THE RETAIL REVOLUTION

HOW WAL-MART
CREATED A BRAVE NEW WORLD
OF BUSINESS

NELSON LICHTENSTEIN

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For George Cotkin

Historian and Friend

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CHAPTER FIVE

UNIONS: KEEP OUT!

Like the federal minimum wage, American labor law is also designed to raise wages, albeit through a collective bargaining relationship between a group of employees and the firm for which they work. But companies like Wal-Mart have found trade unionism far more obnoxious than any federal mandate that boosted wages or ensured payment of overtime and lunch breaks. By its very nature a trade union challenges managerial authority, questioning the moral, paternal claim that executives and managers speak and act on behalf of an essentially harmonious enterprise. "We have never had a union in Wal-Mart and don't need one now to represent our associates," Sam Walton told readers of *Wal-Mart World* in October 1989. "We resent outsiders coming in and saying things which aren't true and trying to change the Company that has meant so much to all of us."[1] Larry English, one of Walton's best young managers, would not tolerate any challenge to his authority as a store manager. Of unions he said: "I hated them because they wanted to tell me how to take care of my people. I don't need someone to manage my store for me. I'll go to my grave believing that."[2]

Such sentiments flourished in Arkansas. In the United States a militant hostility to trade unionism arose not where union labor was strong and pervasive, but where it seemed a threat to a regional economy long structured around cheap labor, competitive enterprises, and a local elite that was anxious about the future. That was Arkansas in the second half of the twentieth century. Here the fear of union organization united the plantation owners of the Mississippi Delta, the Ozark branch plant managers whose only compet-

like John Tyson, J. B. Hunt, and Sam Walton, who saw their booming firms as an expression of their paternalism and autonomy. Led by the delta planters, who remembered well the biracial uprising of the Southern Tenant Farmers' Union in the 1930s, Arkansas was the first state to pass a "right-to-work" law—in 1944—which made illegal the union shop contract. Such right-to-work laws weakened existing unions because they made dues collection so much more difficult. But their greatest impact was ideological, so that throughout the South and Mountain West they were taken as a sign of government hostility to the very existence of trade unionism.[3]

When Wal-Mart expanded beyond the small-town South, however, the situation changed. If the company were to take its paternalism, low wages, and hostility to organized labor beyond northwest Arkansas, it would have to develop a more sophisticated, systematic, and ostensibly legal modus operandi. And this would require a revolution in American labor law.

EMPLOYER FREE SPEECH

When in 1935 Senator Robert Wagner drafted the famous act that bears his name, he made sure that under its provisions employees in any given enterprise had the right to select "representatives of their own choosing" who could speak for them in the collective negotiations with the management of the firm. To make sure this happened, the Wagner Act included a section that defined a set of "unfair labor practices" for which employers, but not unions, might be held accountable. When conservative critics of the law complained that the Wagner Act was one-sided, the New York senator replied that this was a "false equation." The kind of "unfair labor practices" in which workers might engage—physical or verbal intimidation of their workmates, punched noses, and nasty threats—all that had been illegal for centuries, since the birth of the common law itself. But when it came to economic coercion, and economic coercion of the sort that declared "You're fired if you mess with the union," well, that was almost exclusively an employer weapon, which Wagner and other labor partisans sought to proscribe.[4] The New Dealers whom President Franklin Roosevelt first appointed to the National Labor Relations Board interpreted the Wagner Act so as to make the foreman and manager nonparticipants, mere bystanders, when the workers they supervised decided for or against forming a union. Indeed, the NLRB ruled that given the imbalance of power in an unorganized factory, mine, or mill, any kind of employer

When the Republicans won the 1946 elections, it was just a matter of time before resentful employers got the New Deal–era Wagner Act fixed to their liking. Executives running factories, warehouses, and offices wanted to call the workers together in a big meeting and lecture them on why joining a union would be a bad idea. Sure enough, "free speech for employers" was soon enshrined in a new law—the Taft-Hartley Act—which gave employers and their law firms the right to campaign against unions trying to organize in the workplace. Particularly affected by Taft-Hartley were the retail unions, which were making a major push in the late 1940s and early 1950s to organize chain supermarkets and department stores. At an educational conference held by the Retail Clerks in 1951, union organizers reported that "captive-audience speeches"—employer anti-union talks to workers who had been ordered to attend—were "beginning to grow by leaps and bounds" at larger stores, contributing to major union losses in NLRB elections. Initially, the labor board insisted that unions get equal time, on company property, if management held such compulsory meetings, but once the Republicans gained control of the NLRB after Dwight D. Eisenhower's election, employers got almost everything they wanted. As one of the conservative businessmen appointed to that board put it in his confirmation hearing, referencing one of his successful campaigns against unionism, "We 'free-speeched' them. . . . Now, you could say, if you like, in that instance I was a union buster."[6]

The labor law still held that employers could not retaliate against workers who voted for a union by threatening them with firing or plant closure. But this doctrine became increasingly formalistic. Thus in a case involving Chicopee Manufacturing, the NLRB enunciated a "prophecy doctrine" that permitted employers to state that voting for a union might result in a plant being moved. This employer advantage was further refined in *Mt. Ida Footwear Company*, where executives of an Arkansas-based shoemaker asserted that if employees signed union cards, "this could be fatal to a business such as Mt. Ida Footwear." The board ruled that such threats could be rendered permissible if an executive "sanitized" this kind of coercive and threatening speech by merely inserting a catchphrase like "we are here to stay," which was the stratagem of Mt. Ida management. Meanwhile, in two rulings from the early 1950s the NLRB transformed employer free speech into a powerful managerial weapon. In *Livingston Shirt*, the board ruled that an employer "does not commit an unfair labor practice if he makes a pre-

request for an opportunity to reply"; and in *Esquire* employers won the right to threaten that a pro-union vote would generate lengthy legal proceedings instead of the collective bargaining mandated by the original Wagner Act.[7]

JOHN TATE AND HIS AMERICA

Enter John Tate, the man who would sharpen these legal weapons, stock them in Wal-Mart's arsenal, and deploy them in furious combat with the unions. A man of Sam Walton's generation, he was born in North Carolina, took a law degree from Wake Forest Law School, and became a bitter foe of trade unionism, all before he enlisted in the army. Tate acquired his hostility to unionism in the labor wars of the late 1930s, when he crossed a union picket line thrown up around the Reynolds Tobacco Company in Winston-Salem, his hometown. Aside from the catcalls, Tate took a blow on the head, which he would never forget. "I hate unions with a passion," he would later remark after he had established a pioneering law firm dedicated to what in the 1950s and 1960s was a newly aggressive "union avoidance" stratagem.[8]

Tate perfected his anti-union skills in Omaha, not North Carolina. He landed there right after World War II when Nebraska and the rest of the northern plains states were an industrial frontier on which factories, warehouses, and meatpacking sheds blossomed like prairie flowers in the spring. Nebraska was a battleground state in which big, vigorous unions such as the Teamsters and the Packinghouse Workers sought to organize the firms that had just begun to flee high-cost Chicago, Minneapolis, and St. Louis, and quite often succeeded. The ideological warfare became as intense as the bargaining sessions and the strikes that so often accompanied them. Tate was right in the middle of the fight.[9]

Throughout the rest of the decade and into the 1960s Tate traveled in right-wing political circles that linked a militant anti-unionism to a libertarian rejection of the welfare state, fair employment legislation, and regulatory oversight by the federal government. This put him in league with the John Birch Society and the Christian Anti-Communist Crusade, as well as those who organized seminars and summer schools where the ideas of the conservative intellectuals Friedrich Hayek and Ludwig von Mises were celebrated. When in the early years of JFK's New Frontier the Federal Communications Commission sought to encourage Omaha's TV stations to air more public interest programming, Tate denounced "faceless government who must be fooled and ruled by a special elite with some unspecified claim to superior wisdom and a lust for power."[10]

In 1956 Tate organized the Midwest Employers Council as a vehicle through which he could offer legal counsel to smaller companies seeking to avoid unionization. Today, every major city has at least one big law firm that specializes in "union avoidance" law. When corporation executives get wind of a union effort at one of their facilities, they pick up the phone, sign a contract, and let the outside legal experts take over their labor relations until the threat is eliminated. Back in the 1950s, however, almost all "labor lawyers" were just that, pro-union advocates whose expertise and resources were often far greater than that commanded by Nebraska's entrepreneurial businessmen. Unions still won a majority of all the NLRB elections, after which they quickly negotiated a first contract. Although most of the three hundred firms that paid dues to Tate's Employers Council were family-owned manufacturing firms, some of the most bitter battles came in the bakeries, department stores, and grocery chains, including their attendant warehouses, that the Teamsters and the Retail Clerks sought to organize.

