundtable's legislative agenda was in fact much broader and radical than these few proposals, although it recognized that the make-up of the House and Senate Labor Committees made it very unlikely that such

57CUAIR, "Report to Members: Roundtable Group at White House Meeting; Urges Three-Point Program" (July 15, 1970) ("Confidential - Not For Publication"), in SP, Box 5, File-CUAIR 1969-1970. According to the current NCA president, the Roundtable's proposal to create a government hiring hall was merely rhetorical because it would have interfered too severely with private enterprise; moreover, it would have lacked the hiring hall's flexibility of providing a contractor with the craftsperson with the required skilled at the right place the next morning. Telephone interview with Robert McCormick, Washington, D.C. (Mar. 11, 1999).

58See below chapter 11.
changes would be enacted during the first Nixon administration. Together with the Fair Labor Law Study Group, with which it would merge in 1972, it supported outright repeal of the Davis-Bacon Act as well as of the Norris-LaGuardia Act—which had been enacted during the Hoover administration to put an end to decades of judicial discrimination against unions—because employers were frustrated by its ban on the issuance of injunctions against strikes in violation of collective bargaining agreements. Big business also sought to amend the NLRA to strengthen already existing prohibitions on publicity picketing and strikes to protest use of prefabricated materials. In contrast, the Roundtable was unable to agree with contractors groups regarding several other issues. For example, whereas the AGC wished to eliminate union members’ right to reject labor agreements negotiated by their leaders, “[m]any in industry feel that this element of union democracy should be retained despite occasional hardships.” In terms of litigation, in mid-1970 Blough met with legal scholars and others to discuss legal action against craft unions’ augmentation of their labor market monopoly by means of violating labor relations and civil rights laws.

A month after its meeting with administration officials, the CUAIR had gained a sufficiently high profile to prompt The New York Times to offer Blough a 1,000-word op-ed column on the front page of its Sunday real estate section to repeat his message that the “astronomical” “inflationary impact of skyrocketing settlements in the construction industry...is a national problem of paramount importance.”

At the same time Blough circulated to the members a report by one of the Coordinating Committee’s task forces, “Restoration of the Management Role in the Construction Industry,” which starkly underscored the Roundtable’s fundamentalist position. Focusing on the union hiring hall as the root problem, the report characterized unions as “the de facto employers” with respect to hiring, training, placement, and administration of non-wage benefits. Apparently believing that management’s unfettered prerogative to disemploy was designed as a kind of capital punishment, the
Roundtable perceived the hiring hall as nullifying the employer’s power to fire because the discharged worker merely returns to the hiring hall “for reassignment to another construction project in the area.” Even more “regrettable” from the Roundtable’s perspective was the fact that many contractors maintained a “stronger bond” to the unions than to their customers or “the proper common interest relationships among members of the same industry.”

Undergirding the task force’s proposal to “strengthen collective bargaining” was a precept that the CUAIR soon turned on its head: “It is of prime importance to demonstrate that there is no anti-union character to these programs to ‘strengthen collective bargaining.’ While it is recognized that there are important segments of the world of construction where the work is performed by non-represented employees, this does not detract from the conclusion that the road to improvement—or the road block against improvement—will be found at the collective bargaining table.” By August 1970, the Roundtable Policy and Coordinating Committees invited a group of open-shop contractors to their joint meeting. At the Coordinating Committee meeting on October 6, after Donald Grant of Atkinson Company, a union shop member of the Contractor Task Force, mentioned that open-shop activity was increasing, Blough asked whether any committee member opposed the view that the Roundtable had not taken a position on the open-shop question: “No such opposition was made known.” In sharing the results with all the members, Blough, after having chanted his by now talismanic disavowal of any antiunion sentiments, effectively gave the nonunion construction firms free advertising and privileged access to the Fortune 100. Blough reported the nonunion contractors’ unanimous assertion that their productivity level exceeded that of their union counterparts because they retained more of their freedom to manage. In an apparent effort to create a snowball effect, Blough conveyed the nonunion firms’ claim that “the major barrier to the spread of open shop work is the unwillingness of industrial companies to permit contractors to bid on work. It was stated,
however, that during the last few months some large companies were reappraising their contracting policies and some were now inviting bids on an open shop basis.\footnote{Roger Blough, “Open Shop Contracting” at 1, 2, 5 (Oct. 23, 1970), in SP, Box 5, File-CUAIR 1969-1970.}

That same month Blough made common cause with the antiunion ABC. At its annual convention, Blough observed: “The competitive principle is at work and users will not be tied to an uneconomic form of work.”\footnote{“Open Shop Builders Gird for Greater Challenges,” ENR, Oct. 22, 1970, at 81.} ABC members’ “sweatshop with substandard wages and working conditions” had already begun to alarm the NCA and the construction unions by taking away 150 projects worth $7.5 billion in 1969-70.\footnote{“ABC and the Open Shop Stir Up an Industry Searching for Change,” ENR, Oct. 15, 1970. at 22-24 (quote at 23).} Blough reported to the Coordinating Committee on November 4 that the open shop appeared to do well without the hiring hall.\footnote{BR, CC, Minutes, Nov. 4, 1970, at 8, in BR, 1970: Vol. II-Min.} Much of the Coordinating Committee’s November 17 meeting was devoted to the open shop. Consultant Weldon McGlaun submitted a memorandum on an open-shop contractor’s satisfactory performance in Tennessee. Luckenbill of Shell noted that owner pressure was bringing about cooperation between general contractors and smaller open-shop builders. The CUAIR’s two-track approach to construction labor relations was then nicely captured by a colloquy between R. Eric Miller of Bechtel, who reminded the committee that it was not the Roundtable’s purpose to advocate the open shop or to take antunion action, and J. Warren Shaver, vice president for labor relations at U.S. Steel, who added that the group’s “purpose was to use the pressure of these events to improve the union structure....”\footnote{BR, CC, Minutes, Nov. 17, 1970, at 3-5, in BR, 1970: Vol. II-Min.} One of the leading member of the CUAIR’s coordinating committee invidiously compared the two sectors at the organization’s second annual members meeting in 1971. The nonunion segment, which claimed productivity advantages as great as 40 percent, had over the previous five years doubled its annual volume to $25 billion: “about the only radical thing they do is run their own businesses.”\footnote{CUAIR, Members Meeting, June 3, 1971, Minutes at 8, in SP, Box 5 [ ].}

In January 1971, Blough told Congress’s Joint Economic Committee that a “hard crackdown on construction unions”\footnote{“Blough Outlines Suggested Remedies to Restrain ‘Wage-Push’ Inflation,” CLR, No. 802.} was needed to avoid a
“colossal economic bust.” Declaring that “the inflationary impact of skyrocketing settlements in the construction industry has been almost unbelievable in magnitude,” but denying that his labor-supply-oriented proposals were antiunion, he urged the U.S. Employment Service to replace union hiring halls—“[t]he source” of flagging productivity and inadequate management—in order to break unions’ power, and customers to explore the possibilities of nonunion contractors. Blough also used this national forum to announce that among the remedies available to users was “increasingly [to] give open shop operators a fairer chance to contract new projects.” He reported that those firms claimed that unburdened by unions, they could pay the same wages, offer more continuous employment, and bid lower prices. Finally, just a few weeks before Nixon acted, Blough urged the president to suspend the Davis-Bacon Act to demonstrate the government’s serious pursuit of economic stabilization.74

