

Nowhere was this battle more sharply defined than in New York Local 282. The PROD slate received one of the fullest media treatments in history — every major local newspaper and several nationally important papers like the *Washington Post* declared the Local 282 election to be the most significant in recent history. Every conceivable slander against Local 282 President John Cody — much of it leaked from the Organized Crime Strike Force directly to several correspondents — found its way into print. A top-rated national TV show, CBS's 60 Minutes, devoted a full 23-minute segment to attacking Cody and glorifying PROD candidate Ted Katsaros. Rumors were leaked that Cody was about to be indicted.

PROD and their controllers had counted on Cody to “play by the rules.” But he did not — he decided to fight politically. Over the summer Cody and Local 282 had rallied the area building trades to resist efforts to impose a wage cut contract. Behind the contract effort was banker Felix Rohatyn, a national austerity promoter who wanted to make the New York area building trades into a national example of unions that could be broken by “austerity management.” After a nine-week strike, Local 282 and John Cody emerged victorious. He had won a good contract for his own men and helped win one for the area construction unions.

The morale of his union executive and his shop stewards was high. However they lacked the ammunition to deal PROD-TDU a decisive blow.

The U.S. Labor Party provided him and his union with that ammunition. Labor Party representatives briefed his executive, then his shop stewards on the nature of the conspiracy deployed against the Teamsters. They assisted Cody in conducting a political education campaign that identified the danger represented by PROD. This culminated in a mass educational meeting attended by nearly 500 union members.

When the votes were tallied Dec. 10, Cody had won by a decisive margin — far greater than anyone had expected. Union leaders and members alike attribute that margin to the collaboration between the Teamsters and the Labor Party.

The Labor Party has assisted other locals throughout the country in conducting similar educational campaigns. Where Teamsters leaders have identified the political nature of the attack against them, they have won. In other places where incumbent leaders have hedged, and on occasion resorted to silly red-baiting of PROD-TDU, they have played into their enemies' hands and in some cases lost.

The PROD-TDU ranks are now demoralized. Even before the Local 282 defeat, PROD national organizer Paul Poulos had been forced to resign. He told a reporter that he was not able to withstand the pressure of “truth squads” of irate Teamsters who seemed to hound him wherever he went with questions about the “conspiracy against the Teamsters” and the sources of PROD's funding. As of this moment PROD has not been able to find anyone to replace Poulos.

— *Lonnie Wolfe and Matthew Moriarty*

# Q. What's wrong

## A. It's unconstitutional

The proposals put forward by Senator Kennedy, Ralph Nader, and others to deregulate the trucking industry are cloaked in the disguise of “consumerism” and “the free enterprise system.”

want to reconstitute the regulatory role of the Interstate Commerce Commission to “lower artificially high freight charges,” and thus benefit the ultimate consumer of any finished product. They intend, they say, to make it possible for the “little guy” to compete with the now “monopolistic” regulated carriers. Underneath the catchwords, however, the purpose is to dismantle a fundamentally capital-intensive industry, which employs highly skilled and well-paid labor, and to loot the already existing investment in sophisticated capital equipment and an educated, trained workforce.

To this end, the Kennedy proposals would redistribute portions of the carrying trade to the independent, unregulated carriers, presumably to provide them with sufficient income to maintain payments on the gigantic equipment debt which has bankrupted increasing numbers of them. At the same time, the deregulators propose to open up the industry for “competition,” encouraging the entrance of even more underfinanced, underequipped independents, undermining the master freight contract as well as the market available to the large corporations with major investments in capital equipment, terminal facilities, and so on.

Any such proposal would be absolutely unconstitutional. How? The U.S. Constitution was in fact originally written for the specific purpose of creating a government capable of directing and developing commerce and industry for the benefit of the entire nation. The right and responsibility of the government to do so was written into the document, in the commerce clause: “Congress shall have the power to regulate commerce with foreign nations and among the several states. . .”; in the “necessary and proper” clause: “Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers . . .”; and in the “supremacy” clause: “This Constitution . . . shall be the supreme law of the land . . . anything in the constitution of laws of any state not withstanding. . .”