Tate saw himself as a crusader for "freedom" rallying the business class of Omaha and Lincoln in order to turn back this union invasion and stiffen the ideological backbone of his clients. He urged them to boycott unionized printing shops and buy as many meat products as possible from Wilson and Company during a long and divisive Packinghouse Workers strike. When a local chain of grocery stores sought to buck a strike early in 1963, Tate called for solidarity: "We do hope you care enough for freedom that if you are not buying some groceries from Shavers Stores—you might do so. Will free people like you and me help union coercion—or stop it—by good old honest methods of a free customer in a free market?"[11]

But Tate was not just a propagandist. He was a pioneer in the nascent union avoidance industry, realizing that the fight against unionism had to be fought simultaneously on multiple fronts: before the NLRB and the courts, in the political arena, and, most important, within the firm itself, where Tate developed a whole repertoire of programs and techniques designed to generate employee loyalty to management and hostility to "third-party" representation. "The issues that are most frequently the cause of company-union disputes today are philosophical, not economic," claimed Tate in 1960. "The battle is for the minds of employees."[12] Backstopped by a phalanx of expert antilabor law firms, this behavior has become commonplace for employers in recent years, but in the 1950s and early 1960s it was so exclusive, innova-

tive, and, in the hands of John Tate, so successful that Nebraska unionists labeled the Midwest Employers Council, along with the John Birch Society, a "fascist trend" in the United States.[13]

Tate codified for his clientele all the key anti-union tactics that Wal-Mart and so many other firms would later deploy. Among these are profit-sharing schemes designed to give employees a stake in the productivity of the enterprise, NLRB election delays that demoralized union advocates, a tough negotiating posture that leaves the workforce in limbo and without a contract, and aggressive efforts to decertify unions already representing the workforce.[14] Employer "free speech" was the key element that made this strategy work, enabling executives to conduct compulsory meetings of the workforce, hold one-on-one interviews with employees, and imply—the courts had ruled that an outright threat was illegal—that unionism would have disastrous consequences for the lives of all concerned.[15] As Tate told warehouse employees facing a Teamster organizing drive in 1959:

> Remember this—*no union can guarantee you anything!* The law says that if you force us to deal with some outside third party—some union strangers, we have to bargain, but the law does not say we have to agree to a single solitary thing! If these union salesmen call you off your jobs so you can't pay your bills—the law says we can go right out and hire someone else to take your place. If we never reach an agreement with the union, we never have to hire you back![16]

threating to bargain to hurt workers

Tate's reputation as an effective union fighter spread throughout the Midwest, especially after he founded Omaha's largest labor relations law firm in 1967. Sam Walton called on him in 1972 when Wal-Mart faced union trouble at two stores in central Missouri. In truth, the St. Louis–based Retail Clerks local had not put together much of an organizing drive: it established informational picket lines at a couple of stores, but the union put few resources into organizing them, especially the small, thirty-four-employee store in Mexico, a farm town near Columbia, where Sam Walton had attended the state university. But Wal-Mart executives had made an embarrassing and illegal hash of their efforts to squash the union. As the National Labor Relations Board would later note, Jack Shewmaker, one of Walton's rising stars, had been overheard telling the store manager Robert Haines that "if he caught any employees with union cards, he should fire them even if he had to hire all office manager, began to talk up the union idea among her workmates, she had been summarily fired by Haines. The Retail Clerks took her firing to the NLRB. There Haines was shown to be a liar—he claimed that he had fired Kreyling for poor work habits rather than "protected" union activity—and Wal-Mart was ordered to rehire Kreyling and post "in conspicuous places" a Notice to Employees that asserted, "We will not discourage membership in or activities on behalf of Retail Store Employees' Union, Local No. 655 . . . by discharging, or in any other manner discriminating in regard to hire or tenure of employment of any of our employees because of their union activities."[17]

By this point Tate had visited the store, where his well-tested anti-union spiel, plus the judicious transfer of Haines to another store, ended once and for all the union buzz. However, the incident worried Walton, who asked Tate what could be done, especially now that his chain was rapidly opening stores outside the old "magic circle" where rural poverty and southern mores had made so many clerks grateful for a job with Mr. Sam. Tate told Walton: "You can hire me or someone like me to hold these people down, and fight them the rest of your life. Or you can decide to get them on your side."[18] This was a script Tate had long rehearsed, made urgent by the legal war he was then waging against the Amalgamated Clothing Workers, whose strike at the slacks maker Farah Manufacturing deployed one of the union movement's earliest and most effective "corporate campaigns." Tate later remembered, "I won every [NLRB] election with Willie Farah in El Paso, we won every court case including a Supreme Court case, but we lost the war." That was because the Catholic archbishop of El Paso and the mainstream Protestant denominations sided with the union, prompting big retailers like Marshall Field's, Wanamaker's, and Macy's to heed the union boycott and drop the Farah line, thus forcing Farah to recognize the union.[19]

The defeat stuck in Tate's craw, and he was determined to apply the lessons at Wal-Mart. It was not enough to denounce trade unionism and intimidate its partisans. In addition, Wal-Mart needed a high-profile corporate campaign of its own that would convince both employees and the public that the company took care of its workers. Tate therefore proposed that Wal-Mart expand its profit-sharing plan, codify an open-door policy, and give the employees access to much store-level information on sales, profits, and inventory "shrinkage." This was Wal-Mart's "We Care" program, which Tate explained to Wal-Mart executives early in 1973 at the

enough," Tate told the assembled managers. "If we can prove we care, then our people will care," adding that employees who feel a vested interest in the company won't be as likely to steal or lie down on the job.[20]

Sam Walton and his publicists later attributed much of the impulse for this idea to his wife, Helen, who told her husband that unless the clerks and cashiers "were on board, the top people might not last long either."[21] Profit sharing seemed a generous, commonsense way to spread Sam's wealth among his hardworking and devoted employees. But in the early 1970s almost all policy makers, corporate benefit managers, and trade unionists considered the very idea of such a scheme economically problematic and ideologically retrograde. Instead, most companies, unionized or not, offered their employees defined-benefit pension plans, which paid out a fixed monthly stipend at retirement, based on their salary and years of service. Social Security was a fixed benefit plan that the Nixon administration had just strengthened by indexing it to inflation. In 1974 came the Employee Retirement Income Security Act, designed to regulate private pension plans in order to make them a secure counterpart to Social Security.[22]

Profit-sharing plans were not unknown in the early 1970s, but they carried a distinctly right-wing inflection, especially when they were substituted for traditional pensions. In an era when security—national, social, union—was much valued, profit-sharing schemes shifted risk to the employees and linked their fortunes directly and exclusively to those of the firms for which they labored. In the 1960s Tate put together a number of such schemes for undercapitalized Nebraska firms determined to keep out the union, but on the cheap.[23] Sears, Roebuck, then the country's greatest retailer, developed one of the most famous plans. With most of its assets invested in Sears stock, that plan paid out at least 10 percent of all profits, with long-service employees, largely male, enjoying the largest corporate contributions. Everyone watched the stock price, which Sears posted daily at every store and warehouse. The investment plan generated a sense of shared purpose and community; in the words of one executive, it was "the central unifying symbol around which the entire organization revolved." The plan and the ideology it embodied proved a bulwark against efforts by the Retail Clerks and the Teamsters to organize the big store in the 1950s and early 1960s.[24]