The CUAIR’s advocacy of suspension was linked to its opposition to an incomes policy and its preference for a government-appointed panel that would, inter alia, help improve productivity and hold hearings on unacceptable collective bargaining settlements, which could then not be used on government projects.75 Reinforcement for this attack on the Davis-Bacon Act came from Assistant Secretary of Labor Arthur Fletcher, who was invited to address the CUAIR Coordinating Committee in February. Agreeing that the prevailing wage law should be revised, Fletcher “made suggestions for political action by concerned citizens.”76 A few months later, the Coordinating Committee, taking note of bills introduced to repeal the act, stressed that they “need support at the grass roots level.”77

Virgil Day spoke for the Roundtable in calling the hiring hall “the root of all evil in the construction industry.”78 The task force on hiring halls that the CUAIR formed in 1972 grew out of a construction users meeting in

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77CUAIR, CC, Minutes, Feb. 4, 1972, at 3, in BR, 1972: Vol. II-Minutes. Blough cited figures to the Coordinating Committee showing that 40 percent of new construction in 1971 was subject to the Davis-Bacon Act or related prevailing wage laws. CUAIR, CC, Minutes, Apr. 28, 1972, at 6, in BR, 1972: Vol. II-Minutes.
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Biloxi, Mississippi, at which, according to Blough, almost all the participants agreed that union hiring halls, which he estimated to be the source of three-quarters of all construction workers, were "the single most serious impediment to solving the problems of manpower supply, restoration of management rights and balanced collective bargaining...." 79

The antiunion thrust was again on display at a meeting of the CUAIR Coordinating Committee—which consisted of 19 members, most of whom were vice presidents in charge of labor relations—80 in March 1972, also attended by representatives of several NCA members serving on the Contractors Task Force. Blough raised the question as to whether the Roundtable should issue a study on project agreements: "After considerable discussion, it was the sense of the meeting that project agreements were not in and of themselves panaceas..." Far more interesting was the only reason adduced for this skepticism: "it may commit all work on the project, even for a period as long as 10 years, to be performed pursuant to collective bargaining agreements and, therefore, may freeze out future open-shop competition." 81 Presumably, the Roundtable expected a good deal more of such competition during the 1970s and into the 1980s. One of the invited speakers at CUAIR's annual meeting in 1972 was the executive vice president of Brown & Root, the country's largest antiunion construction company, who was part of the segment, "Changes Ahead for Construction and Their Effect on the User." 82

By 1972, CUAIR membership included about 120 firms: "Essentially all of the major companies in the oil, chemical, metals, automobile and rubber industries were Round Table members." In addition to corporations in the paper, textile, glass, building materials, and equipment industries, one-fourth of the membership consisted of electrical utilities, which were especially large construction users. Given the organization's origins, purpose, and interests, it should not have been surprising, but "[u]nfortunately, there


80 CUAIR, "Coordinating Committee" (Aug. 1, 1972), in SP, Box 5, File-CUAIR.


82 CUAIR, "Membership Meeting, June 12, 1972, Program," in SP, Box 5, File-CUAIR. No nonunion construction firm appears to have been represented on the Contractors Advisory Committee until 1982 when a Brown & Root official joined. BR, "Construction Committee History—Summary," in BR, 1970: CCH.
was a relatively low level of activity by the Contractor Advisory Council and by the Contractor Task force.” What contacts the CU AIR was able to maintain with major contractors were based primarily on “personal associations of members of the Coordinating Committee with senior contractor executives.” Despite the considerable time that Blough devoted to the matter in the latter part of 1970, the CU AIR also failed in its effort to forge a separate organization, which would have focused on labor relations problems and embraced general, specialty, and national contractors. The Contractors’ Mutual Association (CMA), which he initiated in the spring of 1971, attracted fewer than 50 members, in large part because the AGC advised its membership not to join. The Roundtable traced this failure to a lack of understanding of the CMA’s objectives. The CU AIR suffered another defeat in 1975-76 when it failed to merge the CMA with the AGC’s chosen vehicle, the Council of Construction Employers (CCE); as a result, the CMA failed to make a major contribution to dealing with labor issues.83

Nor was the Roundtable invincible in labor-management struggles. Even the Roundtable’s key policy of user-contractor solidarity did not always succeed. Despite customer acceptance of delays “in a common cause” and effective marshalling of public opinion against “extravagant union demands,” employers proved unable to defeat construction workers during long strikes in Kansas City in 1969 and 1970.84 Moreover, in 1972, the Mid-America Regional Bargaining Association (MARBA), an organization of 14 regional employers’ groups, which the CU AIR believed owed its existence to support by local user groups, demanded that the Carpenters Union in Chicago accept a large number of work rule changes in exchange for a large wage increase. In June, authorizing its first strike since 1919, the Carpenters Chicago District Council was able to shut down almost all building in a three-county area. The union magnified its leverage by finding employment for most of its striking members with 3,000 small contractors, most of whom still held union cards. After subjection to selective picketing throughout the rest of 1972,

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83BR, “Chapter 2” at 8-11. By mid-1972, CU AIR numbered 119 members, a few of whom were vice presidents of the firms they represented. CU AIR, “Members” (July 1, 1972), in SP, Box 5, File-CU AIR.

84“In Kansas City They Couldn’t Go As Far As They Wanted,” 82 (4) Fortune 98-101 (Oct. 1970). In 1970, the Cleveland Mechanical Contractors Association thanked the local user group for its help during a four-month strike by pipefitters: although the monetary settlement was “extremely high,” the contractors were able to resist demands for restrictive practices. CU AIR Report, Dec. 7, 1970, at 1.
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MARBA retracted its demands when the 1973 building season began. Nevertheless, CUAIR's Coordinating Committee was informed in July that MARBA "feels that the price of the wage increases was worth union recognition of consolidated bargaining." Nor was the Roundtable able to gain unchallenged supremacy even within the Nixon administration. The building trades unions' successful strategy of preempting administration attacks visibly irritated the CUAIR. Thus at the Coordinating Committee's October 5 meeting just a month before the 1972 presidential election, Blough, called on by its chairman, Virgil Day, to comment on current events, referred to newspaper reports of union support for Nixon and an interview with the Secretary of Labor attributing to him the view that the second Nixon administration would neither permit antiunion legislation nor undertake massive intrusions into collective bargaining.

At the Coordinating Committee's meeting on September 15, 1972, Blough confidentially raised the possibility of a merger with the Labor Law Study Group and the Links Club group of 25 top executives who met bimonthly to review and report on labor conditions. Some members initially questioned the wisdom of such a combined group, which was tentatively called the Employers Roundtable, "lest the effectiveness of the Roundtable be diluted." In order to prevent such dilution, it was made clear at the committee's October 5 meeting, the new organization's Construction Committee would carry on the work of the Coordinating Committee, which would continue to invite its Contractors Task Force members to some of its meetings. The minutes made no reference to the facial expressions accompanying "the sense of the meeting that the Construction

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85 Schneirov & Suhrbur, Union Brotherhood at 154-55; CUAIR, CC Minutes, Oct. 5, 1972, at 4, in BR, 1972-Vol. II: Minutes. MARBA invited user support. CUAIR, CC Minutes, Feb. 4, 1972, at 4, in BR, 1972: Vol. II-Minutes. The strike of 75,000 workers lasted two weeks. "Unions OK Building Strike," CT, June 23, 1972, at 1, col. 3; "Builders, Union Sign New Pact," CT, July 8, 1972, sect. 1, at 15, col. 3. See also "Unions Urged to Join in Regional Bargaining," ENR, Apr. 20, 1972, at 16. In particular, the Cement Masons Union rejected employers' proposal for a flexible lunch break to be scheduled some time between 11:30 a.m. and 1 p.m. permitting the uninterrupted pouring of concrete. Employers offered to pay double time if a worker was not permitted to eat lunch during this period and to permit him to eat later on company time; under the then existing rule employers had to pay masons double time who were required to work during the fixed lunch break from noon to 12:30. "Strike-Lockout Stalls Chicago Construction," ENR, July 6, 1972, at 43. On the formation of MARBA, see "Construction Gets a New Regional Bargaining Group," ENR, Dec. 2, 1971, at 33.


