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INTRODUCTION TO LABOR ECONOMICS

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Introduction to LABOR ECONOMICS

by Orme W. Phelps

PROFESSOR OF INDUSTRIAL RELATIONS
CLAREMONT MEN'S COLLEGE AND
GRADUATE SCHOOL

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INTRODUCTION TO LABOR ECONOMICS

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TO

MY MOTHER AND SISTER

PREFACE

This is an introductory textbook in labor economics, intended for upper division students (juniors or seniors) in liberal-arts colleges or in professional schools of business, social-service administration, or applied economics. It assumes that the student has had a course in economic principles. Ideally, the student of labor problems should have had training in a number of the formal social disciplines, such as economic analysis, law, government, statistics, and sociology. On the other hand, labor questions receive such wide publicity and are the subject of so much discussion and controversy that the problem of vocabulary is minimized and many of the important issues are common knowledge. In addition, a considerable portion of labor economics (as of all economics) is necessarily concerned with descriptive institutional material for which only limited technical analysis is necessary. As a result, it is possible for students with slight backgrounds in the social studies to do good work, especially if their interest and application are strong.

The distinguishing feature of labor economics is, or should be, its heavy emphasis on policy. Since policy choices are a function of issues, one emphasis in this book will be the attempt to give shape and form to the principal labor issues and to illustrate the methods of analysis which have been developed to handle them. It is well established that the study of labor, especially in its early stages, should be on a problem basis, since the questions raised will not yield to any single discipline, *e.g.*, economics, law, sociology, or politics. To reach reasonable answers or logical explanations of results in labor questions, it is necessary to use a variety of analytical methods and to weigh the outcomes—frequently in terms of highly subjective value preferences.

One difficulty with the problem method, however, is its formlessness. Labor problems tend to shade off into population problems, welfare problems, legal problems, and social problems. It is an assumption of this book that the beginning student of the subject will be helped by a conscious attempt to "fence off" labor problems from other social-problem areas and to outline the particular conflicts of interest which create them. Consequently, the chapters which follow will concentrate on issues, principles, and trends. Factual data will be limited to those necessary to illustrate the problems and will be taken mainly from standard sources. The book is not intended as either a research treatise or an encyclopedia. Rather, the objective is a concise statement of the main problems growing out of the employer-

employe relationship, with stress upon controversy, argument, and joinder of issues at all levels of analysis.

Facts and circumstances change, and change rapidly. Short-term adjustments and proposed "solutions" to current labor difficulties are numberless. But the basic issues, with their moral, political, and economic implications, their theoretical propositions, and their fundamental conflicts of interest, shift much more slowly. An understanding of these issues and the methods developed for dealing with them is the only basis for a wise evaluation of current proposals in the constantly changing society of today.

My principal intellectual indebtedness is to a series of great teachers at the University of Chicago: Harry A. Millis, William H. Spencer, Paul H. Douglas, Leonard D. White, and Raleigh W. Stone, who for a number of years directed my attention to the principal issues of labor-management relations. I have the customary obligations to colleagues, associates, and students that go with any attempt to understand a subject matter well enough to impart it to others.

ORME W. PHELPS

CLAREMONT, CALIF.

March, 1950

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PART ONE. The Labor Problems of
an Industrial Society

1. WHAT LABOR PROBLEMS ARE AND HOW TO STUDY THEM

Scope and Purpose of This Book. This book is an introduction to the study of labor economics. The principles and methods of analysis which will be dealt with are of general application, but most of the illustrations will be taken from experience in the United States. One reason is the size and importance of the American labor market. The United States is a large and powerful territory, with a tremendous variety of commercial and industrial enterprises. It is the largest free labor market in the world, with tens of millions of employes in private, governmental, and institutional employment. It is the most completely described society, statistically and otherwise, in the world. In short, it is the best laboratory available for a beginning study of labor problems, and the principles developed in such a study are capable of transfer to other areas with only slight modification.

Another reason is that nations are the most clearly defined social units in the world today, with well-marked patterns of law, customs, markets, and social background—all of them powerful conditioning influences in employer-employee relations. Sovereign states are not entirely closed economies or social systems, but the transfer of goods, services, and even ideas from one to another is accompanied by a variety of hindrances which distort the process and make results hard to compare. Nationalism is both defined as a disease and worshiped as a religion. In selecting it as a basis for the study of the social problem of labor relations, it is simply accepted as a fact.

This book is concerned primarily with principles, secondarily with facts. That is not because facts are unimportant in labor economics. They are vitally important—so important that the facts necessary for understanding most problems cannot be presented in a textbook and are therefore found in special treatises upon limited aspects of important issues. Also, facts change with great rapidity, so that an analysis made in 1950 might be out of date by 1951 and would surely be obsolete ten years later. In the study of either general

or specific labor questions, there can be no substitute for complete, accurate, and detailed factual information as a basis for analysis and decision. But the facts themselves cannot be anticipated, and those already collected, while helpful for purposes of interpretation, often do not apply to the current problem.

It is different with principles. While facts shift rapidly, the central labor problems which have evolved during the progress of the Industrial Revolution have changed much more slowly, and the methods of studying them, while subject to improvement, have permanent value. The student of labor problems cannot know in advance what circumstances he will be confronted with, but he can acquire a knowledge of the forms which labor problems take, the sources of the evidence needed to explore them, how to appraise and validate the data, and the technical methods of analysis which lead to conclusions of policy. The facts presented in this book will therefore be intended as primarily illustrative, and emphasis will be concentrated on the methods of dealing with them in the solution of problems.

It is the job of the student of labor problems, then, to learn three things: (1) What labor problems are and what makes them different from, as well as similar to, other kinds of problems, (2) How to analyze labor problems and judge policy proposals, (3) Where to find the information needed for clarification and analysis. While closely related, the three may be separated for purposes of definition and study. An introduction of a general sort to all three questions will be found in this chapter. The rest of the book will be devoted to specific illustrations of problems and methods of analysis.

What Labor Problems Are

The first step in the study of labor problems is to get some perspective of the subject matter, that is, to try to get some idea of what topics are included under the heading, "labor problems," and why they are so called and lumped together. To answer the "why" part of the question, it will be necessary to find the element which is common to labor problems but absent from or found only in lesser degree in other problems. This perspective, or over-all view, is the "frame of reference," by means of which specific labor problems are labeled, classified, and located in relation to other labor problems, other social problems, and knowledge in general. It is the beginning of analysis and prerequisite to any sound judgment of policies.

Labor Problems as Social Problems. Labor problems are a special class of social problem. Social problems, in turn, grow out of the strains or tensions which result from the necessity for people to cooperate together in groups in order to reach common goals. Where such cooperation fails, a social problem appears. For example, people live together in families, and the failure of this

form of cooperation produces the social problem of divorce. People work together in business firms, the failure of which produces the social problem of bankruptcy. Families live together in organized communities under governments. One of the problems which is produced by this type of social cooperation is crime and law enforcement.

It seems probable that social problems are increasing in number and intensity, both for the world as a whole as well as for the United States. The increase of population, which means more crowding in the inhabitable areas; the growth of literacy, which makes it easier to spread ideas; the technological improvements in communication and transportation, which widen the areas of political influence; and the never-ending variations in domestic, economic, and political organization, all seem to point that way. It may be, as one philosopher-historian has said, that "the world is over-organized." At any rate, there is little doubt that problems of social cooperation rank high on the agenda of twentieth-century civilization.

A Nation of Employees. The particular type of cooperative activity which produces labor problems is the employer-employee relationship, which not so long ago was known as the master-and-servant relationship, and is still so described in the common law of this country and England. It is important to emphasize that *the modern industrial nation is a nation of employees*. Economic activity in the United States and most of the western civilized world is nowadays mainly organized on the employer-employee basis, but this has been so for only a short time, roughly a hundred years. Prior to that the principal forms of economic organization were either self-employment, slavery, or serfdom.¹ In none of these were there the combined elements of free contract, division of labor, and division of control of property, which require the constant bargaining and readjustment found in a society where nearly all the gainfully employed are employees.

The employer nowadays may be a private businessman, a government agency, or a nonprofit institution such as a school or a hospital. His authority may lie in a constitution, a law, a corporate charter, a partnership agreement, or simply in his proprietorship rights of private property and liberty of contract. Whatever the purpose or the legal basis of the employment, the same general problems are bound to appear: personal liberties, cooperation, the value of services, costs, bargaining power, and the regularity of employment and income.

The Crucial Issues between Employers and Employees. Labor problems, therefore, are social problems, involving several of the major social disciplines such as economics, politics, law, and sociology. They deal with people in a particular kind of cooperative situation, the employer-employee relationship—

¹ See Sumner H. Slichter, *The Challenge of Industrial Relations*, p. 1 (Ithaca, N. Y.: Cornell University Press, 1947).

an exceedingly important form of association in the modern world. At certain points in that relationship the tensions become so great as to interfere with cooperation and then labor problems develop. These areas of tension produce the crucial issues in labor relations.

Ever since industrial employment on a free-contract basis became widespread, three major problem areas have monopolized attention as the focal points where cooperation tended to break down. Those three areas are: *income, security, and organization.*

1. *Income* is the problem of *wages*—the price paid for personal services, the earnings and standards of living of employes and their families.

2. *Security* is the problem of *employment*—the certainty and regularity of work which employes may count on.

3. *Organization* is the problem of *trade unionism*—the rights and privileges of employes in bargaining with their employers.

Practically all other labor problems are subordinate to these and most of them are related to one of the three.

For instance, the question of hours of work, while at one time a matter of the physical health of employes, has long since become a wage (income) problem, as the "hours" referred to are now almost universally the hours of straight-time basic rates before the payment of time and a half or double time. The problems of work accidents and disease, as well as of industrial old age, are matters of individual insecurity due to unemployment resulting from disability. Looked at from the employer's side, the use of time and motion study and the development of personnel programs are attempts to solve the dilemma of wages and reduce the employe's feeling of insecurity. The creation of defensive employers' associations to fight strikes and boycotts was simply an offset to aggressive trade unionism. And so on. There are few problems of modern employment that do not find their way back to the questions of income, security, or organization.

Income

The principal labor problems have grown out of the issues listed above. The problem of income arises from the fact that wages are costs to the employer and earnings to the employe. Since the same data (wage rates and earnings) serve different purposes for the two parties, they quite naturally apply different measuring rods of adequacy and may reach totally different conclusions in spite of close agreement on the facts. Wage costs vary by employer and industry, but are usually a significant item in the profit-and-loss account and make up the largest single total in the national income statement. Nonetheless, a wage which is barely adequate for the employe in terms of living standards may be out of reach for the employer, who may not be able

to pay it and keep solvent. This comes about because of the variations in the needs of employes due to size of family, incidental expense such as illness, and differing capacities of household management, whereas the employer's "capacity to pay" is a function of his material costs, capital equipment, managerial efficiency, and the demand for his product.