Wal-Mart's scheme was a discount version of the Sears plan. It was not actually a profit-sharing program per se. Rather the company contributed about 6 percent of an employee's earnings to the plan dependent upon the argets. It required one year of service to kick in and seven years to fully vest. y the turn of the millennium the corporate contribution had dropped to bout 4 percent as Wal-Mart's growth slowed. Thus only one Wal-Mart asso iate out of fifty ever accumulated fifty thousand dollars in stock.[25] Still, for hose employees who remained with the company during the 1970s and 980s, when the stock price soared, the profit-sharing plan reaped huge divi ends. In 1990 *Wal-Mart World* bragged that ninety-three associates had re red in the past year with more than $100,000 in each of their accounts. etty McCullough, who worked in Fabrics at Sikeston, Missouri, for twenty ne years, retired at age fifty-two with $167,000; Virginia Arnett, also in Fab cs, retired from a Newport, Arkansas, store with $175,800 after just nineteen ears' employment; and Thomas Cole, who worked as an assistant manager n various Tulsa stores for fourteen years, left the company at age fifty-five ith $149,000 in his profit sharing.[26]

But as Tate understood, the most important impact of the profit haring scheme was ideological, linking the employees to the fate of the ompany, but also justifying the self-exploitation that was integral to the Val-Mart culture. "Store associates are willing to work long years for mod st pay and slim wage hikes," marveled *Discount Store News*, "content on nowing they will hold small fortunes in Wal-Mart stock upon retire nent."[27] A company profit-sharing executive put it even more pointedly in 990: "Your profit sharing account balance will depend upon how well you nd every associate in our company does his or her job. There is no place or coasters or people just half-way doing their jobs—just as there is no lace for shrinkage or other needless expenses. People who don't do their obs take dollars out of your profit sharing just as theft and other factors hat cause shrinkage in our company reduce profits and profit sharing."[28]

Although Walton boasted that more than four out of five Wal-Mart work rs owned company stock, massive turnover at the bottom of the organi ation made profit sharing a scheme that enriched only those with long enure or high wages, especially after 2000 when Wal-Mart's stock price went owhere. A store manager complained to H. Lee Scott in 2005: "My ssociates—especially the long-term ones—would really like a full explana on as to why we as the largest company on the planet cannot offer some pe of medical retirement benefits. . . . All we really get aside from our hard arned profit sharing and 401(k) is a discount card." Scott's uncharacteristi ally hostile response, offered on an ostensibly confidential corporate e-mail

store manager who has a problem," Scott replied. "I worry about him representing all of us in management to his associates." Wal-Mart was not going to go the way of General Motors, argued Scott, and become "a benefit company that sells cars to fund those benefits." Sure, there is a health-care "mess" in this country, he admitted, but until the government gets involved, managers who want to take billions out of earnings and put this in retiree health benefits "should look for [another] company where you can do those kinds of things."[29]

CARROTS AND STICKS FOR THE LABOR ARISTOCRACY

Profit sharing was never going to be enough to keep Wal-Mart union-free, especially among those young, blue-collar men whose labor was absolutely vital to the company's efficiency and success. A unionization of the Wal-Mart logistics system seemed a real possibility in the late 1970s. That decade had been an Indian summer for labor in the south-central states. Arkansas unionists thought conditions ripe to repeal the state's anti-union "right-to-work" law in 1976; although they fell short, the campaign was well financed and well organized. Two years later an even larger and more vigorous labor effort in Missouri persuaded voters there to reject right-wing efforts to amend the state constitution with a similar prohibition against the union shop. The Teamsters, among the most powerful unions in this region, still had more than 2 million members nationwide. In Little Rock, St. Louis, and Kansas City aggressive locals were organizing the warehousemen and truckers who worked for the wholesalers and supermarkets of the region. Despite much well-publicized corruption at the top of their organization, these locals were vigilant enforcers of their contracts, which for over-the-road drivers were not much inferior to those negotiated by the militants of Chicago and Detroit. And this was an era of unprecedented prestige for the long-distance trucker, whose CB radio slang and working-class persona enjoyed a fleeting moment of high visibility in American popular culture.[30]

At Wal-Mart these blue-collar drivers and warehousemen felt themselves slighted, their dignity and manhood called into question. In the 1970s, when Walton and his CEO of the time, Ron Mayer, were setting up the company logistics system, confusion, speedup, and poor wages dogged the rapidly expanding system of distribution centers and the trucks that ser-

Thomas Jefferson, who was in charge of the first distribution centers. "We never opened a warehouse soon enough, and we always had too many stores to service before the warehouse would get opened."[31] As a consequence, sixty-hour workweeks were routine, trailers and trucks were backed up, and the drivers were expected to lend a hand with the loading and unloading, even after a hard day on the road. Warehouse wages were far lower than those blue-collar workers could command in nearby Missouri and Texas, while the wages of truck drivers were pegged to those who hauled product for Tyson Farms, the nonunion, hardscrabble, chicken-processing operation also headquartered in northwest Arkansas.[32]

Urged on by the resentful truck drivers, the Teamsters launched organizing efforts at company distribution centers in both Bentonville and Searcy during the late 1970s and early 1980s. Each of these DCs employed about eight hundred warehousemen in conditions that were more akin to a fast-paced factory than a pink-collar store. Accidents were frequent, and compulsory overtime was exhausting. In 1980 and 1981 some Searcy distribution center employees even slept in their cars in the parking lot between double shifts. They wanted more money, less pressure, and a measure of day-to-day respect that the company's open-door policy failed to provide. At Searcy, where the Teamsters were most active, the warehouseman Randy Powell told reporters: "All we're asking right now is the right to negotiate hours, wages, and working conditions. They claim we have that now on an individual basis, but when you're one of 38,000 they're not going to hear you."[33]

Walton responded to this organizing attempt with a combination of personal contrition and adroit institutional concessions, backstopped, of course, by an unrelenting, hard-nosed determination to rid the company of those workers whose union sentiment was not assuaged by company paternalism. "You'd think I'd learn, wouldn't you?" he asked the Searcy workers, shaking his head and apologizing for letting conditions get so bad. He asked for another chance; he'd straighten out the work shifts, cut down on the overtime, bring conditions at Searcy in line with those at Bentonville, where workers had just voted down the union. But Walton may have gone to the well one time too often with these blue-collar men. The Teamsters seemed close to having the critical mass they needed in order to win. Around 300 out of 415 workers at the distribution center had signed cards asking the union to represent them.[34]

uled for February 1982. When Walton and his brother Bud flew down to Searcy just before the election, the company founder assembled the workers to tell them he'd strip them of their profit sharing if they voted for the union. Walton told them he had five hundred job applications on file, some from the evangelical, anti-union students at nearby Harding College. Warming to the subject, he made a threat that was then and now an explicit violation of labor law. "He told us that if the union got in, the warehouse would be closed," one of the workers recalled for Walton's biographer Bob Ortega. "He said people could vote anyway they wanted, but he'd close her right up."[35]

Meanwhile, John Tate stirred the pot with a propaganda barrage that has since become a classic in the anti-union arsenal. Workers want justice, but not divisiveness. They seek harmony and cooperation, as well as dignity at work. They organize for a voice on the job, not a strike that puts them outside on the picket lines. Anti-union strategists like Tate had long been well aware of these social and psychological needs and how to turn them against the union impulse, promising violence, division, conflict, and an immediate strike if workers cast their lot with the union. Workers arriving at the Searcy distribution center one morning found Tate's rendition of this anti-union stratagem in the form of a ninety-foot-long bulletin board, covered with four decades' worth of newspaper clippings describing every Teamster strike, violent incident, and allegation of criminality that Tate's researchers had been able to piece together. It was headlined "Walk the 90-Foot Wall of Teamster Shame," recalled Ronald Heath, who ran the organizing campaign for the Teamsters' local in Little Rock.[36]