Committee...should endeavor to preserve for the combined group the reputation which the Roundtable has enjoyed, of having no anti-labor bias.”

On October 16, 1972, the CUAIR merged with the Labor Law Study Group to form the Business Roundtable-For Responsible Labor-Management Relations. The new organization’s Policy Committee appointed an executive committee, which in turn supervised two primary committees, the Construction Committee (formerly the CUAR’s Coordinating Committee), and the Labor Law Committee (formerly the Labor Law Study Group).

One of the principal motives for the merger had been laid out by GE vice president Virgil Day several months earlier. He invidiously compared unions’ ability to exercise restraint and leadership and to present a “single unified theory of the case properly supported by research” regarding labor law change with businessmen’s multitude of diverse voices. Moreover, Day bemoaned the fact that the proposals issued by the NAM and Chamber of Commerce were worked out by their staffs and thus did not necessarily represent the views of CEOs or business in general.

Big Business, in other words, needed its own organization for articulating and propagandizing its views on labor.

The new Construction Committee initially consisted of 18 members. Day was chairman and Rex Reed, vice president in charge of labor relations of AT&T, vice chairman. In addition to J. M. Graney, the former NCA president, who served as the Roundtable’s Executive Director-Construction, the other 15 members represented very large industrial corporations and one power company.

The Labor Law Study Group, 39 of whose 60 members also belonged to the CUAIR, was a big business organization created in the 1960s to undo NLRB decisions that had, according to Francis O’Connell, Jr., vice president...
of Olin Mathieson Chemical Corporation and a key corporate labor relations official, covertly imposed "socialistic...codetermination" on free enterprise. The nub of employers' animus was expressed by the histrionic dissent of NLRB member Philip Rodgers, a Republican and Eisenhower appointee: by declaring subcontracting a mandatory subject of collective bargaining, the majority had "thrust the entire question squarely into the arena of economic struggle and industrial turmoil where strikes, picket lines,...protracted litigation, and many other aspects of economic power possessed by a union are 'protected' by this Board and are, therefore, legally available to a union to compel a complete abandonment by management of its proposal, on pain of suffering irreparable damage to every aspect of its business." At a Senate hearing on congressional oversight of administrative agencies, an attorney representing the Chamber of Commerce asserted that under the Wagner Act, "the boss was still the boss." After Fibreboard, however, "overnight, management found that it no longer had the exclusive right to manage...." When one senator finally managed to get into the record that the Supreme Court had unanimously upheld the Board, the management attorney demanded that Congress amend the NLRA to exclude "basic management judgments" from collective bargaining.107


96Congressional Oversight of Administrative Agencies (National Labor Relations Board) at 357, 377 (statement and testimony of Leonard Janofsky).
Reading in the *Wall Street Journal* that the UAW’s vice president had told automobile workers, to “thunderous applause,” that “the only prerogatives management has left are the ones we haven’t gotten round to taking away from them yet,”98 doubtless did little to allay big business’s apprehensions. The zealously with which Roundtable executives pursued these claims is underscored by their statements not meant for external consumption. Speaking to CUAIR’s annual members meeting in 1971 on behalf of the Labor Law Reform Group, Frederick Atkinson, a vice president of R. H. Macy and Company, insisted that “in the field of labor law business has been ‘backing down aggressively for the last 25 years.’”99 That Atkinson identified the beginning of this era of employer spinelessness as antedating Taft-Hartley suggested a breathtakingly radically reactionary program. After all, Douglas Soutar, one of the key corporate figures in shaping postwar labor-management relations labor figures and a founder of the Labor Law Study Group and the Roundtable, characterized the relationship with unions in the late 1960s and early 1970s as “civil war.”100

The perceived need for a merger between the two corporate organizations was based on the realization that legislative reform of labor law along the lines favored by big business “was probably not possible or practical. They felt,” as the Roundtable’s own history observed, “that reform by litigation offered greater opportunities, but such an approach required a larger and broader base and greater support from CEO’s....”101

The March Group, yet another organization of CEOs of large corporations such as GE and Alcoa, who were concerned about declining U.S. competitiveness and sought to create consensus on certain public policy issues, merged into the Business Roundtable in 1973.102 The Roundtable, in

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99CUAIR, Members Meeting, June 3, 1971. Minutes at 17, in SP, Box 5.

100Telephone interview with Douglas Soutar, Litchfield Park, AZ (Jan. 8, 1999). When asked about Robert Georgine’s repeated attacks in the 1970s on the Roundtable for engaging in a “terrible conspiracy” to “break” construction unions, Soutar laughed and observed that corporations had a right to get together to defend their interests so long as they did not violate the antitrust laws. Telephone interview with Soutar. For one of the early versions of Georgine’s attacks (containing the preceding quoted words), see Haynes Johnson & Nick Kotz, *Unions* 138 (1972). Other authors try to meld such a “conspiracy theory” with “the ‘just desserts’ theory,” according to which construction workers brought on the open shop movement by securing wage increases far in excess of inflation or productivity gains. Mangum & Walsh, *Union Resilience in Troubled Times* at 169-70.


102John Harper, Alcoa chairman, who had been cochair of the March Group, became cochair
the words of Francis O’Connell, Olin Corporation’s representative on the CUAIR and the Labor Law Study Group, “sprang from two organizations formed out of concern over the excessive power of organized labor and the abuse of that power.”

ENR engaged in extraordinary understatement when it predicted in 1974 that in the year 2000 the Roundtable would be “the most articulate, influential and effective lobbyists for legislated reforms in construction labor relations.” Indeed, by 1976, Business Week had already certified it as “Business’ Most Powerful Lobby in Washington.” If in 1969 the Roundtable sought to shield its very existence from scrutiny, by 1976 it was forced to witness its entire membership, matched up with the corresponding Fortune 500 rankings, listed by Representative Wright Patman in the Congressional Record.

Some irony attaches to Patman’s method: in 1969-1970 the Roundtable actually checked the list of the top Fortune 200 companies to determine which large construction users had not yet received an invitation to join.

The CUAIR’s objectives continued to be promoted by the merged organization’s labor management and construction committees, which assisted local construction user councils. As articulated by the Roundtable, those objectives included: support for contractors in labor negotiations; expanding the construction labor force, “particularly through the employment of minorities”; increased use of helpers and other non-joumeymen; eliminating work restrictions; “promoting the contractor’s right to manage”;
and lobbying for legislative reform. For 1973, the Construction Committee’s highest legislative priorities related to the Davis-Bacon Act and secondary boycotts.