Wage Theory. For almost two centuries now, there have been a series of systematic attempts to explain either what *does* determine the level of wages or what *should* be the standard used, in order to compromise the two viewpoints. At every stage in the proceedings there have been violent controversies and differences of opinion, which seem to have reached a climax during the past thirty years. The conflict of ideas has now crystallized around three sets of arguments: (1) support of the bargain theory of wages by organized labor, (2) reliance upon the orthodox marginal productivity theory of wages by management, and (3) a plentiful and growing sprinkling of adherents to the Keynesian proposal of a managed economy with a uniform, national wage policy.

Public Regulation of Wages and Hours. Governmental policy in the United States has been influenced first by one set of opinions, then by another. The main line of development in public regulation has unquestionably been that of employe protectionism, in matters of wage payment (time, place, and medium of exchange), wage rates (minimum wages and maximum hours of work), and the encouragement of collective bargaining to equalize the economic power of employers and employes. Governmental concern over the problem is unlikely to subside, since wage policy is an important factor in determining how the national income is divided, a matter of considerable public interest. Decisions on this issue will have a significant influence upon economic stability and the regularity of employment.

Security

If wages is the oldest and most persistent source of labor problems, unemployment is at times the most acute. Few working people get through life without some loss of income due to unemployment, either from economic causes—normal job shifts, seasonal layoffs, technological displacement, or depression—or because of disability (work accidents and disease) or discrimination.

Laissez-faire and the New Economics. The main issue is economic. The Great Depression of the 1930's has not been forgotten after ten years of war and postwar prosperity, and there is wide support for the view that maintenance of full employment is the primary economic responsibility of the government. In arguments over method, the two principal points of view

are the "orthodox" versus the Keynesian. The orthodox position is, in substance, to rely upon the automatic forces of the free market (for labor, as well as commodities) to bring about adjustment at a high level of employment, and to propose policies aimed at producing flexible prices and wage rates to accomplish this purpose.

The Keynesian idea, on the other hand, is in almost direct opposition. "There is . . . no ground," said Keynes, "for the belief that a flexible wage policy is capable of maintaining a state of continuous full employment. . . . The economic system cannot be made self-adjusting along these lines."² Keynesian policy is closely identified with a "managed economy" and an increasing volume of governmental intervention in business affairs. Students of labor problems should have a solid understanding of the premises underlying these two positions and the policy implications of each.

Disability. Unemployment as a result of physical disability is a risk of all employees, but the hardship is much greater now than it was fifty years ago when there was more self-employment, less machinery, and most people lived in moderate-sized communities where social responsibilities were shared more widely than in the modern large city. Since 1900, safety and health have been the subject of much protective legislation (safety regulations and workmen's compensation) as well as management and trade-union benefit programs, and the end is not yet.

Discrimination. Employment discrimination exists when certain arbitrary rules regarding age, sex, color, race, or religion are applied in hiring, promotion, and layoff, with only secondary regard for the respective individual's capacity to perform. Discrimination is deep-seated, intangible, and hard to deal with, but without doubt is an important concern of public policy in a country committed to equality of opportunity and standards of fair play.

Organization

There is now widespread agreement that organized labor is the dominant factor in the national labor market and must be considered a major political and economic force in the domestic affairs of the United States during the foreseeable future. Trade unions have grown rapidly in membership, power, and influence since 1933. They have more than 16,000,000 members—or about one-third of the employed nonagricultural labor force—and are still growing. Their economic strength is concentrated in the most vital and strategic industries of the country—for instance, in transportation (railroads, trucking, and shipping), communications (telephone and telegraph), coal mining and steel production, electrical and farm equipment, automobiles,

² J. M. Keynes, *The General Theory of Employment Interest and Money*, p. 267 (New York: Harcourt, Brace and Company, Inc., 1936).

glass, and rubber manufacturing. Their dealings with management, members, and the public are regulated in minute detail by Federal and state law, through the courts and by administrative agencies like the Federal Mediation and Conciliation Service and the National Labor Relations Board. To quote a prominent authority:³

The rise of unions [in the United States] constitutes an epoch-making change in the economy—quite comparable to such institutional changes as the rise of the modern credit system or of the corporation. . . . The trade unions are the most powerful economic organizations in the community—in fact, they are the most powerful economic organizations which the community has ever seen. Their policies will be a major influence in determining how much the community produces, how rapidly it adds to its capital, and how the product of industry is divided.

Problems of Trade Unionism. No introduction to labor economics is complete without a detailed examination of trade-union history, theory, organization, policy, tactics, and law, as they have developed over a period of 150 years in the United States. Special emphasis is due the past 50 years, during which unions have grown ten times over in size and more than that in influence. The final objective should be an evaluation of public policy, which has been concerned at one time or another with practically every aspect of union activity, internal and external.

The issues raised by the spread of collective bargaining and industrial democracy provide many examples of a difficulty which is particularly acute in labor-problem analysis. In many (perhaps most) labor-problem situations there is no "true" answer in the sense of a conclusion which will be acceptable to all parties, even when all pertinent facts are disclosed. This results from the fact that the parties involved have interests which differ and they therefore start from different premises when analyzing the facts of a given case. It is a considerable achievement in such circumstances to merely "join the issue"—that is, to find the point at which the arguments actually clash, whether in matters of analysis or in more fundamental questions of personal or social preference. If there is to be a measure of agreement on matters of policy, this is the method by which it will be reached, and it is the only way that the public interest can be discovered.

How to Analyze Labor Problems

Conflicts of Social Values. The main difficulty of labor-problem analysis lies in the fact that the use of a single social "discipline" seldom gives complete answers. Labor problems are *primarily* economic problems, being concerned in large part with the output of goods and services and their value

³ Slichter, *op. cit.*, p. v.

in exchange. The counters are largely economic counters, dollars and cents and units of output. Certainly the study of labor problems will be very difficult for anyone who has had no preliminary training in economic method and terminology. On the other hand, economics alone will not solve all or even many labor questions without some consideration of other social disciplines such as law, politics, or psychology.

This creates a dilemma in the solution of many practical problems of employer-employee relationships. It is the reason why some labor disputes drag on unresolved for indefinite periods, although analyzed by technical experts, mediated by third parties with the best of intentions, and offering great advantages to both the public and the parties involved if settled promptly. The reason is found in the different social standards applied to the controversy and the lack of any mechanism for equating their importance to the principals in the dispute or to the public. For example, economic standards are expressed in terms of material value as defined in the market and may be reduced to dollars and cents equivalents. On the other hand, the standards of politics are power and control, the authority to fashion policies and to administer the affairs of a government or a business. To some, power is very important, whether the purpose of its use be economic or otherwise. But there is no way of evaluating it in the market, what different persons or groups will pay for it, or of equating a certain quantity of power with a quantity of goods or services gained or foregone in order to reach a social equilibrium.

As still a third dimension of such a dispute there may be a legal angle. The values of law are order, property rights, and conduct in accordance with prescribed codes: statutes, ordinances, and constitutions. How are they to be measured against the struggle for power and the demand for goods? The disciplines of economics, politics, and law may be applied to the same set of facts with quite different results. The same is true of social and psychological yardsticks and of moral codes. The solution of a labor problem is almost always a compromise involving the balancing of highly subjective personal value preferences which can be compared to only a limited degree.

Neither is it possible to weight the disciplines in advance, assigning a definite priority of rank. At one time one set of values may be most important, at another, in an almost identical situation, the objectives may be quite different. As an illustration, the standard form of dispute between employers and unions is over wages, but every bargainer knows that wage demands often provide cover for the achievement of quite different ends, such as the winning of a local election in the union or the demonstration of opposition to managerial practices which may not be opposed openly. Another complication is the dynamic, changing nature of employment situations. It is almost safe to say that there are no final solutions to labor

problems, only short-run adjustments which may be made obsolete soon afterward by changes in the conditions or in the value preferences of the people concerned.

Fortunately, the situation is not quite as bad as this may make it sound. Many labor problems are settled largely on the basis of a single set of facts. The question turns out to be primarily economic, legal, political, or psychological. In such cases, it is possible to clear the way rather quickly, rely on expert analysis and testimony, and reach conclusions within narrow ranges of difference of opinion. Only in periods of crisis, rapid social change, and conflicts of value, do the impasses become serious enough to block effective cooperation on a broad scale and make it necessary to take coercive action. Examples of the latter are the depression and unemployment of 1932-33, the employer opposition to union organization in 1933 to 1937, and the massive union shutdowns of basic industries in 1946. *Most of the time and in the great majority of cases, employers and employees, whether organized or not, display a marked capacity for compromise and agreement, and a preference for arriving at understandings without outside interference.*

The Different Levels of Labor-problem Analysis. The examination of conflicts between social disciplines and the differing value standards on which they are based is labor-problem analysis at its most fundamental level. However, it is not a complete picture of the process. The study of labor economics proceeds on a number of levels, one of the most extensive and important of which is the simple gathering and classification of information. This might be called the *level of definition and measurement*. It is the primary function of such an important agency as the Bureau of Labor Statistics of the U.S. Department of Labor (as well as of many state labor bureaus).

Measurement and definition probably occupy more people than any other branch of labor economics, and their importance should be thoroughly understood. Few labor questions can be answered without recourse to figures: on occupations, incomes, wage rates, earnings, hours of employment, accidents, hiring rates, turnover, and the like. As a result, a tremendous volume of statistical material is now made available regularly through public and private agencies, *e.g.*, government offices, private research bodies, management and trade associations, college and university research bureaus, and trade unions. The collection of labor information, the establishment of its accuracy and its classification and publication, is a big industry today. One of the responsibilities of the serious student is to become familiar with published sources and their use.

In labor-problem analysis, however, measurement can proceed intelligibly only after the problem has been defined. There are all sorts of labor

problems, of high and low degree, ranging from matters of the most acute public interest (e.g., full employment) to such strictly individual concerns as the settlement of a shop grievance. The range of issues is so enormous as to preclude the adoption of any single formula for their solution. In many cases, the major problem must be broken down into a group of subproblems before any meaningful analysis can take place. (See, for example, the chapters on trade unionism in this book.) Sometimes the problem will be one of method or technique rather than of issues between persons or groups. Unemployment, for instance, may be divided into problems of definition, measurement, theory, and policy. Definition itself is a problem of method that arises again and again. The terminology of labor economics suffers from careless usage and multiple meanings, and it is constantly necessary to define precisely what is meant by such words as "earnings," "productivity," "going rates," "unemployment," "strike," etc. This problem of definition will be illustrated in the next chapter with an explanation of the meaning and derivation of the term "labor force."

Happily for employers, employees, and the public, most labor problems are solved at the level of definition and measurement. While some questions are very complex and difficult of solution, they are few in number and their pattern is well known. It is the responsibility of this or any other textbook to bring all such problems to the attention of its readers, with the result that first acquaintance with the subject may be depressing. On the other hand, innumerable problems of adjustment arise daily between employers and their employees, most of them calling simply for a clear statement of the issue and the gathering of sufficient information to satisfy both parties with a decision. The technical analysis involved is either very simple or else so well agreed upon by the parties as to arouse no conflict of opinion. Where this is not the case, specific attention must be given to the *level of theory*.