Not unexpectedly, the Teamsters lost the election, after which Walton gloated in the company magazine, *Wal-Mart World*: "Our good associates at our Searcy distribution center rejected the union by an overwhelming margin of over three to one. Bless them all. . . . We will never need a union in Wal-Mart if we work with and for one another and keep listening to each other."[37] It was a historic defeat. The Teamsters failed to contest the election, and the hard-core unionists were soon eased out of the Searcy DC. The Arkansas labor movement, the Teamsters included, never renewed the struggle. That in turn sent a signal to the AFL-CIO in Washington that, for the moment at least, Wal-Mart was too difficult to tackle and that company employees, in both the distribution centers and the stores, were too satisfied, complacent, or fearful to organize.[38]

increasingly sophisticated supply chain. Each day they follow a carefully plotted itinerary that gets them from the distribution center to the store and back in the shortest time, burning the least amount of gas. The timely completion of their task is vital since these drivers—eventually there would be more than eight thousand of them working out of more than one hundred DCs—must arrive at their designated Wal-Mart store at an appointed moment each evening so that the overnight stocking staff can unload the truck. If they are off schedule, money is lost and confusion reigns.[39]

Wal-Mart management was therefore determined to consolidate their allegiance. Even as deregulation of the larger trucking industry turned many over-the-road trucks, especially those of the owner-operators, into "sweatshops on wheels," Wal-Mart drivers were elevated to something resembling a labor aristocracy.[40] By the early 1980s Wal-Mart paid them wages equivalent to union scale. In Mississippi and some of the other southern states this meant that they were earning triple the pay of a state highway patrolman, five times that of an hourly sales clerk. Equally important to many truckers, the word went out that drivers were no longer required to help load and unload their shipments. Their uniforms were now always clean; their equipment was the best in the business. "We drop, hook, and drive. We don't load and unload," bragged a self-satisfied driver when interviewed by *Discount Store News* late in the 1990s. "Wal-Mart is the Cadillac of trucking," asserted another.[41] To become a Wal-Mart trucker required three hundred thousand miles of accident-free driving, as well as approval from a committee of working Wal-Mart drivers.[42]

The drivers, an almost entirely white, male fraternity, developed a strong esprit de corps, even a certain arrogance toward rival truckers or other Wal-Mart employees, both managers and associates. H. Lee Scott learned this in an incident during the early 1980s, just a few years after he had been hired away from autocratic, nonunion Yellow Freight to run the company's logistics operations. Scott was a wiz at optimizing schedules and solving routing problems. Before the deployment of specialized computer software to figure all this out, he found the task mentally rewarding, like a "challenging crossword puzzle," he once recalled. But the truckers were not ciphers to be similarly slotted about. When Scott tried to regiment their behavior with a series of dictums, admonishing drivers for an uptick in accident rates or too many speeding tickets, a group of drivers reacted with righteous fury. Some complained directly to Walton, asking him to fire Scott. Mr. Sam, in turn, made

for bringing their grievances to his attention. None were penalized. When Scott became CEO in 2000, this incident was told and retold as a tribute to the company's unique culture and the "open door" hosted by top executives.[43]

But only truck drivers ever received this kind of collective good treatment. And it paid off: turnover rates for long-haul drivers, which sometimes reached 100 percent in the nonunion cartage industry, never left the single digits at Wal-Mart. Accidents involving Wal-Mart trucks, frequently costly and litigious affairs, were rare. And even more vital, Wal-Mart achieved a 99.8 percent on-time delivery standard for its stores, a truly astounding figure.[44]

Not all who worked in logistics were admitted to this labor aristocracy, however. Wal-Mart's growing list of distribution centers required a lot of staffing, and unlike the truck drivers, who always enjoyed a degree of highway autonomy, the blue-collar men who ran the forklifts and threw boxes into the truck trailers did not get any special privileges. As the depth and precision of logistic computerization intensified, their work was increasingly Taylorized and closely supervised. They were paid more than the cashiers and clerks, enough to avoid a debilitating labor shortage at the DCs, but no more than necessary. When a Searcy warehouseman asked Walton why they were getting paid $1.50 less an hour than those in a newly opened Texas facility, Sam replied forthrightly, "I can hire you for less in Arkansas." In future years Wal-Mart often sited its DCs in rural areas with a high degree of underemployment, even if this put them at a considerable distance from the interstate. A study of retail distribution centers in New York State found a strong correlation between corporate culture and DC location. The Gap chose a sophisticated area north of New York City, Target selected a fast-growing, middle-class suburban location, Kmart settled on a community with a substantial Hispanic population, and Wal-Mart put its DC in a remote rural county in the midst of New York's dairy industry, some distance from the interstate highway.[45]

WAL-MART VERSUS THE UNIONS

Wal-Mart followed a similar strategy in its stores. Until the mid-1980s Wal-Mart avoided metropolitan America whenever possible. This was where trade unions had their greatest strength, in an archipelago of cities and suburbs

Minneapolis, and from Seattle to San Diego. In Missouri, for example, Wal-Mart built scores of stores, but all were in small towns or in the exurban ring that skirted such union strongholds as St. Louis and Kansas City.[46] And this was the Wal-Mart pattern in other border or midwestern states. At the same time trade unionism encountered an increasingly hostile political and social environment in these years, first sent reeling by the deindustrialization of the old union strongholds and then slapped hard by Ronald Reagan and a generation of increasingly aggressive Republicans who saw the unions as a bar to U.S. international competitiveness and a financial prop for the Democrats.

Thus John Tate could brag in 1990 that Wal-Mart had not faced a single union petition for an NLRB election in more than a decade. But the battle was about to be joined. Tate quit his Omaha law firm to become an executive vice president and a member of the Wal-Mart board of directors in 1987, an extraordinary status for an executive heading a corporate personnel department. He retired in the mid-1990s, but Wal-Mart would continue to make use of his services well into the new century, when many of the anti-union techniques and strategies he had developed decades before would form a rampart against a new wave of labor organizing.

Wal-Mart needed to be tough because the once-rural retailer was now putting its stores in states and regions that had long been friendly hosts to a vigorous trade union tradition. It was as if Lee's army was once again moving across the Potomac and into Yankee territory. By the early 1990s the company had stores in Wisconsin, Minnesota, Michigan, Ohio, Pennsylvania, and California. This was the context in which Orson Mason, who would later become a successful hospital-industry union fighter, wrote one of the most infamous documents in the history of Wal-Mart labor relations. "Labor Relations and You at the Wal-Mart Distribution Center #6022" is a step-by-step guide for supervisors at Wal-Mart's huge Greencastle, Indiana, facility, in a part of central Indiana where the Teamsters, the Auto Workers, and the Railroad Brotherhoods had deep roots and much support. "Any suggestion that this Company is neutral on the subject or that it encourages associates to join labor organizations is not true," asserted the guide, which was aimed at a readership of blue-collar foremen and supervisors. "The commitment to stay union free must exist at all levels of management—from the chairperson of the 'Board' down to the front-line manager. Therefore, no one in management is immune from carrying his or her 'own weight' in the union prevention effort."[47]

it had escaped a serious encounter with American trade unionism. Both the Teamsters and the United Food and Commercial Workers Union were decentralized trade unions in which a militant organizing tradition was dying out. The Teamster effort to unionize the Searcy distribution center in the late 1970s had been organized out of Little Rock, not the union's national headquarters in Washington. More important, the Teamsters were a rudderless union in the 1970s and 1980s, presided over by a series of weak, corrupt national officers full of bluster on occasion, but who could do nothing to either stanch the membership losses that were the product of trucking deregulation or coordinate the organizing activities of the hundreds of fieflike local unions whose outlook was resolutely parochial. And of course the chief issue occupying Teamster officials in the late 1980s was not Wal-Mart or any other organizing effort, but the effort by a young New York district attorney, Rudy Giuliani, to purge the union of scores of corrupt officials. By the time the feds were finished, more than 150 tainted Teamsters were out of office and out of the union.