In other words, Congress not only has full rights to

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regulate or direct the entire economy, it has the **responsibility** to do so for the general welfare of the population. Legislation which will have a destructive effect on the economy is outside the power of Congress to enact.

## Constitutional boundaries

Congress and the courts have often lost sight of the full meaning of the responsibility vested in them by the Constitution to direct the economy, and have fallen into quibbling over the boundary lines between interstate and intrastate activity, and whether the states or federal government have the right to regulate on any particular issue.

However, the nation has had a commitment, dating back to 1791 and Alexander Hamilton's "Report on the Subject of Manufactures," which urged government subsidies, bounties, and direct intervention to foster industry and commerce, to develop a national transportation network commensurate with the requirements of a developing economy. The course and history of the legislation and judicial action to accomplish that purpose make it equally clear that the promotion and stimulation of commerce and industry is to be created through the collaboration of business, labor, and government.

This history of government direction and involvement under commerce clause and other constitutional powers includes efforts to provide government financing for roads and canals in 1818 and 1824, the creation by special Act of Congress of national railroad corporations in the 1860s under Abraham Lincoln's direction, the organization of the Interstate Commerce Commission in 1887 to rationalize rate structures and rail construction, the passage of the Transportation Act in 1920 to continue the development of the transportation network which had advanced under direct government control during World War I, the subsidization of the development of aviation in the 1920s and 1930s, and the federally directed and subsidized construction of an interstate highway network authorized in 1956.

At no time has Congress indicated or the courts upheld any idea that the development of an integrated transportation network would be facilitated by creating undercapitalized, underequipped, overworked "competition." Nor has it ever been an overriding principle that any particular service provided by a regulated industry be made available to the consumer on a cost-of-service-plus-minimum-percentage-profit basis.

## Why the ICC?

A look at the 1880s, when the Interstate Commerce Commission (ICC) was created, and some of the followup transportation legislation is useful to demonstrate just how far afield Nader and Kennedy have wandered in their

"reform" efforts. The ICC was created by the Interstate Commerce Act of 1887, the first comprehensive regulatory act passed by Congress. This was by no means the first effort to regulate and develop the transportation system. Even before the Civil War, the states had granted exclusive rights and charters to certain carriers, and had regulated rates, in an effort to ensure adequate, relatively reliable transportation.

But after the Civil War, the construction of railroads was financed largely by British capital who turned a legitimate construction project into a speculative boom. Companies, which were often partly financed publicly, were permitted to pick whatever routes they wished and proceed with no financial requirements or other regulation to construct railroads. This "free enterprise" competition resulted in murderous rate wars, kickbacks, rebates, and secret tariff agreements.

The effect should have been as foreseeable as the effect of the current Kennedy deregulation proposals. By 1887, 108 railroad companies, almost all of them small companies with few miles of rail, were in bankruptcy receivership. States had begun to amend their constitutions to forbid public financing of railroad construction ventures. The entire transportation network, by that time absolutely essential to the functioning of the national economy, was threatened with collapse.

Convinced that chaotic halfway measures of state regulation of railroads would not work, the Supreme Court in a decision written by former Abraham Lincoln ally Justice William Miller ruled that states had no regulatory authority over the interstate transportation network. Congress was forced to create the Interstate Commerce Commission.

The ICC's job was to regulate freight tariffs to make transport services available to those who needed them at rates which they could afford, as well as providing sufficient profit to the railroads for a capital fund for the expansion and modernization of the industry. As one historian of the period has noted, the amount of money charged any particular consumer was of less concern than the establishment of steady, fair charges and regularity of service.

Foes of that regulatory perspective raised the populist banner of consumerism as early as the 1890s. They attacked railroad freight charges, demanding bargain basement transportation prices for farmers hardpressed by economic depression so the farmers could pay their debts to rapacious speculative bankers. The effect by the turn of the century was to loot the railroads' capital funds for modernization and development, restricting overall development of the industry and *decreasing* the level of services. A look at the condition of the railroads today indicates the ultimate effects of such "reform" policies.

# A. It will wreck the economy

Senator Kennedy objects to the "concentration" of the trucking industry, a populist appeal to the "little guy" to fight the "big bad monopolies." The industry is indeed concentrated *because it must be* if an efficient national freight system is to exist.