Theory is the heart of analysis and the major concern of this book. It is by means of theory that one moves from basic standards of value to policies logically related to them, or, in reverse, moves backward from policy proposals to discover what sort of value standards they represent. Theory *is* analysis, and to assign it one level in the process is an oversimplification which may be justified only on grounds of emphasis. The gathering of facts and their assignment to appropriate classifications would be impossible without a preceding theory (sometimes called a "hypothesis") which indicated the kind of classification to be used and the facts to be looked for. Similarly, the definition of issues is a function of basic premises (value standards) which are the foundation stones of any theoretical structure. Theory is difficult, exacting, and important. It will be emphasized frequently in the analysis which follows.

One of the reasons for concentrating upon theory in labor economics is because this is the point at which the analysis of issues most frequently divides, ending up with contradictory recommendations of policy. An example is the matter of wage policy. When employment falls off, it is logical, under the marginal productivity theory of wages, to recommend a reduction in wage rates to bring those out of work back into employment. Under the bargain theory of wages, however, precisely the opposite recommendation may be made—maintenance or even increase of rates. When the United Automobile Workers demanded a 30 per cent increase in wages at the end of the Second World War, a demand which brought on the General Motors strike of 1945–46, one of their major arguments was that such an increase would help to forestall a postwar depression and reduce the predicted 8,000,000 unemployed. The principal difference of opinion here and in other wage disputes was not one of facts, or primarily of issues, but one of theoretical explanations of the part played by wages in increasing or reducing employment. Similar illustrations could be drawn from arguments over a large number of issues growing out of trade unionism, unemployment, and public regulation of labor relations.

There is no intention here of minimizing the difficulty of theorizing about a social problem like labor relations. Social theories are fragmentary, tentative, and often inconclusive. Generalizations about the actions, motives, and purposes of people are hypothetical in the extreme. At best, social “laws” are only statements of tendencies, which are hard to validate and may be denied by equally competent observers having access to the data. Students of the social sciences are denied the conclusive results of the controlled laboratory experiment and they may be confounded by changes *in* the data, which are not a hazard in the natural sciences. The adoption of a particular labor policy, for instance, may produce certain results, but it is never possible to say with absolute certainty what would have been the outcome if another policy had been followed instead.

Nevertheless, labor problems do occur and policies are adopted. The only connecting link between the two is by way of theory, and whether or not it is recognized as such, the most practical manager employs theory constantly in meeting the daily problems of relations with employees. As the late John Maynard Keynes has pointed out:⁴

...the ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influence, are usually the slaves of some defunct economist.... I am sure that the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas.

⁴ Keynes, *op. cit.*, p. 383.

The third major level of labor-problem analysis is the *level of comparative values*, which was outlined in the preceding section on differing social standards. Final policy proposals are an outgrowth of value choices and systematic analysis, supported by techniques of definition and measurement. The value preferences (economic versus political, for example) may determine in advance the type of theory to be employed and limit it to a single discipline, or they may be applied after the economic and political probabilities have been estimated separately and compared. As a matter of practice, value judgments, theoretical analysis, and the collection and classification of data go on almost simultaneously in most labor-problem study, without the formality of any one-two-three sequence.

The Basic Assumptions of the Social Sciences. The basic assumption of this book is that social problems will yield to rational analysis and treatment. This is a functional approach, which simply means that the study of labor problems is not an end in itself, but has as its purpose the improvement of that branch of society (labor relations) which is under observation. It should be pointed out that the assumption is by no means proved, as many grave social problems—war, spoils politics, economic instability, crime, divorce, etc.—have been studied for long periods of time with no definite proof that conditions have improved as a result. It may even be argued that the idea of “social control” on any rational basis is self-defeating, as follows:⁵

The natural scientist, even if he does turn artist and engineer, confronts the disturbing, non-scientific factor of purpose in a relatively simple form; purposes *toward* his material are implied in the fact that he studies it; but at least his problem is not complicated by purposes *in* it. But this is just what the social scientist does meet at every turn. Every one of the human beings whom he seeks to understand and potentially to control, harbours his own purposes of understanding and control in regard to all the rest, including the scientist himself.

However, the alternative is equally if not more depressing. If social problems will not submit to rational analysis and treatment, should one then abandon them to the irrationalities of conflict, custom, and prejudice? In the essay quoted above, Professor Knight goes on to say that human control is, in practice, a phenomenon of art and morals to a greater extent than it is one of mechanical technique and draws an analogy to the practice of medicine with its recent significant shift of emphasis from physiology to psychiatry. Nonetheless, as he pointedly recognizes, the techniques of scientific medical investigation are not abandoned, they are merely relegated to their proper place in the total scheme of the treatment of illness.

⁵ Frank H. Knight, “Economic Psychology and the Value Problem,” *The Ethics of Competition*, p. 89 (New York: Harper & Brothers, 1935). Italics in the original.

Exactly the same argument may be applied to the study of labor problems, except that it is less probable in the latter case that there has been over-emphasis of scientific analysis in the past.

This is perhaps the place to recognize that assumptions in the social sciences are practically always highly subjective value preferences or acts of faith or choices among the most desirable or most practical of alternatives. In the case of value preferences, such as "a free society," "personal liberty," "economic security," and so on, the element of individual choice is obvious. However, it is almost equally strong with regard to factual assumptions like the belief that society can be improved by the rational analysis of its problems. While this is or is not a fact, the generalization is so broad and the evidence so voluminous and conflicting that it is possible to argue either way with complete sincerity. The matter then narrows down to the selection of the most desirable (or perhaps "least undesirable") practical alternative. It is doubtful that the study of social problems would be continued on anything like the present scale if there were not considerable faith in its usefulness in the solution of such problems.

The fact remains that labor problems continue to arise and to call for some sort of compromise and understanding as a basis for settlement. The main argument for rational treatment is that in many cases the range of disagreement is considerably lessened and sometimes it is wiped out entirely by study of the issues and analysis of the evidence in as precise terms as possible.

One very important element in any rational treatment is the evidence, which may consist of facts, opinions, theories, or doctrines. Labor problems are not like legal cases, with their sharp separation of "fact" and "law," and the labor investigator must keep informed on new developments of all sorts, economic, political, and legal, as well as factual. To be so informed, he must have recourse to a variety of published material and be familiar with library research methods.

Where to Find Information on Labor Problems

No single book can give a complete picture of what labor problems are or how they are dealt with. In practical form, they change constantly, due to the dynamic character of the employment situation. New laws are passed, employment rises or falls, wage rates move up and down, new theories appear, new issues arise, union tactics change, managements adjust to new business conditions, etc. One of the requirements of labor-problem study is to know how to use a variety of reference sources—books, magazines, reports, indexes, loose-leaf services, etc.—to find accurate, reliable informa-

tion on specific issues. The most important sources in this country are listed below:

1. *The Textbooks*. The standard pattern for the study of labor problems was laid down over twenty-five years ago in a book of readings called *The Worker in Modern Economic Society*,⁶ which was prepared by Paul H. Douglas and two associates. The book is still an excellent source of original materials and merits frequent consultation by serious students. Fifteen years later the most exhaustive study of labor problems to date confirmed Douglas's choice of subject matter and showed that thinking about labor problems was centering around three major problem areas. This was the three-volume series for graduate students on *The Economics of Labor*, by Harry A. Millis and R. E. Montgomery.⁷ The problem areas were: (1) wages, hours of work, and living standards, (2) unemployment, work accidents, and disease, and (3) trade unionism.

There are a number of good general textbooks on labor problems, but with one exception they offer little that is new or radically different. That exception is Richard A. Lester's *Economics of Labor*.⁸ Lester is a confirmed Keynesian, and his treatment of wage theory and unemployment are examples of the effect of the "Keynesian revolution" on the analysis of labor problems. In coverage of material, however, he conforms to the general pattern. The following are some standard texts:

Daugherty, Carroll R.: *Labour Problems in American Industry*, 5th rev. ed. (New York: Houghton Mifflin Company, 1941).

Owen, W. V.: *Labor Problems* (New York: The Ronald Press Company, 1946).

Peterson, Florence: *Survey of Labor Economics* (New York: Harper & Brothers, 1947).

Taft, Philip: *Economics and Problems of Labor* (Harrisburg, Pa.: Stackpole Sons, 1948).

Watkins, Gordon S., Paul A. Dodd: *Labor Problems* (New York: The Thomas Y. Crowell Company, 1940).

Yoder, Dale: *Labor Economics and Labor Problems*, 2d ed. (New York: McGraw-Hill Book Company, Inc., 1939).

2. *Government Agencies*. Many government agencies are engaged in the collection of labor facts, either directly or incidentally. The more important ones are on the Federal level, so the list which follows will be confined to branches of the national government, although many state labor departments and some large cities have statistical and research bureaus which compile labor data.

⁶ Paul H. Douglas, C. N. Hitchcock, and W. E. Atkins, *The Worker in Modern Economic Society* (Chicago: University of Chicago Press, 1923).

⁷ Vol. I, *Labor's Progress and Some Basic Labor Problems* (1938), Vol. II, *Labor's Risks and Social Insurance* (1938), Vol. III, *Organized Labor* (1945) (New York: McGraw-Hill Book Company, Inc.).

By all odds the most important single agency is the Bureau of Labor Statistics of the U.S. Department of Labor, with its regular publications, the *Monthly Labor Review* and *Labor Information Bulletin* (also monthly), as well as its special bulletins running into the hundreds. Sample titles of the latter are:

Accident-record Manual for Industrial Plants, Bulletin 772.

Directory of Labor Unions in the U.S., Bulletin 901.

Fact-finding Activities of the Bureau of Labor Statistics, Bulletin 831.

Handbook of Labor Statistics, 1941 Edition, Bulletin 694.

Hourly Entrance Rates Paid to Common Laborers, 1942, Bulletin 733.

Other Federal agencies and sample publications are:

U.S. Department of Labor:

Annual Reports.

U.S. Department of Labor, 1913-1938.

National Mediation Board (under the Railway Labor Act):

Annual Reports, including reports of the National Railroad Adjustment Board.

National Labor Relations Board:

Annual Reports, and *Decisions and Orders.*

Court Decisions Relating to the National Labor Relations Act.

Special reports, such as *Collective Bargaining in the Newspaper Industry.*

Bureau of the Census, U.S. Department of Commerce:

Monthly Report on the Labor Force

Statistical Abstract of the United States (yearly).

3. *Private Research Organizations.* A number of privately sponsored research organizations have invested considerable sums of money in the investigation of labor problems. The studies thus made have a high rating for accuracy and have frequently constituted significant additions to knowledge. Five such foundations and sample publications are:

The Brookings Institution, Washington, D.C.