The UFCW was in better shape. Supermarkets were a big, successful business in the postwar United States. By the end of the twentieth century they employed 2.5 million workers, fully 2 percent of the U.S. workforce. With 1.3 million members, the UFCW had organized about eight hundred thousand of these workers in chains that represented just over half of all supermarket sales. Union wages in this industry never approached those once paid in the core of the old manufacturing economy, but they were enough to sustain a modest, recognizably middle-class standard of living. Most surveys put the cost of pay and benefits in the unionized grocery stores at about 30 percent above that found at Wal-Mart. Wages were indeed higher, but the big, qualitative difference between Wal-Mart and the union groceries lay elsewhere, in those aspects of the job that made a real career possible: forty-hour workweeks, defined benefit pension plans, adequate family health insurance, and a seniority system that facilitated a steady progression through a series of higher-paying and more responsible jobs.[48]

The UFCW itself was the product of a series of mergers in the 1960s and 1970s among unions representing packinghouse and food-processing workers, furriers, meat cutters, and retail clerks, most of whom worked in the nation's highly regionalized set of supermarket chains. The clerks, whose old union had once been called the Retail Clerks International Protective Association, were now the dominant element in the UFCW, and this did not bode in the Progressive era, when they championed early closing hours and rest breaks for the poorly paid women who staffed the big downtown department stores. By the 1940s and 1950s real unions existed in Macy's, Marshall Field's, and a few other flagship stores, but the Retail Clerks never succeeded in organizing chains like Woolworth, Penney's, Sears, or Kresge. The Retail Clerks were not a militant trade union, and they rarely struck a chain, certainly not on a national basis.[49]

This conciliatory strategy continued well into the postwar decades. In the mid-1980s, when a packinghouse local at Hormel conducted a long, militant strike that evoked memories of the great organizing battles waged by the industrial unions in the 1930s, UFCW leaders were chagrined, then actively hostile, and finally so enraged that they seized the Austin, Minnesota, local, squashed the strike, and allowed Hormel to impose a dramatic, multiyear wage cut.[50]

Nonetheless, the Retail Clerks had succeeded in quietly organizing much of the postwar era's booming supermarket industry, where many jobs, like those in produce and meat cutting, were of higher skill, and hence male, and where local supermarket chains, which had established a near monopoly within their own metropolitan region, were not averse to allowing the Retail Clerks to set a modest wage standard for themselves as well as any competitors who might seek to invade their sales territory. For more than half a century, locals of the Retail Clerks/UFCW bargained uneventfully with regional chains like Giant in the Washington area, Pathmark in New York and New Jersey, Stop and Shop in New England, Ralph's in Southern California, Fred Meyer in Seattle, and the Star Markets of Boston. They won excellent health insurance benefits and a good pension scheme. But this regional success had a downside. The UFCW remained highly decentralized. It did little to coordinate organizing among its jealously autonomous locals. In Canada it was a Steelworkers' local, not the UFCW, that made the biggest push to organize some of the Woolco stores taken over by Bentonville in 1993. Indeed, since Wal-Mart was not on the radar of most of the big regional locals, the UFCW barely noticed the rapidly growing discounter, at least until the early 1990s when the huge company began to build hundreds of grocery-selling Supercenters, now often located in the suburbs right down the street from a union supermarket.[51]

Wal-Mart's Supercenters were a sensation, something genuinely new in a supermarket business approaching middle age. By adding a full line of

scene in a trillion-dollar industry but also ramped up its general merchandise sales by about 30 percent in each grocery-selling store. This was truly one-stop shopping. So Bentonville put Supercenters on the map at a furious clip: about 100 a year in the mid-1990s, and then 113 in 1998, 157 in 1999, and 167 in 2000. By the end of the next year, one thousand Supercenters had been built and Wal-Mart commanded the number one spot in the U.S. grocery market. "Wal-Mart Is Eating Everybody's Lunch," pronounced *BusinessWeek*.[52]

Wal-Mart's cost advantage over traditional supermarkets came on two fronts. First, the Bentonville selling machine rejected the traditional, Byzantine system of supermarket "vendor allowances," which determined how an item was promoted, the shelf space it required, and the price it commanded. Although profitable in the short run, these barely veiled kickbacks added enormous complexity and rigidity to the procurement process. Wal-Mart would have nothing to do with them.[53]

Even more important, Wal-Mart held a decisive competitive advantage over the supermarkets when it came to labor costs, which were often 70 percent of the operating budget. When Wal-Mart was competing against Kmart and Woolworth, its cost of labor was but marginally lower, but in the grocery business, the difference was substantial. The UFCW was caught in the squeeze, both by Wal-Mart, which put unionized firms out of business, and by the old-line grocery chains themselves, which were determined to hold the line on their wage and benefit costs to meet the challenge. In the Midwest Kroger was hurting; in the South Piggly Wiggly would soon be forced out of business; in California Safeway began to slash office staff and prepare for battle with its unions. In Las Vegas for example, Wal-Mart opened sixteen stores in the 1990s, which led to the demise of Raley's, a unionized, California-based grocery chain that operated eighteen supermarkets in southern Nevada. All were shuttered by the end of 2002, leading to the loss of fourteen hundred union jobs.[54] In all, Wal-Mart proved the catalyst for the closure of thirteen thousand traditional supermarkets and the bankruptcy of at least twenty-five regional grocery chains in the years between 1992 and 2003.[55]

The UFCW effort to organize Wal-Mart has therefore been an essentially defensive one. And like any entrenched formation, the big grocery union had certain tactical advantages. It was one of the few U.S. trade unions that could still organize; the work of its members could not be outsourced to organizers approached potential recruits. UFCW membership actually grew by one hundred thousand during the 1980s and early 1990s.[56] At Wal-Mart, the union adopted an opportunistic organizing strategy, supporting workers wherever a few union sparkplugs could be found: in Aiken, South Carolina; Greencastle, Pennsylvania; Loveland, Colorado; Kingston, Arizona; but mainly in union-friendly Las Vegas, where Wal-Mart's evangelical communalism had made few inroads. When Stan Fortune, who had begun his Wal-Mart career in Arkadelphia, Arkansas, was assigned to the Loss Prevention Department in Las Vegas, he thought he had entered a Wild West drama, where violent shoplifters, alienated associates, and sky-high turnover made a mockery of the famous Wal-Mart cheer that opened his Supercenter each morning. Surely union organization would not be impossible in this volatile situation. Fortune was among the ten former Wal-Mart managers the UFCW hired, most of whom were flown to Las Vegas to stir the union waters.

On its face this strategy could never win, certainly not in terms of traditional union-management conflict and compromise. With more than three thousand domestic Wal-Mart stores at the time, UFCW organizing victories at a handful of scattered sites were unlikely to make much of an impression upon Bentonville. But the union hoped that the publicity generated by the campaign would force Wal-Mart to raise wages, improve its health insurance, and encourage the growth of union-community collaborations against the giant retailer. Even more important, the UFCW wanted to demonstrate that Wal-Mart's violation of the labor law was so widespread and so systematic that the NLRB should impose an "extraordinary nationwide remedy" against the company. In almost all unfair labor practice complaints issued by the board, the sanctions applied are narrowly local. But if an employer is caught using the same illegal tactics in various places, the NLRB can impose nationwide penalties, which if enforced in the federal courts can have a real impact on the way the company conducts its anti-union campaign. So the UFCW barraged the NLRB with allegations of unfair labor practices against Wal-Mart, and it seemed just possible that the labor board might slap Wal-Mart with a serious company-wide penalty, "an extraordinary remedy" that would have personally fined Wal-Mart store managers themselves ten thousand dollars for willful violations of the labor law. But Wal-Mart circumvented the entire process by appealing straight to the newly installed Bush administration. Just days before Wal-Mart was set to argue its case, Leonard

from the White House. He had thirty-six hours to clear out his office. Page's more conservative successor decided against bringing a national complaint against Wal-Mart.[57]

Indeed, the deck was stacked against the union. Although Wal-Mart could not move its stores overseas, it could transform the technology or organization of a job so as to eliminate the workers who were potential union recruits. This was an old management stratagem, which had eviscerated trade unionism in newspaper press rooms, tobacco processing factories, wireless telecommunications, and a large slice of the broadcast industry. Wal-Mart adopted the same kind of technological fix after nine meat cutters had the temerity to actually stick together long enough to win an NLRB election in 2000 in a Palestine, Texas, Supercenter. Their grievances were typical of the trade: they wanted wages equal to those enjoyed by the unionized butchers across town, and they insisted on regular hours and a certain deference from store management. For more than a century meat cutting had been at the core of unionism within the grocery industry. Consumers wanted their ribs, steaks, and roasts freshly cut at the grocery store itself, often to their exact specification, and this work required skill, speed, and judgment, applied to a product that was perishable and relatively expensive. So grocery-store butchers had always enjoyed a premium wage, not to mention the kind of craft autonomy that was anathema within the Wal-Mart organizational culture.