"Big business" and "big labor" built this country and the important role in the national economy fulfilled by smaller firms is only served in cooperation with the larger corporations. Small companies, in any industry, are rarely able to meet the requirements of capital investment, maintenance, and labor standards that make larger firms more efficient, cheaper, and more productive.

Although the Interstate Commerce Commission has lately been described as a place where a fly can buzz in and die of boredom, the ICC has over the past 40 years managed to create and maintain a relatively efficient national freight transport system, serving the needs of a tremendous range of industrial, commercial, and private users. There are over 16,000 separate trucking firms operating under interstate regulation.

From the standpoint of an individual motor carrier or shipper, the ICC may make life more difficult, particularly for the large shipper who has the clout (if unregulated) to call the tune for a population of scrambling truckers. Present ICC regulations *do* raise the price for this customer in order to ensure that a motor carrier system can, as a whole, continue to exist for the economy and population. As it is, any major shipper, under deregulation, can expect his cut-rate charges to quickly collapse.

One little-mentioned feature of ICC regulation of motor carriers is that operating authorities (route certificates) not only *permit* a trucker to service a particular route or pair of terminal points, but also *oblige* him to. Under conditions of Kennedy-style "deregulation" — especially "free entry" to routes of one's choice — nothing would prevent any and all carriers from abandoning the less profitable runs altogether.

Just as a highway or education system "subsidizes" certain classes of users through disproportionate taxation, ICC regulations on free entry and rate setting ensure that smaller communities and smaller shippers have a motor carrier service that is affordable.

But under deregulation, an auto manufacturing firm, for example, would have no trouble finding cheap rates to ship finished autos, but the many small companies supplying parts will either have to pay higher rates, or worse, be unable to ship on schedule as service becomes less and less reliable. This potential bottleneck includes a

multitude of small machine shops that produce many of the dies used by the manufacturer; similarly, the hundreds to thousands of subcontractors supplying an airplane manufacturer with components and subassemblies, accounting for some 50 percent of the total cost of the aircraft. To this direct cost factor add the disruption in production as parts do not arrive on time, and total cost goes up even further as assembly line processes break down. Thus, even if increased trucking costs on unprofitable routes are offset completely by corresponding reductions in long-haul traffic, a net increased cost to the economy, measured in finished goods, remains.

## Financial trouble

As things stand now the trucking industry is *not* a big moneymaker. Some 300 carriers account for 90 percent of total intercity business revenues for general freight, and 95 percent of the profits, while the remaining 10 percent of business and 5 percent of profits are spread among the 700 other carriers with revenues over \$500,000 annually.

With the profit margins of 1.7 percent and 3.1 percent of gross revenues, what would happen if under conditions of unregulated competition a carrier could be forced to reduce his rates by, say, 2 percent. This is a reasonable figure — surely Senator Kennedy would want to see at least that much saved by the "consumer." For the carriers, profits would be all but eliminated!

Since no one could operate under these conditions, but would still be financially compelled to win over the more lucrative routes and shippers, carriers would first increase rates for the less attractive runs. Step two, they will cut expenses: run the fleet longer than it can safely hold together, cut back on maintenance, increasing accident and loss rates to shippers.

The impact on working conditions is even more immediate. Wages are some 30 percent of carrier costs. The pinched, or even potentially pinched, carrier will move quickly to cut these costs. It may be difficult to get the International Brotherhood of Teamsters to cooperate, but the carrier may see no other choice. In the still shorter term, he may have to take on more independents at less than union pay rates.

The unregulated "independent" owner-operator survives substantially thanks to the regulated carriers. Just as a major shipper will "protect" the carriers who take his goods on a contract basis (some 8-9 percent of all regulated tonnage is fixed by long-term contract), many common carriers pay their independents at a better than union level to ensure safe and reliable operations. More, of course, do not. As it stands now, perhaps a third of the independents operate on this basis, almost as employees of a regulated carrier. Until now the number of independent owner-operators has been substantially declining for a number of years. If deregulation becomes law, cost-cutting competition would reverse this trend and the proportion of poorly paid drivers and poorly maintained vehicles in the national system would increase.