Lorwin, Lewis L.: *The American Federation of Labor* (1933).

McPherson, William H.: *Labor Relations in the Automobile Industry* (1940).

Slichter, Sumner H.: *Union Policies and Industrial Management* (1941).

Committee for Economic Development, 1313 East 60th St., Chicago.

Collective Bargaining: How to Make It More Effective (1947).

Lester, R. A. *Providing for Unemployed Workers in the Transition* (1945).

National Bureau of Economic Research, Inc., Columbia University, New York City.

Mechanization in Industry (1934).

Wolman, Leo: *Ebb and Flow in Trade Unionism* (1936).

National Industrial Conference Board, Inc., 247 Park Ave., New York City.

Industrial Relations: Administration of Policies and Programs (1931).

Wages, Hours, and Employment in the U.S. 1914-1936 (1936).

The Twentieth Century Fund, Inc., 330 West 42d St., New York City.

How Collective Bargaining Works (1942).

Williamson, S. T., and H. Harris.: *Trends in Collective Bargaining* (1945).

4. *College and University Publications.* Labor-problem study is regarded as so important in university work that one complete school of labor and industrial relations has recently been founded, at Cornell University. This department of the university has established a professional magazine, the *Industrial and Labor Relations Review* (quarterly, beginning October, 1947), and has also organized the Industrial Relations Research Association, with a nationwide membership among scholars interested in labor problems. In addition, a large number of colleges and universities have organized "centers" or "institutes" of labor relations for cooperative work among the various departments on labor problems. Leading examples are the Harvard Trade Union Fellowship Program, the Yale Labor and Management Center, the Industrial Relations Center of the University of Chicago, and the University of California Institute of Industrial Relations. Research is a major aim in every case, and a number of important publications have already come out of the new institutes, adding to the already large total of scholarly work appearing in book form and in the journals of economics, business, politics, law, and psychology.

University research is at all levels of analysis—measurement, theory, and values—and is the most important single source of advanced theoretical studies, many of which may be found in the theses and dissertations of candidates for higher degrees. Some of the more important journals for labor articles are: the *American Economic Review*, the *Harvard Business Review*, the *Journal of Applied Psychology*, the *Journal of Business*, the *Journal of Political Economy*, the *Political Science Quarterly*, and the *Quarterly Journal of Economics*.

5. *Private Business Services.* The importance of immediate, up-to-the-minute information on labor developments for business management, unions, and government officials is illustrated by the private business services furnished by some publishers. One such is the Bureau of National Affairs, whose *Labor Relations Reference Manual* is a complete report on current labor events, including court decisions, texts of new laws, rulings by administrative agencies, data on strikes, pay increases, statements of policy by union officials, etc. Another is Prentice-Hall, Inc., whose complete labor service consists of cumulative loose-leaf reports on seven major subjects: (1) the Wage-Hour Act, (2) labor relations, (3) state labor laws, (4) union contracts and collective bargaining, (5) employe relations, (6) pensions, and (7) labor law cases. These services emphasize day-by-day, week-by-week, and month-by-month reports on the current status of labor relations. They are usually to be found in large university or public libraries.

6. *Management Associations.* The principal management associations have long had an intense interest in labor problems and some of them

have published a large number of special reports of conferences, studies, panel discussions, etc., on personnel and labor relations. Their regular magazines are also concerned with employer-employee problems. Examples are:

American Management Association:

The Management Review (monthly).

Personnel (bimonthly).

Special reports, such as *Problems and Experience under the Labor-Management Relations Act* (1947).

Society for the Advancement of Management, Inc.:

Advanced Management (quarterly).

Modern Management (8 months a year).

7. *Trade Unions.* Publicity is a big item in union budgets. It is a poor union that does not have its own paper, and the big federations—AFL and CIO—have research and educational staffs whose directors are persons of ability assisted by qualified investigators and statisticians. The American Federation of Labor publishes the *American Federationist*, a monthly magazine of union news and editorial comment, while the Congress of Industrial Organizations puts out the *CIO News*, a weekly newspaper of interest to both members and the general public. Both have subsidiary publications, the AFL bulletin being called *Labor's Monthly Survey*, while the CIO's is termed the *Economic Outlook*. In addition, the larger and stronger individual unions have influential papers or magazines of their own, such as the *United Mine Workers Journal* and *Labor*, publication of the railway employees' unions. At times the federations bring out special studies, like the CIO's *A National Wage Policy for 1947* (the "Nathan Report"), by Robert R. Nathan Associates, Inc.

The above does not exhaust the sources of labor information. There are large numbers of people studying labor problems—students, teachers, lawyers, management consultants, personnel directors, union officials, and government technicians—and the results of their observations may show up in trade journals, popular magazines, or in book form. Fact books like the *World Almanac*, encyclopedias and yearbooks, especially the *Encyclopedia of the Social Sciences*, and newspaper indexes like *The New York Times Index* are useful tools. However, the seven general sources mentioned above are the most important and will provide the material for at least a preliminary analysis of almost any issue.

Exercises

The central purpose of this chapter is to give perspective, to put over the "main ideas" in the study of labor problems, to give preliminary answers to the questions of "What," "Why," "How," and "Where." The student should have some idea of

"what" labor problems are (the principal issues), "why" they arise (in what social situations and as a result of what conflicts of interest), "how" they are studied (the level of analysis), and "where" to find further information on them when it is needed. The exercises which follow will both test the student's grasp of the ideas which have been presented and lay the groundwork for the study of more specific problems.

1. Prepare a brief bibliography, of fifteen or twenty items, on the subject of "wages," using at least five of the general sources of library materials listed in the last part of the preceding chapter. Do the same for "unemployment," "collective bargaining," "discrimination," "the Taft-Hartley Act."
2. Make a one-page outline of the kinds of labor information found in one issue of the *Monthly Labor Review*. Do the same for a copy of the *Industrial and Labor Relations Review*. Make an analytical comparison of the two magazines, based on the types of information contained, the levels of analysis, and the emphasis given to issues.
3. List the three central issues in labor problems with at least two subordinate questions growing out of each, and then outline the major trait running through all which establishes them as "labor" problems.
4. What is the difference between the economic "law" of supply and demand and the physical "law" of gravitation? What bearing does this have on the problem of cooperation, as between employers and employees?
5. Why can a trade union and an employer, when both are in full agreement as to the facts of a wage dispute, still disagree over the proper basis of settlement?
6. Explain, in two or three pages, the essential difference between a problem in the social sciences, a problem in the natural sciences, and one in the humanities (literature, philosophy). Examples might be: a wage dispute (labor problem) versus the release of atomic energy (problem in physics) versus a literary criticism of *Hamlet*. For example, compare the value standards which might be used as a basis of analysis in the three cases.
7. What major development or group of developments in the economic history of mankind produced the "labor problem," and why has that problem grown so in importance in the last fifty years?

2. A NATION OF EMPLOYEES

The United States is a nation of employees, with that part of the population which works for wages growing steadily larger, both in absolute numbers and in proportion to the whole. The student should try to get a clear picture of the "labor force," as those people in the labor market are called—their location, age, education, job classifications, etc.—since all labor problems relate directly back to them. However, the labor force is necessarily a part and a product of the population of a country. We shall therefore glance first at some of the population problems which are also labor problems.

There are at least three reasons why population is a labor problem. One, it is the place the labor supply comes from, and it therefore determines the quantity and quality of personnel available for the work force. Two, its size is an important factor in setting the average standard of living, which is the employee's *real* wage. Three, the most celebrated theory of population, that of Malthus, was made the basis of an equally celebrated (or notorious) theory of wages, Ricardo's subsistence theory, or "iron law" of wages. Ricardo's theory will be left till later, and we shall start with the effect of population size on the standard of living.

The Population Problem

The Basic Economic Ratio. If any single problem can be said to be *the* labor problem, inclusive of all others, it is the question of the average standard of living. Certainly, that is the major concern from an economic point of view. The per capita standard of living, by definition, is the output of goods and services divided by the number of people in the area. The output of goods and services, in turn, is limited by the resources available for processing and distribution. This brings us to the basic economic ratio, which fundamentally determines the level of prosperity of any people, whether they be a tribe, a nation, a continent, or a world. This ratio is simply the ratio of resources to population, which may be expressed as *resources/popu-*

lation. If resources are large, but the population is also large, the standard of living may still be very low, as in China. If resources are very low, even a small population may have to live close to the subsistence level, as in the Sahara Desert.

Resources are of various kinds. Since food and clothing are the primary necessities of life, and most human food and clothing comes from agricultural sources, either directly or indirectly, the number one world resource is arable land. It is a very instructive exercise to compare the ratios of acres of arable land per person in a few of the leading nations of the world, such as the United States, the U.S.S.R., Great Britain, China, and the Argentine. However, an industrial civilization does not rely on agriculture entirely, or even primarily, for its wealth and income. In the United States, for example, one of the leading agricultural producers of the world, farm employment and income account for less than 20 per cent of the national total. Much of the remainder comes from the extraction and processing of metals, fuels, stone, sand, and timber, particularly the minerals. Arable land, timber, water power, and mineral deposits are the principal natural resources of an industrial society. A number of modern nations have built up and kept a relatively high standard of living in spite of a shortage of land, since they had large supplies of a few important minerals. An example is Great Britain, with her iron ore and coal.

Natural resources are those laid down by nature without the aid of man. Some, like arable land, are not used up in the process of production, and their quantity and productivity may even be increased by measures like irrigation, fertilization, etc. Others, like timber deposits, are replaceable—but slowly—and require careful conservation. Still others, the minerals especially, are exhaustible and in some cases they appear to be approaching the scarcity level. Exploration and discovery which produce new deposits or new uses for old deposits are the only means of extending the supply. By and large, it is these natural resources, relatively fixed in quantity, which people have in mind when they refer to the “numbers-resources” or “man-to-land” ratio as essentially determining the standard of living.

It is a fact, however, that the output of the “means of subsistence,” which is derived from the natural resources referred to above, has risen and continues to rise from year to year. This comes about because of the accumulation of certain “artificial” resources, of which there are two main kinds. The first consists of savings and invested capital of all kinds: factories, office buildings, railroad systems, equipment, tools, power plants, and the like. The second is the technical and scientific knowledge of the population itself. Both of these must be entered on the “resources” side of the ratio since they directly increase the production of goods and services from a given quantity of natural resources. It is a moot question, but one which enters into all

sorts of arguments over population theory and policy, as to what rate of increase of the means of subsistence is possible in the face of fixed quantities of land and declining mineral resources.