The Roundtable’s impact, according to Douglas Soutar, a vice president of the American Smelting and Refining Company, a founder of the Labor Law group, member of the Roundtable’s Construction Committee, and chairman of its Labor-Management Committee, lay above all in the “coordinated effect” that it was able to bring about by virtue of the money its immensely wealthy corporate members could contribute: “the Roundtable funded everyone.” The Roundtable project that, in Soutar’s view, achieved most was the litigation that it financed to counteract “union power unvarnished.” Remaining hidden in the background, the Roundtable funded cases, nominally brought, according to Soutar, by a “poor devil” of a small construction contractor, in which the Chamber of Commerce of the United States appeared as an amicus represented by Gerard Smetana, at the time an attorney with Roundtable member Sears, Roebuck, and co-chairman of the Roundtable’s Litigation Committee, who during the remainder of the twentieth century participated in a large volume of appellate litigation seeking to roll back union rights, or, in the Roundtable’s words, to achieve “more equitable labor relations in America.” The cases, largely dealing with secondary boycott and picketing issues, were designed to establish proemployer precedents that the Roundtable believed could not be expected from a prolabor NLRB or the Congress. In 1973, for example, one of the Litigation Committee’s priorities was to expand the antitrust laws to cover union violence against open-shop contractors intended to fix prices by means of forced union rates. In retrospect, Soutar ranked these litigational results as the Roundtable’s most important accomplishments.

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The focus on litigation resulted from the Roundtable's perception in 1969 that "the makeup of Congress (and particularly of the Labor Committee of the Senate and House) is unfriendly to management, tools of labor, and could block anything we tried to do." Four years later this judgment remained unchanged. In a letter to Virgil Day, the president of a research organization consoled the Roundtable official with the thought that despite "the 'Mexican standoff' aspect to the legislative reform matter"—meaning that if labor introduced any prolabor bills, the Roundtable's issues would be added on as amendments—"the litigation program is sawing away with mounting success, and 'law' is being written which is just as effective as equivalent legislation itself."112

The Business Roundtable went to some verbal lengths to assure the world that it was not out to destroy unions. One of its "most important" activities was promoting the formation of local users groups or "local Roundtables" throughout the United States, which were designed to be primarily responsible for overcoming the imbalance between construction...
labor and management. The Roundtable had organized dozens, many of which were chaired by the highest executives of some of the largest corporations in the city or region. At a meeting of one such users group in October 1973 John Harper, the Roundtable’s chairman (and CEO of Alcoa), insisted, in a non sequitur, that the organization “would neither accept nor deserve a stamp of anti-union bias...because it is devoted to improving the performance of the business system for the benefit of all the American people.” This misleading rhetoric was echoed by Soutar, who ranked high among the Roundtable’s objectives “...a consistent, continuing endeavor to give the organization the accurate stamp of being pro-business, pro-public, and not anti-union.” And Virgil Day repeated the self-denying sentiment at the 1975 annual conference of local user groups: “It should be clearly understood that the Roundtable has no position on the open shop as against unionized construction; the Roundtable is concerned with every facet of the industry.”

The Roundtable also minced words in describing the objective of its general labor law reform program. It protested that its goal was not to develop “a punitive thrust against organized labor, but to safeguard the worker’s right to decide whether or not to join a union, and, if he does, to have a union responsive to his needs....”

Chief among the Roundtable’s non-antiunion activities was promoting bad publicity for construction unions and sympathetic attention for the industry’s nonunion sector. The grant that it bestowed on Herbert Northrup’s Open Shop Construction, which was funded entirely by contributions from businesses, including both a large antiunion construction firm, H. B. Zachry Company, and the increasingly antiunion user and Roundtable member E. I. du Pont de Nemours, was well spent: the book spawned enormous positive media coverage of the nonunion construction

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114 The chairman of Inland Steel Company was chairman of the Chicago Construction Users Council, while the president of the New York Telephone Company presided over the New York Construction Users Council. Business Roundtable, “Area with Local User Group Activity” (June 1, 1973), in SP, Box 5, File-CUAIR Membership.
sector and put unions on the defensive. Northrup turned to "industry circles" for financing after the DOL in 1971 had rejected his proposal to study manpower training in nonunion construction firms. At its August 22, 1972 meeting, CUAIR's Coordinating Committee discussed the proposal that Northrup had submitted for a $50,000 18-month study. The committee agreed that the study was needed, but concluded that since "anti-inflation activity" was its "general purpose," it "should not become a Roundtable study." Instead, it decided that Northrup's proposal "will be brought to the attention of various member companies which will be able to decide on a company-by-company basis whether or not to participate in sponsoring it." As Northrup himself conceded: "The Roundtable does not campaign for open shop construction as such. It does, however, encourage alternatives to the union shop where it is feasible, and this, of course, involves opening up bid opportunities to open shop contractors." 

The Roundtable also supported the explicitly open-shop ABC in its struggle for "honest law and order"—that is, against union "violence." In 1972, Leon Altemose, perhaps the highest-profile nonunion target of union violence, attended a Coordinating Committee meeting together with his attorney to discuss the problems of open-shop contractors who use union subcontractors. Gerard Smetana, the Roundtable's chief labor lawyer, was co-counsel for Altemose and others who sued 50 unions for violating the

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118 E.g., "50 to 60% of U.S. Construction May Be Open Shop," ENR, Sept. 18, 1975, at 41.
119 Northrup & Foster, Open Shop Construction at iv (acknowledging Roundtable grant).
120 CUAIR, CC, Minutes, Aug. 22, 1972, at 4, in BR, 1972-Vol. II: Minutes; Northrup & Foster, Open Shop Construction at 21. Three years later the Roundtable without dissent declined another request from Northrup for $20,000 to study minority employment in construction. In that context, Edgar Lore, vice chairman of Dravo, made the interesting comment that since Robert Georgine had become BCTD president, unions had acquiesced more in minority employment. BR, CC, Minutes, Oct. 21, 1975, at 7, in BR, CCH: 1975.
121 Northrup & Foster, Open Shop Construction at 203. In his history of the Operating Engineers, Mangum explains the background to violent confrontation in the industry: in the 1920s and 1930s, "contractors were...tough, and organizational success or failure often rested on the relative abilities of contractor and business agent in physical combat." Large nonunion firms performing most of the heavy construction "recruited crews in low-wage areas, transported them to the job site where they were housed in tent camps, surrounded by barbed wire, and patrolled by armed guards, if necessary, to keep union organizers out. When the job was finished, the contractor often dumped his crew on the local community and recruited another for his next job. Local labor leaders eager to protect local working conditions replied in kind." Garth Mangum, The Operating Engineers: The Economic History of a Trade Union 251-52 (1964). See also id. at 243: "Those whose work is of a physical nature are likely to react physically to displeasure or in pursuit of their goals."
antitrust laws. In 1974, its Construction Committee also gave John Trimmer, the executive vice president of the ABC, the opportunity to attend one of its meetings to address it.

The Roundtable "worked closely with the author in developing" a series of three articles that Reader's Digest published with intense propagandistic fervor on this subject in three consecutive issues in 1973. In addition to the "initial circulation of some 18 million copies," the Roundtable "plan[ned] to distribute re-prints to editorial people and opinion leaders." The Roundtable also sought to influence general public opinion. In early 1974 the Construction Committee reported that Reader's Digest would publish, over three years, "with Roundtable sponsorship and major financing,...monthly articles (labeled advertisement, but identical with other textual material in the magazine) that would depict the many aspects of business's contributions to society." It then spent alone in 1975 $1.2 million for 136 pages of advertising in Reader's Digest that was written as a "joint venture" by the magazine's staff as if it were editorial material. The Roundtable's growing influence was reflected in the request for help from leading CBS documentary producers who were planning to develop a program to show the obstacles to increased productivity and management's exercise of control: "The producer has asked the Roundtable staff for guidance and for identification of a major project, at any location in the U.S., where he could depict all of the productivity-inhibiting practices that prevail in the industry." Anecdotal evidence that the "Roundtable's message has even affected the ideas of the men themselves. I've often heard people say that 'We priced ourselves out of the market,' or 'We have to give up

Because CUAir "has long seen the need for, and has worked for legislation curbing the excessive power of union officials," the National Right to Work Committee invited Blough in June 1972 to an "unpublicized conference" of organizations sharing this common goal. Although scheduling conflicts precluded his attendance, Blough, who agreed that there was "considerable need for legislative change," referred the group to the Labor Law Study Group, which was responsible for legal reforms in construction. At the Business Roundtable’s first annual meeting in June 1973, its Construction Industry Panel heard Nello Teer, Jr., owner of a nonunion construction firm, both praise the Roundtable for its salutary effect on the industry and call for two extraordinarily radical changes that would have restored the blatantly proemployer biased legal framework for labor-management relations that had prevailed before the 1930s: a national right-to-work law (which would have made union shop agreements between employers and unions an unfair labor practice under the NLRA) and application of antitrust laws to unions. Such federal action would, presumably, not have qualified as part of the "Niagara of new labor legislation" with which the Roundtable’s Labor-Management Committee was "deeply concerned...."