So when Bentonville got word of the unexpected union inroad at Palestine the company cauterized the wound in the most radical fashion. Henceforth, Wal-Mart announced that it would cease cutting meat in its stores altogether. This was almost certainly a form of illegal retaliation against its newly union-certified butchers. But for Wal-Mart that was an insignificant detail that could and would languish in the courts. Of far greater import was the company's decision to become the first big grocery chain to adopt a new system of buying "case-ready" beef and pork prepackaged by the meat-packer. For Wal-Mart shoppers, the switch meant no more custom orders; for the packers, it pushed even more of the responsibility for salability and quality onto their shoulders, along with the profit-enhancing capacity to "brand" their product. Earlier efforts to sell case-ready meat had failed because airtight packages didn't take on the red color, or "bloom," that consumers associate with freshness. But food scientists had learned how to flush the packages with a mixture of oxygen and carbon dioxide that let the meat bloom slowly. For Wal-Mart this process proved a clever technologivulnerability to the union. The *Cattle Buyers Weekly* called Wal-Mart's move "the single biggest change in the history of meat retailing."[58]

But Palestine was the exception. When it came to trade unionism, Wal-Mart rarely had to make such a structural readjustment to stanch the threat from organized labor. It deployed multiple and overlapping lines of defense like the intersecting lines of cannon fire that protected a well-constructed fortress. By the time the UFCW began its effort to organize Wal-Mart in the late 1990s, "union avoidance" strategies, at Wal-Mart and other corporations, had been well under way since the days when John Tate and Sam Walton browbeat the Searcy warehousemen. An entire anti-union industry had grown up in the United States since the 1970s, when the lawyers and consultants who orchestrated such work were thought to be just a step or two above ambulance chasers and bail bondsmen. But Ronald Reagan's celebration of the free market during his White House years legitimized an ideological and operational hostility to organized labor at just the moment when sharper competition at home and abroad had convinced many businessmen that the unionized workplace was both too expensive and too inflexible. So a flourishing set of consultants, law firms, personnel psychologists, and strike management firms peddled their services during an era when it was finally possible, in the North and West as well as the rural South, to promote what one consultant called the "morality of a union-free environment."[59]

The work is outsourced. When corporate executives get wind of a union organizing drive or some other indication of discontent, they turn matters over to outside consultants and lawyers. At a cost that often reaches several million dollars for a few months' work, these union busters deploy a well-tested set of stratagems to ensure that their new client is kept union-free.[60] First, the lower-level supervisory staff is assembled and told that they are hereby drafted into the anti-union effort; any equivocation or desertion will result in instant dismissal, if only because these "managers" have no protection under existing interpretations of U.S. labor law. Then comes a barrage of leaflets, videos, personnel shifts, and meetings with individual employees, often climaxed with an on-site visit by top corporate executives. Captive audience assemblies become more frequent and more intimidating as the presumptive date of the NLRB election draws near. Should the union manage to eke out an election victory, another round of delay and resistance begins, often organized by the same law firm that orchestrated the anti-union campaign in the first place. It's expensive but

highly effective: union organizing efforts using traditional labor law procedures have virtually ground to a halt in the United States. Only about one union campaign in twenty ends with a signed collective bargaining contract.[61]

HOW WAL-MART WINS

Wal-Mart does all this and more, in-house, with its own people taking on the key tasks, and thus making the techniques and stratagems developed by the union avoidance experts an integral, organic part of corporate practice. As Wal-Mart came under high levels of scrutiny in the 1990s, the company ritually announced, "We are not anti-union; we are pro-associate." But every store manager knew that his or her success depended on keeping trade unions at bay; certainly that was the message driven home in training manuals such as one titled "A Manager's Toolbox to Remaining Union Free."[62]

Wal-Mart's Tom Coughlin, who in 2000 was number two in the corporate hierarchy, presided over this effort, an approach that was truly one of the iron fist inside the velvet glove. In the 1980s Coughlin had been tutored by John Tate, and a decade later he led the company effort to defeat the UFCW. He was uncompromising. "These union issues are going to get worse," he told a Bentonville staff meeting in March 2000, so managers should quickly identify the most "fertile ground for unions" among the Wal-Mart associates and immediately report back to Bentonville. Then the regional vice presidents and district managers must ensure that all labor relations directives are "executed 100%! There is no room or tolerance for slippage."[63]

For Coughlin and all other Wal-Mart managers, unions were always referred to as "third-party representatives." This was a worldview driven home during a new employee's very first day on the payroll. A Wal-Mart training video, "You've Picked a Great Place to Work!," makes the point with great effectiveness. Through a conversation among a human resources manager; two newly hired workers, one of whom was a former union member; and two current workers, of whom one also previously belonged to a union, the video pounds home Wal-Mart's disdain for trade unionism and the terrible consequences that befall workers and businesses that succumb to union blandishments. In just twenty-seven minutes the video encapsulates a generation of right-wing imagery and propaganda designed to demonize and marginalize the trade union idea. Unions are portrayed as essentially corrupt and parasitical institutions, marginal businesses—not unlike pawnbrokers or payday lenders—which are primarily concerned with the dues income collected from naive workers seduced by their promises.

Wal-Mart's video portrays the unions as "political," spending dues money on campaigns for candidates that workers "don't even vote for," and "to pay union bigwigs and their lawyers." And the "politics" extends to the internal life of the workplace itself: work rules base promotions on "seniority or union politics," rather than merit; union procedures prohibit members from communicating directly with management and require workers "to go to your union steward," who will relay the message to management only "if he likes what you say." And most important, the union is ineffective or worse. Strikes—frequent, violent, and divisive—are certain to be lost, likewise "every benefit . . . could go on the negotiating table" and "unions will negotiate just about anything to get the right to have dues deducted from your paychecks." The video concludes with the former unionist, now a newly minted Wal-Mart associate, seeing the light. Speaking directly into the camera, he asserts, "All of us every day, we see how our management listens and cares. . . . We see how many chances there are to move. There's no way we'd want a union to come in."[64]

There's a racial subtext to this propaganda as well. The two most forceful and self-confident anti-unionists in the video are African Americans. The human resource manager who occupies the central role in the video is an attractive black women in her forties, who embodies the mature and kindly spirit of Mr. Sam. One of the former unionists, now a Wal-Mart associate who tells tales of union mendacity, is an African American man. And one of the naive new-hires, initially favorable to the union idea, is a young white man. All of this completely inverts the usual alignment, which finds African Americans most sympathetic to the union idea and young white males either indifferent or hostile. Wal-Mart understands this as well, which is why the company has populated the executive ranks in its "People Division" with numerous high-profile Latinos and African Americans.