Population Growth. Whether basic natural resources are increasing (as a result of new discoveries), decreasing, or holding their own is a point open to argument. There is no argument, on the other hand, with respect to population. The population of the world, the populations of continents, and even the populations of most countries have been increasing steadily for as long as there are records. In 300 years, the world's population has grown from 465 million to 2,176 million, or more than four times over. The population of the North American continent has increased from 7 million to 184 million, or 2,500 per cent. South America is up 1,400 per cent;

Table 1. Estimated Population of the Earth by Continents, 1650-1940*
(By millions)

Continent	1650	1750	1800	1850	1900	1940
Europe.....	100	140	187	266	401	540
Asia.....	250	406	522	671	859	1194
Africa.....	100	100	100	100	141	156
North America.....	7	6	15	39	106	184
South America.....	6	6	9	20	38	92
Oceania.....	2	2	2	2	6	11
Total.....	465	660	835	1098	1551	2177

* SOURCE: Figures 1650-1900 from *Encyclopedia of Social Sciences*, Vol. XII, p. 241, "Population." Figures for 1940 taken from Warren S. Thompson, *Population Problems*, 3d ed., p. 255. (New York: McGraw-Hill Book Company, Inc., 1942.)

Europe, 400 per cent; and Asia, 375 per cent. Only Africa, the most backward of areas, failed to double its population in 3 centuries. Table 1 shows the changes for selected periods by continental divisions, from 1650 to 1940.

The rate of increase is even more interesting. Dividing the 300-year stretch into two roughly equal periods, 1650 to 1800 and 1800 to 1940, we find that in the first period of 150 years the population of the world increased by less than 50 per cent, while in the 140 years following, with the Industrial Revolution in full swing, the rise was 160 per cent. In the areas most affected by the growth of science and technology, the rate differential is much more marked. In Europe, for example, the increase was 87 per cent up to 1800, and 188 per cent thereafter. In North America, population doubled by 1800 and multiplied twelve times by 1940.

At one time or another the rapid increase of world population or the the population of a certain country has agitated both scholars and public officials, with the result of stirring up lively controversy over theories and policy proposals. The main concern has been over standards of living, and

several of the theories have been incorporated directly into explanations of wages or economic inequality.

The Population Theories of Malthus. The most celebrated theory of population and the starting point of all discussions of population theory is that contained in *An Essay on Population*, by Thomas Robert Malthus.¹ In essence, Malthus maintained that there was a natural law of population which doomed the great majority of the people of the world to an existence at the bare level of subsistence. The two principal elements in his population law were: (1) a growth factor, consisting of the urge to reproduce, and (2) a limitation factor, resulting from the slower rate of increase of the means of subsistence. He expressed these ideas dramatically in mathematical form, saying that population tended to increase by geometrical progression while the means of subsistence grew by arithmetical progression. Starting from unity, this would mean that population would rise as follows: 1-2-4-8-16-32-64, while the means of subsistence would increase at the slower rate of 1-2-3-4-5-6-7. As the two rates of increase are fundamentally incompatible, Malthus came to the following conclusions: (1) Population is necessarily limited by the means of subsistence. (2) It invariably increases when the means of subsistence increase, unless (3) prevented by the checks of moral restraint, vice, or misery.

Malthus did not state how he arrived at his rates of progression or why some members of the population, the "upper classes," were exempt from the operation of the law. A major, unstated premise upon which his argument rested was the assumption that the urge to marry, have children, and bring up families was a nonrational factor of such overpowering force that it could never or only seldom be modified on rational (economic) grounds. The policy conclusions that Malthus arrived at were: (1) Communism is unworkable, since private property and its accompanying responsibility is the only humanitarian check which will keep families within limits. (2) The working classes can improve their conditions only by reducing their numbers. (3) Poor relief defeats its own purpose since it removes the principal check (of want) from those guilty of producing more children than they can support.

This was a very depressing view and was immediately and vigorously criticized, as well as defended, from all sides. Critics concentrated on the assumption of a "natural law," the lack of proof of the rates of progression cited, and Malthus's relative indifference to the possible effects of a rise in the standard of living on family size, all of them very vulnerable points in the presentation. On the other hand, very few persons have questioned the main point in the argument, that population tends to encroach upon the means of subsistence and that the latter sets a final limit to the growth

¹ New York: E. P. Dutton & Co., Inc., Everyman's Library Edition, Nos. 692-693.

of the former. A number of very able thinkers have pointed out that in the long run—and a population theory can only be a long-run theory—the propositions contained in Malthus's essay are hard to explain away. Consider, for example, the following eloquent passage from a widely quoted economic treatise of a generation ago:²

Before the eighteenth century mankind entertained no false hopes. To lay the illusions which grew popular at that age's latter end Malthus disclosed a Devil. For half a century all serious economical writings held that Devil in clear prospect. For the next half century he was chained up and out of sight. Now perhaps we have loosed him again. . . .

The prosperity of Europe was based on the facts that, owing to the large exportable surplus of foodstuffs in America, she was able to purchase food at a cheap rate measured in terms of the labour required to produce her own exports, and that, as a result of her previous investments of capital, she was entitled to a substantial amount annually without any payment in return at all. The second of these factors then seemed out of danger, but, as a result of the growth of population overseas, chiefly in the United States, the first was not secure. . . . In short, Europe's claim on the resources of the New World was becoming precarious; the Law of Diminishing Returns was at last asserting itself, and was making it necessary year by year for Europe to offer a greater quantity of other commodities to obtain the same amount of bread. . . .

The essential facts of the situation, as I see them, are expressed simply. Europe consists of the densest aggregation of population in the history of the world. This population is accustomed to a relatively high standard of life, in which, even now, some sections of it anticipate improvement rather than deterioration. In relation to other continents Europe is not self-sufficient; in particular it cannot feed itself. . . . The danger confronting us, therefore, is the rapid depression of the standard of life of the European populations to a point which will mean actual starvation for some (a point already reached in Russia and approximately reached in Austria). . . .

Some of the catastrophes of past history, which have thrown back human progress for centuries, have been due to the reactions following on the sudden termination, whether in the course of Nature or by the act of man, of temporarily favourable conditions which have permitted the growth of population beyond what could be provided for when the favourable conditions were at an end.

This was written in 1919, at the end of the First World War. Its even greater appropriateness to the situation following the Second World War is less than encouraging. In another and even more prophetic remonstrance, also written in 1919, Dean Inge foretold the future of Great Britain:³

It was not till the accession of George III that the increase in our numbers became rapid. The Industrial Revolution came upon us suddenly; it changed the whole face of the country and the apparent character of the people. . . . The basis

² J. M. Keynes, *The Economic Consequences of the Peace*, quoted in H. Wright, *Population*, pp. 55-56 (New York: Harcourt, Brace and Company, Inc., 1923).

³ W. R. Inge, *Outspoken Essays*, quoted in *ibid.* pp. 56-57.

of our industrial supremacy was, and is, our coal. . . . We were no longer able to grow our own food; but we made masses of goods which the manufacturers were eager to exchange for it; and the population grew like crops on a newly irrigated desert. During the nineteenth century the numbers were nearly quadrupled. . . . It is too obvious for dispute that it was the possession of capital wanting employment, and of the natural advantages for using it, that called these multitudes of human beings into existence, to eat the food which they paid for by their labour. And it should be equally obvious that the existence of forty-six millions of people upon 121,000 square miles of territory depends entirely upon our finding a market for our manufactures abroad, for so only are we able to pay for the food of the people. It is most unfortunate that these exports must, with our present population, include coal, which, if we had any thought for posterity, we should guard jealously and use sparingly; for in five hundred years at the outside our stock will be gone, and we shall sink to a third-rate Power at once. We are sacrificing the future in order to provide for an excessive and discontented population in the present.

Long before these ominous prophecies were written, two Englishmen were impressed by Malthus's reasoning—Francis Place, the reformer, and David Ricardo, the economist. The former accepted the warning without the principle (that it was a "natural law" and nothing could be done about it) and immediately instituted a campaign for birth control, which has come to be known as "neo-Malthusianism." The latter adopted the theory whole, simply reexpressing it in the form of wages, to the effect that in the long run wages tend to the level which just supplies working people with the means of subsistence, and temporary departures therefrom on the up side will be compensated for by an increase in births which will force the wage down again, while short-run reductions below the subsistence level will have the obvious effect of eliminating the surplus population, thereby bringing the population and the means of subsistence once more into agreement.

No wage theory has ever been more bitterly attacked or more completely rejected by its opponents than Ricardo's "iron law." This notwithstanding the fact that the overwhelming majority of the world's population has always lived at or near the starvation level, that even in the western civilized world probably a majority of working-class families are able to exist but have no savings or surplus of any kind, and that as national incomes have increased the most noticeable effect has been the increase in numbers of people rather than the rise in individual living standards. The facts are admitted, but the theory and its attendant responsibility are denied. Rather, the blame is placed on the existing social, political, and economic institutions.

Social Theories of Population. Malthus's theory was not the only "natural" theory of population growth, but it was far and away the most influential. It has been countered by theories based on the social or institutional environment, in which the prevailing note is a determined optimism

that man's future numbers are controllable and that a favorable solution may be expected, either from conscious manipulation of the institutional environment (Karl Marx, Henry George, and others) or from an unconscious choice of smaller families and a consequent higher standard of living (Carr-Saunders and Dumont).

Probably the most carefully formulated such theory, and the one quoted approvingly by Thompson,⁴ is the "optimum" theory of A. M. Carr-Saunders. According to this hypothesis, man always endeavors to reach the optimum economic balance within his environment, "the number which—taking into consideration the nature of the environment, the degree of skill employed, the habits and customs of the people concerned, and all other relevant facts—gives the highest average return per head."⁵ Carr-Saunders finds the evidence for his conclusions in the voluntary adoption of the "small family system" in Europe, the British Dominions, and the United States, through the medium of birth control, mainly by contraceptive practices. In fact, the "optimum" theory is substantially an affirmation of the triumph of the neo-Malthusianism of Francis Place, plus some elements of Dumont's theory of "social capillarity."⁶ The author's explanation of the small family system is as follows:⁷

Birth control can be held to explain sufficiently the facts of the decline of the birth-rate within the sphere of European civilization. . . .

That contraception, having once become established, should have spread, requires no explanation. There has been unceasing propaganda in its favour; it became associated with the powerful movement for women's rights, and was taken up with religious fervour by some advocates with a gift for publicity. . . . The small family fits in, not only with the enduring wishes of the mother, but also with the new mode of life. The last sixty years have seen an immense increase in leisure time, and a still greater increase in facilities for employing that leisure; and children are impediments to those who want to avail themselves of these facilities. In relation to making a living children are now seldom a help and are often an encumbrance. Finally, the effort to rise in the social scale may well be frustrated by a large family.

⁴ Warren S. Thompson, *Population Problems*, 3d ed., p. 40 (New York: McGraw-Hill Book Company, Inc., 1942).

⁵ *The Population Problem*, p. 476 (New York: Oxford University Press, 1922), quoted in Thompson, *op. cit.*, p. 40.

⁶ The Dumont theory rests on the premise that all people try to rise to higher social levels and as they succeed are less and less likely to reproduce themselves. In countries where there are few obstacles to movement from one social class to another, social capillarity is greater and the birth rate suffers most (e.g., France). In caste countries such as India, where capillarity is low, there is no tendency for the birth rate to decline or for the population to die out.