The Roundtable devoted special attention to union hiring halls, which form "a major base of union power":

An increase in demand for labor encourages an increase in supply in most industries. Not necessarily so in construction. A union-administered work referral system establishes an environment conducive to artificial shortages. These shortages, in turn, have enabled the unions to achieve stronger bargaining positions, and thereby to obtain inflationary wage increases, excessively restrictive work practices, and other costly conditions of employment. In his role as hiring hall administrator, a union official is often torn between the longer term interests of the industry and the union members on the one hand and the political appeal of

130 Letter from National Right to Work Committee [ ] to Roger Blough (June 5, 1972), and Roger Blough to Reed Larson (June 14, 1972), in SP, Box 5, File-CUAir.
131 RR, No. 73-6, at 2-3 (June 15, 1973).
132 RR, No. 73-6, at 3 (June 15, 1973).
maintaining a surplus of job opportunities and additional income through overtime.\textsuperscript{134}

The Roundtable regarded as "[t]he most promising solution...a management operated referral system," which itself "could be operated for profit...."\textsuperscript{135} The one fundamental characteristic of the hiring hall that the Roundtable saw no need to mention, let alone alter, was its throw-away treatment of workers, who under all of these systems lacked even a modicum of employment security. What the Roundtable meant by contractors' regarding the hiring hall as "the most convenient means of meeting the constantly changing labor force requirements"\textsuperscript{136} was that they employed few permanent employees, being free to discharge all their workers at the end of each project. To be sure, the Roundtable was unable to reach agreement with the NCA firms on labor sourcing. For although they were similarly unmotivated to restructure the industry to create year-round employment, they insisted that the fact that many of their projects were "gigantic, complex, and in remote areas" made it too risky to implement any of the Roundtable's proposals.\textsuperscript{137}

The subordination of the contractor to the industrial user that the Roundtable envisioned emerged with great clarity from the second volume of its Coming to Grips with Some Major Problems in the Construction Industry, one of whose chapters was devoted to the contribution that contract language between owner and contractor could make to dealing with unions' "[a]buse" of their excessive power during the negotiation and administration of collective bargaining agreements. The Roundtable explained its members' unusual interest in the relations between construction firms and unions by reference to the demonstration effect: "[i]nflationary" construction wages influence industrial wages; similarly, building trades unions' restrictive practices "set targets for industrial workers and unions," who may be drawn into the former's strikes and other "counterproductive practices...."\textsuperscript{138} Among the provisions that the Roundtable recommended to its members for inclusion


\textsuperscript{135}BR, Coming to Grips with Some Major Problems in the Construction Industry 16, 17, 20 (1974).

\textsuperscript{136}BR, Coming to Grips with Some Major Problems in the Construction Industry 16 (1974).

\textsuperscript{137}RR, No. 73-10, at 2-3 (Oct. 29, 1973) (statement of Fred Stevens, NCA president and executive of Stone and Webster).

\textsuperscript{138}BR, 2 Coming to Grips with Some Major Problems in the Construction Industry 1 (1978).
in their construction contracts was one requiring the contractor to inform users immediately of every collective bargaining demand made on it.\footnote{BR, 2 Coming to Grips with Some Major Problems in the Construction Industry 3 (1978).} In a remarkable paternalistic effort to substitute its will for a pusillanimous contractor's, the Roundtable then urged that in order "to insure that the contractor's views and interests are felt at the bargaining table," members include in their contracts a provision stating that if the contractor subscribes to a multiemployer bargaining organization, the contractor "shall, if User so directs," participate to the fullest extent in the group's collective bargaining. In order to weaken union workers striking against contractors operating in the locality where industrial users' projects are being built, the Roundtable recommended provisions that would entitle its members to deprive such strikers of alternative employment on the members' projects. Thus it offered as a model provision: "In the event of a labor dispute which threatens adversely to affect the progress or cost of the work hereunder, User reserves the right to restrict additional hiring of employees, to suspend or discontinue the work of the contractor and any subcontractors, or in User's sole discretion to terminate this contract. This paragraph shall be applicable whether or not the contractor or subcontractor is directly involved in said labor dispute."\footnote{BR, 2 Coming to Grips with Some Major Problems in the Construction Industry 4 (1978).}

After laying out this breathtakingly invasive interference with an independent firm's entrepreneurial freedom, the Roundtable, as an afterthought, advised owners that they should "recognize the independent employer status of their contractors and should not attempt to usurp the contractor's prerogatives in his labor relations with his employees."\footnote{BR, 2 Coming to Grips with Some Major Problems in the Construction Industry 31 (1978).} Otherwise, under the NLRA, the user could be held an ally or co-employer "if he becomes excessively involved in the contractor's labor relations decisions."\footnote{BR, 2 Coming to Grips with Some Major Problems in the Construction Industry 2 (1978).} The resulting twofold danger for users would be joint liability for any unfair labor practices committed by contractors and loss of protection against secondary boycotts by unions, which might then become privileged

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\footnote{In contrast, in 1913, the German construction employers association (Arbeitgeber-Bund für das Baugewerbe) entered into cartel contracts with its counterparts in Sweden, Norway, Denmark, Belgium, Switzerland, and Austria-Hungary in order to insure that striking or locked out workers not be hired during strikes or lockouts. Otto Liebich, Organisations- und Arbeitsverhältnisse im Baugewerbe: Eine volkswirtschaftliche Studie 38 (1922).}
to picket the user’s operations to pressure it to pressure the contractor to resume work.143

The self-contradictions inherent in such paternalism were evident in the provisions that, for example, Mobil Oil inserted into its contracts. It required construction firms to take any and all steps to deal with union violations of collective bargaining agreements. A Mobil contractor also “shall decisively exercise his management rights.” Nevertheless, Mobil assured the Roundtable’s national conference of user groups, such intervention in no way represented a departure from the firm’s “philosophy” of not becoming directly involved in the relationship between a contractor and its labor force.144

Finally, in order to preempt potential antitrust violations, the Roundtable warned that “to avoid even the appearance of conspiracy it is completely inappropriate for Users to agree among themselves to use any specific contract language.”145 The admonition was curious since the Roundtable’s whole reason for existing was to promote, if not to coerce, such agreement first among user-members and then with their construction firms.146 Internally, the Roundtable adopted a lighthearted attitude toward the risk of antitrust liability. At its second annual members meeting in 1971, it heard one of Blough’s White & Case partners explain that “union activity and joint employer activity to combat it fall outside the antitrust laws.” Moreover, “it is no evidence of conspiracy that those who take umbrellas to the ballgame open them when the rain begins.”147

Big business’s interest in the development of the construction industry derived from two distinct aspects: rising construction costs, which