Such indoctrination and training are hardly enough, so Wal-Mart keeps a close watch on what its workers think about their job, their boss, the company, and themselves. The "employee attitude survey" has long been a staple of the nonunion workplace. Sears perfected the system in the 1950s when it employed skilled social scientists to identify patterns of discontent and the employees who were most disloyal, before such sentiment could metastasize

such surveys from the 1980s on.[65] Wal-Mart adopted a more down-home approach but a hardly less effective one. In the early 1970s Walton took the pulse of his workers by hosting an annual "grassroots" meeting for selected associates, in which top management heard complaints and exchanged ideas. Meetings were eventually held in every store. By 1994 they were replaced, in all but name, by a sixty-eight-question survey that sliced and diced employee morale according to job, gender, ethnicity, age, length of service, and hours of work. The top five problems uncovered by the survey were always inadequate pay, the cost of health insurance, management favoritism, poor training, and the company policy that forced employees to relocate if they wanted a promotion into management ranks.[66]

Bentonville's computers also manipulated the data to generate something Wal-Mart called a "UPI," which originally stood for Union Probability Index, later renamed Unaddressed People Issues. About 20 percent of all Wal-Mart stores, most located outside the South, generated a UPI high enough to signal low morale and therefore require the attention of company executives whose job it was to keep unionism at bay. "Maintaining high morale in a facility is crucial to remaining union free" was the way Wal-Mart's Pipeline, its intranet for store managers, put it in a confidential message in 2001. "If a union organizer approaches an associate in a facility with low morale, the associate may believe the organizer's 'sales pitch.'"[67] Store managers who presided over a facility with a high UPI were vulnerable to transfer or demotion.

Of course, actually raising morale was either far too expensive or far too disruptive. At the turn of the century, the top two worker grievances were all about money, and the rest challenged corporate authoritarianism. The Pipeline did identify "Wal-Mart's Open Door policy as our greatest defense to union influences trying to change our corporate culture and union-free status." But the open door was but another part of the paternalistic culture, "a morale tool to enhance the Wal-Mart family image," according to one disgruntled store manager who was advised to minimize the time she spent on the "typical Associate concern or complaint."[68]

Wal-Mart's own store managers and assistant managers are both the frontline troops and potential traitors in the battle against the unions. Like foremen in the factories and supervisors in the office, they are men and women in the middle, required to "execute 100 percent" the directives that come from above but also charged with the creation of a productive and harunion organizers, managers and assistant managers are enmeshed within a world of friendships and other relationships that makes them unreliable union fighters. Trained for their entire career to conceive of the store as a communal family, they may well be reluctant to institute the divisive tactics necessary to split the workforce, create internal tensions, and thereby defeat the union campaign. Thus Brent Rummage, a former youth minister with the Church of God, who had been admitted to the Wal-Mart management training program, was supposed to report any union talk to his store manager. But when his own mother, who worked in the same Hillview, Kentucky, store to which he was assigned, ventured that unions might not be so bad, Rummage balked. "I wasn't going to report my mother," Rummage told a reporter. Likewise Stan Fortune was managing a Wal-Mart in Weatherford, Texas, when his boss instructed him to fire an employee suspected of talking to the union. "I told him 'I'm not firing him,'" Fortune later recalled. "'That's illegal.' . . . He got in my face and said 'You fire him or I'm going to fire you.'" A week later Fortune was gone.[69] Both Rummage and Fortune were later hired by the UFCW as part of the union's organizing drive at Wal-Mart.

Almost as troublesome to the company were those managers who took their hostility to unionism too personally. At the turn of the century, Wal-Mart faced hundreds of unfair-labor-practice charges filed by the UFCW and other unions. They were expensive, time-consuming, and sometimes embarrassing to litigate, so Wal-Mart tried to teach lower-level managers to walk a fine line between militant but legal anti-unionism and those tactics that would generate an NLRB charge. This was the TIPS program, spelled out in Wal-Mart's "Managers Toolbox to Remaining Union Free." "Know your TIPS. As long as you do not Threaten, Interrogate, Promise, or Spy on your associates, Wal-Mart, through your efforts, will be able to share its views on unionization in an open, honest and legal manner."[70] Naturally, it proved impossible to adhere to such admonitions in practice. How could managers warn workers of the union danger if they did not implicitly threaten them, on the one hand, and promise a better future, either individually or collectively, on the other? And how were managers to know when they should pick up the Wal-Mart "union hotline" to Bentonville, unless they interrogated or spied on those who worked for them?

Trade unions lodged 288 unfair-labor-practice charges against Wal-Mart between 1998 and 2003. These included 41 charges claiming improper firings, 44 instances in which employees were threatened if they joined a union,

Wal-Mart illegally interrogated its associates to determine their views on sensitive labor-related issues. In all, 94 of these complaints were weighty enough to generate a formal NLRB complaint against the corporation.[71]

When the union hotline did ring in Bentonville, Wal-Mart immediately put key members of its "labor team" on a corporate jet and dispatched them to the troubled store. At the height of the UFCW organizing campaign, there were about twenty midlevel Wal-Mart executives assigned to this corporate office. Although some had a law degree, their function was not litigation before the NLRB or any other agency of the government. That was left to one of many law firms on retainer with the corporation. Instead, the labor team directed itself exclusively toward the "education" of store management and the associates who might have sparked the union drive or become subject to its siren song. Until the union campaign was defeated, the labor team's skilled operatives sidelined local management and effectively took over the store, orchestrating the anti-union effort so as to stay on legally justifiable terrain. As a manager in Colorado told Human Rights Watch, "We have a union activity hotline. If you hear associates, you don't confront them. You or the store manager calls the hotline. Then higher-up management takes care of it." Liz Boyd, a department manager at the Aiken, South Carolina, Wal-Mart, reported that during the union campaign there, "It was our duty . . . to report any union activity and call the Union Hotline. Even now, if I hear of a union rumor, I'm supposed to notify management or call the hotline."[72]

BLITZKRIEG AT KINGMAN

The labor team was extremely active during the first years of the twenty-first century when the UFCW organizing campaign was at its height. Thanks to the work of Human Rights Watch, which has made a thorough and devastating study of Wal-Mart's anti-unionism, we have an exceptionally well documented account of how this specialized unit operated to propagandize workers and thwart a union organizing effort at a typical Wal-Mart. The young men who work in the Tire and Lube Express (TLE) Department have always been among those most receptive to the union idea. They get their hands dirty, they have few prospects for promotion, and they are well aware that similar blue-collar jobs in garages and car dealerships pay a lot more. Such was the case in the Kingman, Arizona, store, where an otherwise humane manager, under corporate pressure to keep laneeded to repair an air-cooling system essential in the 110-degree summer heat. Throw in an arrogant young—and female—TLE department head, and all the ingredients were present for a unionization attempt. So TLE workers got in touch with the UFCW, which on August 28, 2000, filed a petition with the nearby Phoenix office of the NLRB to represent as many as eighteen automotive service technicians.[73]

The reaction from Wal-Mart was immediate and overwhelming. Within twenty-four hours a Bentonville-based labor team was in Kingman, along with district and regional managers from Arizona and Nevada. In all, more than twenty outside managers flooded the store, some to keep tabs on the mood of the associates via the Wal-Mart CBWA system, or "Coaching By Walking Around"; others to help out with the time-consuming annual inventory while the regular staff watched anti-union videos and attended near-daily captive meetings. At the TLE Wal-Mart replaced the manager there with a high-level personnel executive, untutored in changing oil or tires, but well versed in the corporation's union avoidance program. Loss Prevention got busy as well, training a new set of cameras on work areas in the tire and lube shop. "I had so many bosses around me, I couldn't believe it," remembered Larry Adams, a union supporter who worked in the TLE at that time. "They weren't there to help me. They were there to bug me. It was very intimidating."[74]

The key labor team figures were Vicky Dodson, a thirteen-year veteran in Wal-Mart's People Division, and Kirk Williams, a young law school graduate from Chicago whom Wal-Mart had hired just a few months before. Dodson was a pro, a forceful and controlling "pistol," remembered one of the assistant managers who came under her authority; "an intelligent, articulate, sophisticated individual," in the more judicious words of an NLRB administrative law judge.[75] Williams, who had worked his way through Kent State as a Wal-Mart assistant store manager, including a stint in Loss Prevention, was a coldly ambitious functionary who would soon spend enormous amounts of time on the corporate jet putting out union fires throughout the company's retail empire.[76] Most people in the store, management and worker alike, called the Bentonville labor team the "union busters" or the "Nazi SS." Not unexpectedly, Dodson and Williams were contemptuous of the existing store management, whose maladroit handing of layoffs and scheduling issues they blamed for precipitating the union uprising. "They took us out of the store for a couple of days," remembered As-

union, how to stop them from coming in . . . what to say, what not to say." Within a few weeks the store manager had been transferred and demoted, his two assistant managers marked for dismissal, and the TLE district manager fired outright.[77]