⁷ *World Population, Past Growth and Present Trends*, pp. 105, 111, 113, 326 (Oxford: Oxford University Press, 1936).

The evidence is that, once the small family system has gained a hold, it continues to spread.

Somewhat surprisingly, Carr-Saunders finds that the spread of birth control has been uninfluenced by density of population, industrialization, or variation in economic conditions. "There is in general," he observes, "no association between the decline [of the birth rate] and material welfare." How, then, does he explain the spread of the small family system? By imitation:⁸

The countries to which the habit first came were... associated in sharing a similar mode of life, a fact sometimes expressed by saying that they had reached a fairly similar level of civilization. They used the same mechanisms and contrivances, they adopted very similar clothes and ate very similar foods. Moreover, they observed similar social conventions and fashions.... There can be little doubt that the practice of family limitation spread over this group of closely associated countries much as so many other novel habits and new ideas spread. The small family habit came later to southern Europe, and still later to eastern Europe, because the countries in these regions stood, in respect of general level of civilization, rather apart from the group of countries in northwest Europe and in Europe overseas. But they are European also, and just as the more trivial habits and conventions of western Europe were taken up by them in course of time, so the more important novel habits, and among them the small family system, were also adopted by them, although later than in the west.

These conclusions were reached in England in 1936, a decade and a half after Mr. Keynes and the Gloomy Dean had found so much to worry them in the populations of Europe and Britain. It is hard to tell whether the same easy optimism would suffice after another 15 years of war, bloodshed, population growth, and depletion of resources. Malthus has recently been restated in very emphatic terms by a distinguished scientist, who found little evidence in 1948 that the human race was effectively limiting its numbers through voluntary practices, but rather described what was going on as a "breeding storm" and put the current annual increase in total population at 20 million, or 1 per cent a year.⁹

Whatever else it may have accomplished, one contribution of Carr-Saunders's theory has been to raise the question of the "optimum" population in economic terms. This proposition will have to receive considerable attention if it is to be the choice of enough people to bring population totals in balance at the point of "maximum economic welfare." If such a happy event is to occur—and Malthus be denied—it will probably be up to the United States to set the example.

⁸ *Ibid.*, pp. 113–114.

⁹ Fairfield Osborn, *Our Plundered Planet* (Boston: Little, Brown Company, 1948). Another source (the World Food Organization) has stated that the world's population increased 200 million between 1939 and 1947.

Population in the United States

The population of any country is the source from which its work force is drawn. As such it is a major economic resource. The social organization required by a large industrial output makes severe demands upon the labor force in terms of energy, self-discipline, and cooperation. The gross national product will be significantly influenced by the size of the population, its age distribution, the level of its education and technical training, and its geographical location.

Table 2. Population Increase in the Continental United States, 1790-1947*

Census date	Population	Increase over the preceding census		Population per sq. mi. of land
		Number	Per cent	
1790	3,929,214	.....	..	5
1800	5,308,483	1,379,269	35	6
1810	7,293,881	1,931,398	36	4
1820	9,638,453	2,398,572	33	6
1830	12,866,020	3,227,567	34	7
1840	17,069,453	4,203,433	33	10
1850	23,191,876	6,122,423	36	8
1860	31,443,321	8,251,445	36	11
1870	39,818,449	8,375,128	27	13
1880	50,155,783	10,337,334	26	17
1890	62,947,714	12,791,931	26	21
1900	75,994,575	13,046,861	21	26
1910	91,972,266	15,977,691	21	31
1920	105,710,620	13,738,354	15	36
1930	122,775,046	17,064,426	16	41
1940	131,669,275	8,894,229	7	44
1947(est.)	143,382,000	11,710,000	9	47

* SOURCE: U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States*, 1947, p. 5; *World Almanac and Book of Facts for 1948*, p. 453 (New York: New York World-Telegram, 1948).

Phenomenal Growth and Future Prospects. In matters of population growth, as in other departments of activity, the United States has been the wonder of the world. In the 150 years from the 1st Census in 1790 to the 16th Census in 1940, total inhabitants multiplied thirty-four times, from 3,929,214 to 131,669,275, while land area increased three and one-half times, from 892,135 to 3,022,387 square miles. There was a steady rise in population every decade, with a constantly growing absolute increment (except for a slight decline in the decade of the First World War) up to 1930. Then in the

depression years, the amount of increase fell to less than half what it was in the 1920's. The total population by census periods, the absolute and percentage increases by decades, and the rising man-land ratio are shown in Table 2.

There has been a good deal of earnest speculation over the size of the future population of this country, with most forecasts showing a stationary level (births and deaths equal, no immigration) reached around 1990 and a decline thereafter. The official Census Bureau estimates as of June, 1947, based on medium fertility, medium mortality, and no immigration, are shown in Table 3. These figures were already subject to revision at the time of printing of the report due to the "wartime baby boom, which resulted in nearly 13,150,000 children under 5 on July 1, 1945, instead of the 11,930,000

Table 3. Forecasts of Total Population of the United States, 1950-2000, According to Assumptions of Medium Fertility and Mortality and No Immigration*

<i>Year</i>	<i>Population</i>
1950	145,460,000
1960	153,375,000
1970	159,847,000
1980	163,877,000
1990	164,585,000
2000	163,312,000

* SOURCE: U.S. Department of Commerce, Bureau of the Census, *Forecasts of the Population of the U.S., 1945-1975*, p. 39 (Washington: U.S. Government Printing Office, 1947).

that were expected when the earlier forecasts were made."¹⁰ The Census Bureau, however, with only slight adjustment, stuck to its conservative figures for the long run, in the expectation of "a still larger drop in growth from 1947 to 1956 than the fall of nearly 65 per cent which occurred from 1923 to 1932."¹¹ Population was not the only index in the United States that rose during the Second World War and the immediate postwar period. National income reached an all-time high of \$202 billion in 1947, of which \$175 billion, or more than \$1,200 per capita, was disposable personal income. If this level of prosperity is maintained, the next generation or two may provide a short-run test of the population theories of Malthus and Carr-Saunders.

Restriction of Immigration. A considerable portion of the fall in the rate of increase of population in the 1930's was due to the final choking off of immigration, one of the few positive population policies adopted in the United States and remarkable for the fact that it was restrictive in nature. Up to the present, a national population "policy" has usually meant only one thing: a program of expansion. This has been equally true of aggressive na-

¹⁰ U.S. Department of Commerce, Bureau of the Census, *Forecasts of the Population of the U.S. 1945-1975*, p. 42 (Washington: U.S. Government Printing Office, 1947).

¹¹ *Ibid.*

tions—Italy, Germany, and Japan prior to the Second World War—and those of more peaceful inclination, *e.g.*, France, Belgium, Sweden, and Great Britain.¹² Restriction of immigration was both a population and a labor policy. It was first urged and finally adopted on the primary grounds of support of the domestic labor market through protection against the influx of cheap foreign labor. No group was more vigorous in lobbying for the restrictions than the American Federation of Labor. The influence of immigration restriction upon population increase is illustrated in Table 4.

Table 4. Population Growth in the United States by Sources of New Arrivals, 1900–1947*
(By thousands, figures rounded)

Census period	Population increase	Source		Per cent of increase	
		Birth	Immigration	Birth	Immigration
1900–1910	15,980	7,180	8,800	45	55
1910–1920	13,740	8,000	5,740	58	42
1920–1930	17,060	12,950	4,110	76	24
1930–1940	8,890	8,360	530	94	6
1940–1947	11,710	11,210	500	96	4

* SOURCE: *Statistical Abstract of the United States*, 1947, pp. 5 and 106.

The Rising Age Level. However, restriction of immigration was not the only downward influence on population growth from 1930 on. Beginning with the late 1920's there was a sharp downturn of the birth rate which would have accounted for an even greater decline had it not been for an over-all reduction in deaths throughout the population. The most important effect of these combined forces was a change in the age composition of the population, shifting more and more people into the older age groups. This was just an acceleration of a trend already under way. For example, the median age of the total population rose from 24 in 1910 to 25 in 1920 to 27 in 1930, and jumped to 29 in 1940. Forecasts of future median ages of the population by the Bureau of the Census show a continuation of the rise to 33 by 1960, to 35 by 1980, and to 37 by 2000. What this implies for the major age groups is shown in Table 5 below.

Table 5. Estimated Age Composition of the General Population of the United States*
(By thousands)

Age group	1910	1940	1970	2000
Under 20.....	38,562	45,306	45,876	42,006
20–59.....	47,024	72,615	89,637	90,967
60 and over.....	6,386 (7%)	13,748 (10%)	24,335 (15%)	30,339 (19%)
Total.....	91,972	131,669	159,848	163,312

* SOURCE: *Statistical Abstract*, 1947, pp. 25 and 29.

¹² Thompson, *op. cit.*, Chaps. 25–26, and Carr-Saunders, *op. cit.*, pp. 328–329.

To be specific, the forecasts indicate that 50 years from now, about 1 person out of 5 will have passed his sixtieth birthday, that within the lifetime of many people now living the elderly (retired) age group will approximate in size the number of young people in the country. For a mechanical society which has already tasted the discouragements of industrial old

Table 6. Growth of the Urban Population, 1790-1946*

1790	5%	1890	35%	1930	56%
1830	9	1910	46	1940	56
1860	20	1920	51	1946	60

SOURCE: The 16th Census, 1940, and *Statistical Abstract*, 1947, pp. 14-15.

Table 7. Concentration of City Population in Large Metropolitan Areas, 1940*
(By thousands)

Place	City	Metropolitan area
New York.....	7,500	11,700
Chicago.....	3,400	4,500
Philadelphia.....	1,900	2,900
Detroit.....	1,600	2,300
Los Angeles.....	1,500	2,900
Cleveland.....	900	1,200
Baltimore.....	900	1,000
St. Louis.....	800	1,400
Boston.....	800	2,400
Pittsburgh.....	700	2,000
Washington, D.C.....	700	900
San Francisco.....	600	1,400
Milwaukee.....	600	800
Buffalo.....	600	900
New Orleans.....	500	500
Total.....	23,000	36,800
Per cent total population.....	17	28

*SOURCE: U.S. Department of Commerce, Bureau of the Census.

age,¹³ this prospect poses considerable problems of employment and productivity.

Concentration in Cities. Another trend, as clearly defined as that of over-all growth and rising age levels, received a setback in the decade of the thirties, the movement from the farm to the city. By 1940, the population of the United States was predominantly urban, with 56 per cent of its people living in incorporated places of 2,500 or over. Table 6 illustrates the trend and the situation at the last census.

¹³ See the Metropolitan Life Insurance Company study, *The Older Employee in Industry* (1933).