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143BR, 2 Coming to Grips with Some Major Problems in the Construction Industry 20, 22 (1978).
144RR, No. 72-12, at 4 (Nov. 28, 1972).
145BR, 2 Coming to Grips with Some Major Problems in the Construction Industry 23(1978).
146To ward off antitrust charges, the Roundtable routinely alleged that it was purely “educational and advisory,” lacking authority to issue orders, and composed of members “free to follow or ignore its suggestions.” “User teamwork: A New Force in the Industry,” ENR, Oct. 12, 1972, at 55, 58.
147CUAIR, Members Meeting, June 3, 1971, Minutes at 14, in SP, Box 5. The attorney periodically updated his legal advice. He noted that absent an existing labor dispute, it was uncertain whether joint efforts by owners to strengthen contractors’ position with regard to a potential labor dispute were protected. Later a White & Case lawyer also advised the Roundtable collectively not to favor or discriminate against contractors or other customers based on whether they support the Roundtable. Haliburton Fales 2d, “Antitrust Implications of Roundtable Activities” 64-65 (Dec. 12, 1975), in BR, 1970: CCH-Antitrust.
resulted in plant costs that rose at an above-average rate, and the troubling suspicion that construction union militance would spread to their own industrial unions. These two aspects could be identical only if rising construction wages were the chief cause of rising plant costs. Although this view was sometimes voiced, CUAIR representatives clearly formulated the distinction. Blough explicitly stressed the “spillover effect” of construction wages into other industries in 1969 at the NAM’s Congress of American Industry. He characterized the “inflationary impact of skyrocketing settlements” in construction as “almost unbelievable in magnitude.” Two years later he testified to Congress that “the source of wage-push inflation lies primarily...in...construction.” When Senator Charles Percy asked him hypothetically “what would have happened to wages in the construction industry if the construction industry were subjected to foreign competition as so many industries are in this country,” Blough contested the question’s premise by insisting that there was “definitely indirect competition between construction costs abroad and construction costs in this country.” For example, every time a shoe manufacturer in Austria sold a pair of shoes, it sold a piece of the factory: “So, whether it is recognized by the construction unions or others in this country, the construction costs abroad are definitely involved in every product...shipped in from abroad.”

Similarly, Dow Chemical, which was represented on the Roundtable’s Coordinating Committee, warned the construction industry that a continued increase in construction wages would prompt it to stop construction projects, build plants abroad, or carry them out by force account. Indeed, in 1970, Dow helped set an important labor law precedent when it awarded a contract to Helger Construction, Inc., a nonunion firm organized by Gerace Construction, Inc., a union firm, which, because it anticipated a strike by its union workers, could not meet Dow’s requirement that it guarantee completion without a work stoppage. By ruling that the employer did not commit an unfair practice by engaging in such a dual union/nonunion (“double-breasted”) operation, the NLRB removed one potentially

150 Economic Prospects and Policies at 341.
151 Economic Prospects and Policies at 374.
troublesome legal obstacle to the conversion of traditional unionized firms to nonunion operations.\textsuperscript{153}

Just a few weeks after Dow made its threat, Blough sent a memo to Roundtable members relating various "self-help" measures that members had adopted to escape "the unhealthy rise in construction wage costs...." First on the list was force account maintenance—that is, construction performed by the industrial firm’s own employees.\textsuperscript{154} In 1969 the "companies seeking to hold the line in construction [were] so embattled," according to A. H. Raskin, the country’s premier labor reporter, "that they [were] even hinting at the possibility of organizing captive construction firms to build plants if they cannot halt the runaway trend of union rates."\textsuperscript{155} Dayton Power & Light created such a company, which lowered costs by having to deal with only one union—and an "independent" one at that.\textsuperscript{156} Among force account’s advantages was the ability to "avoid mixing $40 a day men with $80 a day men doing the same work in the same plant." In addition to avoiding the unrest triggered by the confrontation of two labor markets, Blough and his anonymous member left unmentioned the obvious advantage of not having to pay anyone $80 a day. They also recommended force account as an effective way to expand the total construction labor force. In adding that the payroll construction workers "[p]resumably...would have affiliation with whatever industrial union is present in the plant,"\textsuperscript{157} the CUAIR did not need to mention that often shifting to force account construction would bring about deunionization because many plants operated by Roundtable member were union free. For example, only about 20 percent of Dow Chemical’s own employees were unionized—one-half of the weighted average of 41 percent for a group of 78 large corporations.\textsuperscript{158}

Vastly more important than inside construction forces was Blough’s

\textsuperscript{153}Gerace Construction, Inc., 193 NLRB 645 (1971). See also below chapter 15.
\textsuperscript{154}On force account construction, see Bernard Wysocki, Jr., “Utilities Try Building Own Facilities to Control Costs and Raise Productivity,” \textit{WSJ}, July 15, 1975, at 38, col. 1.
\textsuperscript{156}Roger M. Blough to Members of the Roundtable (Apr. 27, 1970), in SP, Box 5, CUAIR 1969-1970. A few weeks later, the president of American Cyanamid Co. informed Blough that it used payroll employees to do maintenance work in almost all of its plants. Cliff Siverd to Roger Blough (June 2, 1970), in SP, Box 5, File-CUAIR 1969-1970.
\textsuperscript{157}Corporate Data Exchange, \textit{Labor Relations} at 14-15.
news item that:

Several construction users have reported an increasing interest in open bidding for construction work, with merit shop or open shop contractors having an equal opportunity to bid against union shop contractors.

Open shop and merit shop work seems to be growing in relation to 100% building trades projects. Individual open shop firms have increased in both total capacity and complexity of work undertaken. Competitively, total business ratings seem to be moving in the direction of open-shop projects.

Some national contractors are evidencing interest in organizing open-shop affiliates. The Construction Roundtable is not anti-union and has taken no position against union organizations of any kind. The developments in open bidding, however, is the type of information to which it believes its members are entitled.159

This memorandum from April 27, 1970, only a few months after its formation, encapsulated the most far-reaching impact that the Roundtable was to achieve in the coming decades: neither legislation nor restructuring of collective bargaining would prove to be the Archimedean point for mastering construction unions. Instead of reform of collective bargaining, industrial capital chose to contain and roll it back by fostering the expansion of the nonunion sector of construction. In conformity with this thrust, large union construction firms were already preparing to go ‘double-breasted,’ as the practice of operating nonunion subsidiaries later became known. That market forces may well have triggered this response is not irreconcilable with the Roundtable’s then invisible, but now visible, helping hand.

Regardless of whether highly paid building tradesmen were working inside industrial plants or not, Roundtable members were increasingly worried about the “disruptive effect that unrealistically high construction wages have on industrial wage rates.” Startled that after 10 years graduate engineers’ average salary amounted to only 88 percent of a plumber’s wage, the chairman of Eastman Kodak told a local users’ meeting in late 1970 that it was hard to justify the five-dollar an hour wage gap between construction and industrial electricians.160

That the Roundtable was serious about persuading big business to slow down construction projects if necessary to stiffen contractors’ resistance

to unions' demands emerged from letters that Blough sent to the entire membership to alert them to a strike of elevator construction and maintenance workers:

The Roundtable does not get involved in labor negotiations. Nevertheless, in view of the stakes in this one and the fact that construction users are the ones who will ultimately pay the bill and suffer in other ways from a poor bargain if one is forced, we felt it was in order to advise you of the current situation.