Within less than a week Dodson and her confederates met with 95 percent of all workers eligible to participate in the NLRB certification vote. Meanwhile, the labor team held daily meetings at 8 a.m. with all the salaried managers, as well as the hourly department heads, who they said were part of the store "management" and therefore ineligible to take part in an NLRB certification election. "We were basically spies, spies for the store, spies for the company," remembered a disenchanted department head. "We had to run our departments, do everything normally, and then be spies for them. The stress level was so high."[78] Unionists complained, at Kingman and elsewhere, that "Wal-Mart has tricked hourly department managers into thinking they were part of the management team and therefore obligated to report any signs of union activity," even though the NLRB ruled repeatedly against the company about the status of these hourly employees. Observed Michael Leonard, a UFCW official, "Wal-Mart's M.O. is to test the limits of the law, and to only change its prepackaged anti-union program when it is forced to."[79]

The labor team screened one of five different anti-union videos every day. "Wal-Mart Under Attack" was a lurid depiction of union thuggishness and disruption directed at a company that was portrayed as merely trying to provide inexpensive goods for ordinary working people. "Sign Now, Pay Later" urged Wal-Mart workers to resist the siren song of the union organizers, who would do and say anything to win another signature on a union card, all the while ensnaring the hapless retail worker in a world of burdensome dues and serflike subservience to an alien, boss-ridden organization. These videos, always followed by a Q and A with a member of the labor team, were highly effective. A worker later interviewed by Human Rights Watch remembered, "I actually had fears after seeing videos of Molotov cocktails and rocks, pelting rocks, hurling bottles." Another said, "After those meetings, minds started changing" as onetime union supporters turned against the UFCW.[80]

On one alarmist charge Wal-Mart was at least partially correct. If the union got in, the "store would run with a steward. . . . The union will run the store. They will dictate the store. The store manager [will] respond to a Wal-Mart store would curb managerial authority; it might also reduce management bonuses and introduce the seniority principle into the making of assignments and schedules.[81] John Lehman was a successful Wal-Mart store manager in the 1990s, who never made less than $140,000 a year during that decade. When he briefly left Wal-Mart to manage a unionized Meijer store in Louisville, he found that while his pay was not as high as at Wal-Mart, the headaches were a lot less. Meijer's contract with the UFCW circumscribed the store manager's power to assign work hours and to offer raises, instead providing a well-defined matrix of job descriptions, grade levels, and pay categories that existed only in rudimentary and contingent form at Wal-Mart. Likewise, unionized stores had a far higher proportion of full-time workers on schedules pegged to their seniority, a system that Wal-Mart executives declared would "fundamentally change the store's business model."[82]

Dodson, Williams, and other top managers from the Southwest stayed in Kingman for two months. During this period the local NLRB held hearings to determine the size and composition of the TLE unit, and both the UFCW and the Wal-Mart labor team marshaled their forces for the certification election itself. In minutely detailed reports back to Bentonville, labor team members described every instance of possible union talk, every wavering worker, and every meeting. Dodson kept track of the workers who wore union pins and the ones who took them off, what comments were made at the captive meetings, and the degree of union sentiment in various departments of the store. The labor team authorized raises for 85 percent of all workers, fixed the TLE cooling system, and repaired other equipment in that same department.[83] On October 9 Tom Coughlin jetted into Kingman to tell a group of TLE workers that the Wal-Mart "open door," not the UFCW, was the solution to their problems. This was a clear violation of the spirit, if not the letter, of the existing labor law, which forbade management efforts to bribe, promise, or cajole employees in the midst of an organizing effort. "If you have any questions or problems," Coughlin told his grease-stained listeners, "don't hesitate to call me, and I will get you some results. I can override anybody." Then with a flourish Coughlin put his home telephone number on the white board and told store managers to leave it there.[84]

Given all this, it is hardly surprising that the UFCW organizing drive collapsed in inglorious defeat. Although the labor board ruled that the TLE was an appropriate bargaining unit, the union lost key supporters there

tually no opportunity to counter the propaganda barrage unleashed by the Bentonville labor team. If they sought the telephone number of undecided associates, this violated Wal-Mart's "no solicitation" rule; if they distributed leaflets in the parking lot or break room in the store, managers immediately called Loss Prevention and then patrolled the facility to pick up any stray literature. And when UFCW organizers made evening house calls, Wal-Mart denounced this tactic as harassment and intimidation. So on October 24 UFCW lawyers filed a broad set of unfair-labor-practice complaints against Wal-Mart, thus postponing indefinitely the NLRB election scheduled for just a few days later. Working life for the remaining pro-union people in the Kingman store became increasingly intolerable. Within little more than a year virtually all would be fired, forced to quit, or simply leave in disgust.

As at Kingman, the UFCW organizing effort hit a brick wall wherever it mustered enough support to organize a few house meetings or file for an NLRB election. The labor board eventually ruled, at Kingman and elsewhere, that Wal-Mart had systematically harassed and spied upon numerous workers, that it had threatened employees with a loss of benefits and raises if they supported the union, and that the company had fired key labor partisans outright. But none of this had any real impact on Wal-Mart's anti-union operation, if only because the penalties were so trivial: a few thousand dollars in back pay for a few unjustly fired employees, plus a formal notice briefly posted in the break room pledging to obey the labor law. In its authoritative report on Wal-Mart, *Discounting Rights: Wal-Mart's Violation of U.S. Workers' Rights to Freedom of Association,* Human Rights Watch concluded that the company "has translated its hostility towards union formation into an unabashed, sophisticated, and aggressive strategy to derail worker organizing at its US stores that violates workers' internationally recognized right to freedom of association."[85]

True enough, but John Tate deserves the last word. When in September 2004 Tom Coughlin introduced the eighty-six-year-old union fighter to a large meeting of store managers and other Wal-Mart executives assembled in Dallas, Tate was in a valedictory and triumphant mood. The UFCW, decisively beaten in every store where it had managed to rear its head, had laid off its key organizers and abandoned any concerted effort to unionize Wal-Mart. "Most of you know that my chief interest has had to do with unions," Tate told the expectant crowd in a short speech captured on video. And then nothing but blood-sucking parasites living off the productive labor of people who work for a living!" In a flash, hundreds of Wal-Mart managers jumped to their feet, cheering, shouting, and hooting. Fifty years ago union labor represented more than a third of the private sector workforce, Tate reminded his audience. "I am part of the reason that today they represent nine percent [another standing ovation]. Sam would have been proud of you for that [sustained cheering]! The battle isn't yet won. I want to conclude by challenging you to reduce that percentage. You can do it and at the same time insure your own future."[86]

CHAPTER SIX

WAL-MART'S LONG MARCH TO CHINA

If a relentless squeeze on its labor costs represents one essential element of the Wal-Mart success story, another is cheap goods, a huge proportion of which now come from China. Indeed, Wal-Mart considers itself in a "joint venture" with the Chinese government. In part, this is because so many Chinese municipalities and businessmen have negotiated an ownership share in one of the Wal-Mart vendor factories. More fundamentally, however, Wal-Mart and other multinational companies doing business in China appreciate the country's stable currency, developed infrastructure, political reliability, and compliant workforce. A *YaleGlobal* study found that it took four days for exports to clear customs in Guangzhou, the old Canton at the head of the Pearl River, eight days in Calcutta, and more than two weeks in Karachi. Likewise, the proportion of total production lost to power outages totaled 2 percent in Guangzhou, but 6 percent in Calcutta and Karachi.[1] "There might be places in other parts of the world where you can buy cheaper, but can you get [the product] on the ship?" asked Andrew Tsuei, managing director of Wal-Mart's global procurement center in Shenzhen. "If we have to look at a country that's not politically stable, you might not get your order on time. If you deal in a country where the currency fluctuates, every day, there is a lot of risk. China happens to have the right mix."[2]

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