By 1940, exactly one-half of the urban population—and slightly more than a quarter of the total population—lived in the 15 largest metropolitan centers of the country. Twelve of these are found in the northeast rectangle bounded by the Mississippi and Ohio rivers, the Great Lakes, and the Atlantic seaboard. All but four are within 100 miles of the national border (see Table 7). This table is also subject to enlargement and revision. The industrial boom of the Second World War and the years immediately following has raised several cities above the half million level (*e.g.*, Kansas City and Houston) and has produced a rapid growth in a number of others (Los Angeles, San Francisco). It seems highly probable that the 1950 Census will

Table 8. Years of School Completed for Persons 25 Years Old and Over, 1940*

<i>Years of School Completed</i>	<i>Number of Persons</i>
None.....	2,799,923
1 to 4 years.....	7,304,689
5 and 6 years.....	8,515,111
7 and 8 years.....	25,897,953
High school: 1 to 3 years.....	11,181,995
High school: 4 years.....	10,551,680
College: 1 to 3 years.....	4,075,184
College: 4 years or more.....	3,407,331
Not reported.....	1,041,970
Total.....	74,775,836

*SOURCE: *Statistical Abstract, 1947*, pp. 122-123.

show close to two-thirds of the total population of the country living in cities and better than half of the city dwellers located in large industrial centers of half a million or more.

High Level of Literacy and General Education. The United States is once more in a class by itself among large nations in the high level of literacy and general education of its population. The average number of years of school completed by persons 25 years of age and older in 1940 was more than eight, or graduation from grammar school. Less than 3 million out of a total population of 75 million in this age group, or only 4 per cent, had had no schooling at all. Eighteen million were high-school graduates and more than 7 million had had some college work. The technical versatility and superiority of the American workman is more easily understood after a glance at Table 8, especially when it is remembered that the figures do not include data on private trade and vocational schools or private correspondence schools.

The population of the United States, then, is large, still growing (although at a steadily decreasing rate), getting older, more and more derived from native stock without benefit of immigration, and composed predominantly of city people. The average person over 25 has finished grade school,

and one out of four is a high-school graduate. This is the group from which the world's largest free labor force is drawn. The next step is to find out precisely what the term "labor force" means, who is included and who left out, and the occupational characteristics of the people who make it up.

The Labor Force in the United States

The labor force consists of the "gainfully employed," those people who have a job or are looking for one. In the words of the Census Bureau, it is all persons 14 years of age or over who: (1) "work for pay or profit, or work without pay for 15 hours a week or more on a family farm or business," or (2) have a job but are "temporarily absent because of vacation, illness, industrial dispute, bad weather, or layoff with definite instructions to return to work within 30 days," or (3) do not have a job but are looking for work. The civilian labor force consists of these people minus the members of the armed services.¹⁴

Although it is considerably less than the total population, the civilian labor force runs into the tens of millions and keeping track of its size and condition is a big statistical job. It is also an important job, since it is probably our most important index of prosperity. The figures on employment and unemployment are followed closely by economists, government officials, and businessmen as measures of national health. If the country has a single economic pulse, it is the employment-unemployment ratio. Two agencies of the Federal government measure the labor force month by month, using entirely different methods: the Bureau of the Census of the Department of Commerce and the Bureau of Labor Statistics of the Department of Labor. The former uses the "population approach," while the latter relies on the "establishment" survey. Both have their advantages and disadvantages, and the student of labor problems should be able to distinguish between the two and single out the strengths and weaknesses of each.

The "Population Approach" of the Bureau of the Census. All official reports on the size and composition of the labor force, except those contained in the decennial censuses are based on statistical "samples," made regularly by one agency or another. The census figures, the most reliable of all, are the result of a full count of every household in the United States. The Census Bureau's "monthly reports on the labor force" keep these totals up to date by means of regular reports from approximately 25,000 households throughout the United States. (A summary of the report is carried each month in the Department of Commerce's *Survey of Current Business*.) This is what is meant by the "population approach," to wit, a head count

¹⁴ U.S. Department of Commerce, Bureau of the Census, *Monthly Report on the Labor Force*, November, 1947, p. 4.

of representative homes and readjustments of labor force totals in line with the changes in the sample. The principal advantage of this method is the inclusive nature of the information received.

The labor force is a function of the general population. If the Census Bureau's sample is representative, changes in the 25,000 households will reflect accurately changes in the labor force as a whole, giving personal characteristics (sex, age, color, etc.), the numbers employed and unemployed, the number reporting themselves in each occupation and in each industry, etc. The sample includes farm workers, self-employed people, the armed services, new entrants into the labor force by reason of age or change of interest, and nonworkers. It counts each person only once. Statistically, it is the correct approach. Its only weakness is the size of the sample, which touches less than 1 out of every 1,500 families in the country. In this respect, the Bureau of Labor Statistics' measurements are superior, but they are inadequate in many other ways.

The "Establishment" Method of the Bureau of Labor Statistics. This is a form of survey based on regular reports from employing "establishments," mostly private business firms and government agencies. The BLS gets about 110,000 reports a month from business firms in 154 different industries, and the coverage is very broad, as is shown by the following partial list of reporting "establishments" for November, 1947.¹⁵

Industry	Number of establishments	Number of production workers or employes
Manufacturing.....	32,100	7,300,000
Mining.....	2,500	361,000
Public utilities.....	7,000	795,000
Wholesale trade.....	9,400	260,000
Retail trade.....	28,300	742,000
Finance.....	4,000	176,000
Hotels.....	900	91,000
Power laundries, cleaning and dyeing.....	1,300	61,000
Total.....	85,500	9,784,000

In view of the large size of the sample, the information is very precise for the industries and occupations covered. Nonetheless, there are gaps in the data which must be filled in from other sources. For example, some of the reports in the list above cover production workers only, others both production workers and salaried personnel, and all exclude executives and officials. The totals are dominated by large firms. Farmers and farm workers, small proprietors, self-employed persons, domestic servants, and personnel of the armed forces are excluded entirely.

These are serious omissions from a picture of the total labor force and must be supplied by data from the Department of Agriculture on agricultural employment and additional material from other governmental agencies. Another weakness is that when employes of reporting firms change jobs within the month, they may be counted twice. Nonetheless, for figures on the nonagricultural civilian labor force (which includes the bulk of all workers and is the source of practically all labor problems), the BLS reports are probably the most reliable. (They are found in a series of tables in each issue of the *Monthly Labor Review*.) For many special kinds of labor information, such as payrolls, labor turnover, earnings and hours of work, prices and cost of living, work stoppages, etc., the BLS figures are the official guide.

How the "Labor Force" Is Derived from Population Figures. The labor force is by no means all the population; it is not even half of it. Before the Second World War, about 40 per cent of all men, women, and children in the country were "gainfully employed." Since the war, the proportion has been slightly higher, ranging from 43 to 45 per cent throughout 1946 and 1947, much of the increase being due to a larger military establishment. The figures for the labor force and the civilian labor force are found by taking the total population and progressively eliminating those persons who are not in the labor market, that is, not at work or looking for work. The three main groups to be eliminated are children under 14, housewives, and those old enough to work but going to school. Table 9 shows how the final figure is arrived at.

Out of a total population, then, of 131,670,000 in 1940, there were 53,230,000 (40 per cent) in the labor force, 52,790,000 in the civilian labor force, and 52,020,000 in the experienced labor force. During and since the end of the Second World War there has been a much larger spread between the total labor force and the civilian labor force, due to the expanded size of the armed services. The high point came in 1945, when the total labor force was 65,900,000 persons, of which 11,600,000 were in the armed forces, leaving a civilian labor force of 54,300,000. By December, 1947, the total labor force had dropped to 60,870,000 of which 1,280,000 were in the Army, Navy, Marine Corps, and Coast Guard, leaving a civilian labor force of 59,590,000.

It is clear that the American economy has plenty of reserves of manpower in the student group, the housewives, and, in cases of great emergency, in the younger age levels, from 10 to 13. This is illustrated by the range of expansion and contraction in the civilian labor force within a single peacetime year, 1946. Employment is customarily lowest in winter and highest in summer as a result of bad weather conditions around the year-end and the concentration of farm work in the summertime. In 1946, the

Table 9. Classification of the Population of the United States by Age and Basic Activities, 1940*
(By thousands, figures rounded)

Total population (all ages).....	131,670
Less: Persons under 14 years of age.....	30,570
Age 14 was selected arbitrarily and could just as well have been 13, 15, or 16. However, it is the customary maximum age for state requirements of compulsory school attendance, and also coincides with the normal age of graduation from grade school, assuming a starting age of 6 and 8 years study.	101,100
Persons engaged in own home housework.....	28,930
Mainly housewives. While they do much work of economic value, they do not "work for pay or profit" and are excluded from estimates of the labor force.	72,170
Persons over 14, but attending school.....	9,010
If students work at all for pay or profit or work 15 hours a week or more on a family farm or business, they are included in labor force totals.	63,160
Persons "unable to work".....	5,270
Most of these are old people. In 1940, there were 5,200 persons 70 years of age and over in the U.S. This would also include the sick and otherwise disabled not in institutions.	57,890
Persons in institutions.....	1,180
Inmates of penal and mental institutions and homes for the aged, infirm, and needy.	56,710
Other and not reported.....	3,480
This is the total labor force.....	53,230
It is 40 per cent of the total population and 52 per cent of the population 14 years of age and older.	
Less: The armed forces (Army, Navy, Marine Corps).....	440
This is the civilian labor force.....	52,790
Less: New workers (without previous experience).....	770
Mostly persons just turned 14 who are in the labor market or intend to enter it.	
This is the experienced civilian labor force.....	52,020

*SOURCE: *Statistical Abstract*, 1947, p. 172.

low point came in January, with a civilian labor force of 53,300,000, while in July there were 6,800,000 more people in the labor market to bring the total up to 60,100,000, an increase in 6 months of more than 11 per cent.¹⁶

The Composition of the Labor Force. It is not enough to know the size of the labor force. The student of labor problems must know a great deal about its composition and the traits of the classes that go to make

¹⁶ *Statistical Abstract*, 1947, p. 173.

it up. In the first place, a great many persons in the labor force are not employes at all. In 1940, one out of five of the gainfully employed was the owner and proprietor of a farm or business, a professional man on his

Table 10. The Labor Force Classified as to Employers and Employes, 1940*
(By thousands)

Class	Persons		Per cent
Total experienced labor force.....	52,020		100
Employers and family help			
Proprietors and self-employed.....	9,980		
Unpaid family labor.....	1,470	11,450	22
Employes.....		40,570	78

*SOURCE: *Statistical Abstract*, 1947, p. 170.

own (doctor, lawyer, etc.), or a person who helped out with the family business without receiving wages or a salary.

A large number of the self-employed and unpaid family workers are found on farms. A standard analysis of labor force totals, used especially by the Bureau of Labor Statistics, is to divide the main figure up into the employed and unemployed, and then separate the employed into agricultural and nonagricultural classes. Table 11 makes a comparison of the last prewar year and the first postwar year for these important groups.