It frequently involves considerable self-restraint not to insist upon an early completion of work such as finishing a bank of elevators in a particular building. But after hearing the facts of this case we believe it is in your own self-interest to be as considerate as you can with your elevator contractor in this particular instance.161

In view of the relatively large share that industrial buildings occupy of total industrial capital investments, a common interest in combating above-average cost increases could conceivably have united competing capitals in this regard. By the mid-1970s it was clear that "there has been a long-term shift by industry to favor equipment over fixed plant. This is due in part to more efficient plant design. But it is also due to the cost of industrial construction, which rose 60% between 1970 and 1975—twice the rate of the preceding five years."162

The significance of the construction costs of production facilities within the production costs of industrial capital was contested. Here Lefkoe's influential contemporaneous analysis is especially significant since the Roundtable paid him to write it.163 Lefkoe was hired in May 1968 to "analyze the industry's labor-related problems"164 by executives of several of

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161 Letter from Roger Blough to the Members of the Roundtable (Apr. 20, 1972), in SP, Box 5, File-CUAIR. First among the union's demands was "an extremely complex and restrictive" hiring hall provision. Two months later Blough wrote to the membership that management had reported that user support had been "most helpful" in resisting union demands; he requested that members continue to show self-restraint by refraining from pressuring contractors to accept those demands. Letter from Roger Blough to the Members of the Roundtable (June 27, 1972), in SP, Box 5, File-CUAIR.


164 M. Lefkoe, The Crisis in Construction: There Is an Answer vii (1970). Lefkoe did not identify those who had hired him beyond "the management of several large firms that are concerned
the large corporations that had formed the Labor Law Study Group and, by the time Lefkoe’s book appeared, the CUAIR. A business reporter for the Wall Street Journal and freelancer for Fortune, Lefkoe had previously worked with the driving forces behind the Labor Law group—Day, Soutar, and Atkinson. Intriguingly, Bechtel, Morrison Knudsen, and other large construction firms paid for Lefkoe’s services. At its two meetings in August 1969 the CUAIR Coordinating Committee discussed Lefkoe’s report. Shortly after its appearance, Soutar also wrote a very positive review of the book, which Blough distributed to the Roundtable’s members.

According to Lefkoe, on the one hand, higher construction costs “are an especially important factor in international competition because the United States is forced to rely on modernizing and building new plants and equipment in order to offset lower wage rates abroad.” On the other hand, in view of the long period during which the plant could be used, the capital costs would be amortized over such a large volume of output that increased building cost “turns out to be one of the smallest factors of cost per item.” As a stylized numerical example, Lefkoe instanced a new plant costing $25 million, one-fourth or $6.5 million of which was accounted for by payroll. Assuming a 25-year amortization period, the difference between a 5 percent and a ten percent wage increase for one year of work amounted to only $325,000 or $13,000 in annual depreciation charges. If the plant produced 1,300,000 widgets annually, the construction workers’ wage increase would equal one cent per widget; if widgets cost $10, the wage increase would be reflected in a 0.1 percent unit cost increase; if they cost $100, the increase would be only 0.01 percent. Because these amounts were “almost insignificant” in their own right and especially as compared to the lost sales with and affected by the [construction] industry’s problems.” After receiving his report in August, 1969, his clients “decided that the report should be made available to the entire construction industry and to firms and organizations outside the industry that are interested in the industry’s problems.” Id.

"Telephone interview with Marty Lefkoe, Westport, CT (Dec. 29, 1998). Lefkoe was uncertain 30 years after the events whether nonunion contractors such as Brown & Root also were involved and paid. For background on the Labor Law group, see Gross, Broken Promise at 200-209.


"Memo from J. M. Grancy to R. M. Blough (June 3, 1970); Memorandum from Roger Blough to Members (July 7, 1970), in SP, Box 5, File-CUAIR 1969-1970. It is unclear where the review appeared, but it may have been an NAM periodical. Soutar questioned Lefkoe’s skepticism of users’ efforts to change the industry and of employers’ efforts to reform the NLRA, but he praised Lefkoe’s fundamentalism and deemed most of Lefkoe’s provocative hypotheses worthy of action. Id.

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that the industrial customer would suffer if the contractor had taken a strike to contest the union’s demand for a wage increase and the onset of production had been delayed weeks or months, Lefkoe concluded that “in a vast number of instances…industrial and utility firms will not save money in the long run if they halt work on construction jobs…to help keep the labor-cost component of their plants…down.” Despite this conclusion, which was at odds with the whole thrust of the Roundtable’s reason for being, observers agreed that increased government regulation of construction was appropriate in light of “the industry’s strategic role in the economy as the principal capital goods sector.”

It is possible to specify the interrelations between construction costs and user interest in constraining building trades unions more closely by identifying those industries with the greatest absolute amounts of capital outlays on plant or structures since they were the most important consumers. It is also important, however, to determine whether such outlays also bulked large vis-à-vis these industries’ capital expenditures for equipment or machinery; for if plant outlays occupied a relatively insignificant place within a firm’s total fixed capital outlays over time, it was unlikely to have been as concerned with increased construction costs and their underlying factors as firms or industries in which those outlays represented a large share of the fixed capital.

The sources and destinations as well as types of capital goods can be located by using capital flow tables to disaggregate input-output data. Data that the Department of Commerce published for 1963 and 1967 revealed that the biggest manufacturing industry consumer of structures was the petroleum refining industry, while the crude petroleum and natural gas extractive industry was much larger still. These two industries also fulfilled the second criterion inasmuch as about two-thirds and four-fifths, respectively, of their fixed capital expenditures were allocated to structures compared to an average of slightly less than three-tenths for manufacturing as a whole. Other industries with significant plant outlays were aircraft, chemicals, food, iron and steel, motor vehicles, nonferrous metals, and paper products. In these industries, however, structures’ share in total fixed capital outlays averaged

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about one-fourth to one-third. Of outstanding importance, also, was the utilities sector, whose demand not only exceeded that of any industrial branch, but also constituted about two-thirds of its fixed capital expenditures. The communications industry was also a leading source of demand for structures.\footnote{Interindustry Transactions in New Structures and Equi}
Roundtable members were by and large firms from these very industries. The corporations whose officials initially constituted CUAIR's Policy Group were AT&T, Consumers Power, GE, GM, Kennecott Copper, Standard Oil (New Jersey), and Union Carbide; its Coordinating Committee members were executives of AT&T, Aluminum Company of America, American Electric Power, Dow Chemical, du Pont, General Dynamics, GE, GM, B.F. Goodrich, Humble Oil, International Paper, Owens-Corning Fibreglas, Procter & Gamble, Shell Oil, Texaco, and U.S. Steel. It should come as little surprise that, for example, AT&T assumed a prominent role. Of the more than 100 leading corporate executives filling the Pierre Hotel's Cotillion Room in New York City at CUAIR's second annual members meeting on June 3, 1971—whose after-dinner program included the Secretary of Labor and a member of the CEA—none had more at stake than H.I. Romnes. In his talk on the "Task of the Chief Executive," AT&T's chairman, speaking to an audience of men most of whose firms had "substantial building programs," reported that the Bell System spent $800 million annually on construction costs. He stressed that it was crucial for the CEO to avoid tight building schedules and overtime: ""The top man cools down labor cost pressures...."" Shell Oil, on behalf of its industry, pointed to the long-range considerations by warning in 1971 that growing energy requirements by 1985 ""will put a tremendous burden on the construction industry in the late 1970s and early 1980s.""

This composition is thus hardly unexpected, but the fact that most of the construction firms in the Roundtable's Contractors Advisory Group and Contractors Task Force were NCA members does give pause. Given the


172CUAIR, Members Meeting, June 3, 1971, "Program"; CUAIR, Members Meeting, June 3, 1971, at 5 (quote), in SP, Box 5, File-CUAIR.


174The original Contractors Advisory Group consisted of presidents, chairmen, or owners: George Atkinson (Guy F. Atkinson), Stephen D. Bechtel, Jr. (Bechtel), Robert Dickey III (Dravo), J. Robert Fluor (Fluor), Edwin L. Jones, Jr. (J.A. Jones Construction), John E. Kenney (Foster Wheeler), and H.C. Turner, Jr. (Turner Construction). Bechtel was chairman of the group. The Contractors Task Force consisted largely of vice presidents: R. Coyne (Peter Kiewit Sons'); H. Edgar Lore (Dravo), Donald Grant (Atkinson), James McClary (Morrisson-Knudsen), Karl Sippel (Austin), William P. Scott, Jr. (Scott), and R. Eric Miller (Bechtel). "Contractors Assist Roundtable," ENR, Sept.
Roundtable’s crucial role in creating a critical mass of nonunion construction firms large enough to build large-scale sophisticated industrial projects by encouraging its members and other corporate consumers to contract with antiunion construction firms, a question arises as to why the NCA, which had not abandoned its commitment to union labor, cooperated with the Roundtable, which initially asked it to recommend ways to improve collective bargaining and increase the labor supply.\footnote{Contractors Assist Roundtable, \textit{ENR}, Sept. 11, 1969, at 17.} Despite the fact that the Roundtable’s “mission,” as the current NCA president has remarked, was “putting unions of out business,” NCA members had no alternative to cooperating with the Roundtable since these corporations were their main customers.\footnote{Telephone interview with Robert McCormick, Washington, D.C. (Mar. 11, 1999).} If large industrial firms believed that construction firms were a factor driving up costs, NCA firms had to experience that perception as an expression of their declining competitiveness compelling them either to turn to nonunion labor—which was made difficult if not impossible by the ‘sourcing’ advantages that unions offered—or to extract from unions a level of productivity (or of unit labor costs) and industrial peace commensurate with that prevailing in the nonunion sector. As a one-time NCA president put it: “‘If we don’t get the improvement that’s necessary to keep our operations economical, we’re going to look for other ways of doing things.’”\footnote{“NCA Increases the Pressure to Cut the Fat Out of Labor Costs,” \textit{ENR}, Mar. 1, 1973, at 18 (quoting Fred Stevens).} 

Although NCA members employed only a small share (2 to 5 percent) of all construction workers (but perhaps as many as 15 percent of all skilled tradesmen),\footnote{In 1973 NCA firms were reported as offering 10.5 million hours of work per month; in all of 1972, 6.78 billion man-hours of contract construction work were estimated. “NCA Increases the Pressure to Cut the Fat Out of Labor Costs,” \textit{ENR}, Mar. 1, 1973, at 18; USDC, \textit{Business Statistics 1973}, at 79 (19th ed., 1973). NCA firms were also reported as employing 75,000 to 150,000 building tradesmen in addition to 100,000 employed by subcontractors; these two groups represented about 3

\footnote{11, 1969, at 17; “User Teamwork: A New Force in the Industry,” \textit{ENR}, Oct. 12, 1972, at 55; “NCA Members Ply the World and Find Jobs on Every Continent,” \textit{ENR}, Dec. 5, 1974, at 14. By mid-1972, the Advisory Committee’s composition was unchanged except that E. F. Wentworth, Jr., chairman of Foster Wheeler had replaced Kenney; on the Contractors Task Force, Sippel and Scott had been replaced by Saul Horowitz, Jr., chairman of HRH Construction, and Walter Limbach, president of Limbach Corp. Construction Users Anti-Inflation Roundtable, “Contractors Advisory Committee” and “Contractors Task Force” (July 21, 1972), in SP, Box 5, File-CUAIR. Soutar, who was a member of the Roundtable’s construction committee, stated that R. Eric Miller, who was in charge of labor relations at Bechtel, acted as a kind of NCA liaison with the Roundtable and “never gave us any trouble.” Telephone interview with Douglas Soutar, Litchfield Park, AZ (Jan 27, 1999).}
industry. Given the NCA’s traditional commitment to unions, a decision to reduce or eliminate their union connections would have assumed a significance for the whole industry out of proportion to the NCA’s specific weight. Other contractors organizations would doubtless have taken such a decision as a signal to forge ahead with an open-shop policy. At the Roundtable’s first members meeting in April 1970, the chairman of one of the largest construction firms sounded very much like his customers in supporting legislation to “restore a balance of power between contractors and the unions.”

Six months later Stephen Bechtel, Jr. spoke at great length at a Coordinating Committee meeting urging the need to restore management rights with regard to the selection of employees and foremen as well as to “restore the heads of the international unions to a position of greater responsibility and power over the locals.” Bechtel also called on the government to expand training programs to alleviate the shortage of skilled workers and to be “more vigilant in enforcing the law, so that hiring halls would not constitute closed shops, and on the NLRB to process employer cases more promptly. Finally, he also wanted the Davis-Bacon Act guidelines altered so that “prevailing wages did not mean the highest wage paid anywhere in the vicinity.” The next year, his vice president in charge of labor relations, agreed with the Roundtable that the construction industry was “sick.”

Puzzlement as to the relationship between the NCA and the Roundtable is dissolved by understanding that the Roundtable pursued a two-track strategy. On the one hand, its members recognized that construction unions were too entrenched in certain sectors and regions to be dislodged in the near or middle term. The Roundtable’s initial modest goals were expressed by three General Dynamics officials in an unpublished 1970 CUAIR task force report. They argued that even if management created a new referral system and regained the right to make work assignments, “the expectable and traditional reaction from the building trades unions will be the


179Northup & Foster, Open Shop Construction at 99.
182CUAIR, Members Meeting, June 3, 1971, Minutes, at 15, in SP, Box 5 (John F. O’Connell).
mounting of new organizing campaigns designed to bring into the union fold the thousands of craftsmen not now unionized." Consequently, the Roundtable incessantly declared that "whatever the future may bring, it is imperative that the strength and expertise of contractors at the bargaining table be greatly improved, with the support and encouragement of construction users." On the other hand, the Roundtable also sought to undermine unions' sources of power (such as the hiring hall) and to promote nonunion building firms, initially in the South, in the industrial construction sector that its own members dominated.

The Roundtable's greatest success—facilitating nonunion penetration of the industrial construction—was a self-help measure that could be implemented despite big business's failures in Congress and in restructuring collective bargaining or the construction industry. However, the Roundtable's focus on the hiring hall as the root of all evil had to remain rhetorical as long as no practical alternatives were available and the construction industry's discontinuities made retention by employers of hundreds of thousands of skilled craftsmen on the payroll year-round infeasible.

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184 RR, No. 73-9, at 4 (Sept. 28, 1973).
185 The Roundtable denied this latter claim. For example, in a draft letter (sent to Blough and 11 other Roundtable leaders) from one of its executives to the Legislative Affairs Officer of the DOL, who had written to the Roundtable on August 29, 1973 requesting a response to questions posed in a resolution of the Texas Building Trades Department, it asserted: “The Roundtable has carefully refrained from interfering in collective bargaining between construction companies and construction unions. In direct reply to the words in the resolution, The Roundtable has made no ‘promises or threats...to firms encouraging them to contract with construction companies that are non-union.’” [ ] to R. Ray Randlett, Sept. 21, 1973, in SP, Box 6, File BR-General. A member of the Roundtable’s Construction Committee reported to it in 1980 that the NCA had told him and other members that it gave no credence to rumors that the Roundtable fostered open-shop work. BR, CCH: 1980, Minutes, Dec. 9, 1980, at 2.