Table 11. The Labor Force Classified by Employment Status and Major Industry Groups, 1940 and 1946*
(By thousands, figures rounded)

Groups	1940	1946	Change
The total labor force rose 13%, from.....	53,230 to	60,320	Up 7,090
The armed services rose 330%, from.....	440 to	1,890	Up 1,450
The civilian labor force rose 11%, from.....	52,790 to	58,430	Up 5,640
Unemployment fell 78%, from.....	7,620 to	1,640	Down 5,980
While total employment rose 26%, from.....	45,170 to	57,950	Up 11,780
Agricultural employment fell 17%, from.....	8,370 to	6,960	Down 1,410
Nonagricultural employment rose 39%, from...	36,800 to	50,990	Up 14,190
Private business employment rose 40%, from...	32,660 to	45,560	Up 12,900
Governmental employment rose 31%, from...	4,140 to	5,430	Up 1,290

*SOURCE: *Statistical Abstract*, 1947, pp. 169, 191, 200; *Monthly Labor Review*, February, 1948, p. 203, Table A-1.

This is a useful basic table. For example, the comparisons for the years 1940 and 1946 bring out very clearly some long-term and cyclical changes which were accentuated by the Second World War: (1) the remarkable rise of 7,090,000, or 13 per cent, in the basic labor force, as against

a 7 per cent increase in population during the 6 years; (2) the sharp drop of 5,980,000 in unemployment, a reduction from 14 per cent of the labor force to less than 3 per cent; (3) the tremendous increase in nonagricultural (business, industrial, governmental) employment, a 39 per cent upsurge; and (4) the 17 per cent decrease in manpower on farms in spite of record-breaking outputs of food of all kinds for a larger population and shipment abroad.

Very few periods of such short duration in any country and none in this will show more far-reaching and basic changes, unless accompanied by political revolution or invasion. They reflect a shift from a moderate labor force with a large reservoir of unemployed in the labor market and a comfortable 4 to 1 industry-agriculture ratio, to a high-speed, commercialized industrial economy with a maximum labor force and maximum employment. The seeds of many current postwar labor problems are contained in the extensive readjustments which this change-over required.

Occupational Classification of the Labor Force. The fundamental change reflected in Table 11 is the change of occupational status for millions of persons resulting from the war. Millions of persons who had been unemployed became employed, millions of others who had no thought of taking a job found themselves in the labor market, and many who thought such a change temporary are still there. Millions of people shifted from farming to city occupations and the different kind of life involved. Still more millions were promoted to supervisory and managerial positions, changed from clerical to factory work and vice versa, or migrated from one industry to another, perhaps moving hundreds of miles to do so.

The occupation, or "job," that a person has is one of the more important factors influencing his life. It is the principal determinant of his social and economic standing. If a man is a salesman, his income, associates, community standing, freedom from supervision, type of clothes, daily routine, and point of view are closely identified with his work. What these things are for salesmen is different from what they are for carpenters, assembly line operatives, farmers, janitors, stenographers, major executives, and engineers. Therefore, the occupational grouping of the labor force is called, and accurately, the socioeconomic classification of the population. The social and economic position of the 37,900,000 families in the United States is settled in the great majority of cases by the occupation of the head of the house.

There are a number of ways of classifying the labor force on a job basis, but the standard one is that worked out by the Bureau of the Census for the decennial census reports and kept up to date in its "monthly reports on the labor force." The seven main groups with subclasses, totals, and percentages are shown in Table 12.

There are several reasons why the occupational classification of the labor force in the United States is of interest. Not only does a person's job establish his position in life by its influence on his income, his associates, and his place in the community, but the relative positions of different classes of jobs

Table 12. The Experienced Labor Force Classified by Occupation, 1940*
(By thousands)

Class	Persons		Per cent
Total experienced labor force		52,020	100
Less: Occupations "not reported"		1,283	2
		50,737	98
1. Professional and semiprofessional workers:			
Professional	3,048		
Semiprofessional (designers and draftsmen, technicians, etc.) . . .	510	3,558	7
2. Proprietors, managers, and officials:			
Farmers (99% owners and tenants, only 1% hired managers) . . .	5,303		
Trade (retail and wholesale)	1,948		
Other (manufacturing, service, government, finance, utilities, etc.)	1,906	9,157	17
3. Clerical, sales, and kindred workers (the "white-collar" classes):			
Clerical and kindred	5,081		
Salespeople	3,189	8,270	16
4. Craftsmen, foremen, and kindred workers (skilled manual workers)		5,952	12
5. Operatives and kindred workers (includes mine laborers, and the semiskilled manual workers)		9,477	18
6. Laborers (the unskilled manual workers):			
Farm: foremen 25			
hired help 2,312			
unpaid family workers 1,194	3,531		
Manufacturing	1,544		
Building construction	1,243		
Other (utilities, trade, gardeners, etc.)	1,825	8,143	16
7. Service workers:			
Domestic (housework)	2,349		
Protective (guards, watchmen, etc.)	715		
Other (custodial, waiters, etc.)	3,116	6,180	12

*Source: *Statistical Abstract, 1947*, pp. 179-187.

provide one of the main sources of motivation in a free, competitive, materialistic society. (This is Dumont's "social capillarity" in action, but without any necessary agreement with his conclusions as to the effect on population growth.) People constantly try to improve their positions by moving from one class to another higher up in the scale.

A prime objective of parents is to see their children "better off" in life than they were, and "better off" usually means in a different ("higher")

occupation. The standard methods by which this is brought about are education, apprenticeship training, and investment leading to professional or skilled employment, management opportunities, or the ownership of one's own business. One symbol of a free society is freedom of movement between occupational classes, without discrimination on grounds of birth, politics, race, or religion. While the United States cannot claim to be one hundred per cent in this respect, few countries can show as large or as rapid migration upward from unprivileged beginnings as this one can.

One proof of the upward pull of better jobs is the high proportion of the labor force in the skilled classes. If clerical workers and salespeople are in-

Table 13. Trends in Occupational Distribution, 1910-1947*

Job classes	Per cent of the labor force					Change, per cent 1910-1947
	1910	1920	1930	1940	1947	
Professional persons.....	4	5	6	7	7	Up 75
Proprietors, managers, officials	23	22	20	18	18	Down 22
Clerks, salespeople, etc.....	10	14	16	17	19	Up 90
Skilled workers and foremen..	12	14	13	12	14	Up 17
Semiskilled workers.....	15	16	17	18	21	Up 40
Unskilled workers.....	36	29	28	28	21	Down 42
Farm laborers.....	14	9	8	7	6	Down 57
Nonfarm laborers.....	15	15	13	11	5	Down 67
Service workers.....	7	5	7	10	10	Up 43

*SOURCE: *Statistical Abstract, 1947*, p. 144; U.S. Department of Commerce, Bureau of the Census, *Monthly Report on the Labor Force*, November, 1947, p. 12.

cluded in the skilled groups, over half of the experienced labor force in 1940 were in this category with one out of every four persons gainfully employed to be found in the professional-proprietor-managerial ranks. The skilled-unskilled ratio was still higher in 1947, with 58 per cent of the labor force in the top four classes. Over the years there has been a steady shift upward into the more lucrative and exacting occupations (as shown in Table 13).

Like Table 11, which showed the changes in employment status and major industrial groups during the Second World War, Table 13 also gives a clue to an important source of labor problems. Job changes by individuals do not always occur smoothly and easily in an atmosphere of unruffled calm and tranquillity. It is customarily more of a strain to change one's occupation than to shift from one industry to another or to go back to work after being unemployed. Changing occupations calls for the abandonment of habits, skills, and customary routines which it may have taken years to acquire. New positions imply different working environments, and if the

direction of change is advancement, there is frequently a heavier load of responsibility.

Where the general trend of occupational change is in the direction of the skilled and professional levels, it may be assumed that competition has been strong, rivalry keen, and disappointments numerous. No large community can absorb in a little more than a generation a proportionate increase of 75 per cent in its professional classes, of 90 per cent in its white-collar employes, of 40 per cent in its semiskilled "operatives," and a loss of 42 per cent of its unskilled labor group, without tension and disorder. It is only necessary to review a few of the salient facts of recent employment history in the United States to find the conclusion supported by experience.

The strain of mobilization for the First World War, the union-management conflict of both the 1920's and the 1930's, employe opposition to mechanical and technical improvement of industrial processes, the struggle with employment discrimination, the desperation of the depression years, and the forced migrations from job to job, industry to industry, and region to region during the Second World War, all present a picture of flux, disorder, and rapid social change. Only in such an environment could there occur the extensive regrouping of industries and occupations which has come about in the United States since 1910.

Nor is there reason to think that it is over yet, or even that the rate of change is to decrease. Employment occurs in the environment of a national economy which in turn is a member of the international community. International relations since the end of the Second World War seem to offer little grounds for hope of early stabilization of world affairs which will permit any country to concentrate on achieving harmonious domestic social relationships without fear of outside interference.

Population and the Labor Force. The source of the labor force is the general population, but its character and composition are functions of the social environment. The goods and services produced by the labor force constitute the national product, which, divided among the population, comprises the standard of living. The standard of living cannot escape the limitations of the basic economic ratio of resources-population, but a given quantity of resources can be made immensely more productive if the labor force is strong, healthy, intelligent, resourceful, and well trained both technically and in procedures of organization. Few populations in the world's history have had more favorable opportunities to realize their maximum productivity than the inhabitants of the United States in the middle of the twentieth century.

The United States has the people, the technical skills, and the natural resources in quantities and in combination almost beyond belief. The rate of increase of scientific knowledge and technical application of new discoveries

is far ahead of the most optimistic guesses even a decade or two ago. The country's industrial plant alone of the major powers of the world is untouched by war damage and is without a rival in the world in capacity, equipment, and staff. It remains to be seen whether the most complicated, efficient, and interdependent productive mechanism yet brought forth by man can be kept functioning at a high level of capacity and its product distributed among the members of the population in a fashion which will call forth their best efforts and satisfy their sense of justice.

The United States is young, as nations go. It has a large population which has grown very rapidly and a labor force which has grown equally fast and has shown great skill in mastering problems of organization and technique. There is an optimum size for both population and labor force and an optimum distribution of personnel among jobs and industries. No one knows what these optimums are, even within very broad limits. Indefinite expansion is not the answer, although answers—right or wrong—will be given to each of the questions in turn, whether consciously or by default.

It may be that we cannot influence our culture, and certainly the question of the economically optimum population would provide a stern test at any time. Nonetheless, the right size of population and the proper size and character of the labor force are fundamental to our prosperity. These are proper objectives of social policy, and the first step toward the formulation of such a policy is to define the problem.

Readings

This chapter has been an exercise in measurement and problem definition. The measurement was simple statistical reckoning, and the problem statement was painted in very broad strokes, without any attempt to examine policies or make recommendations. Population, even as a source of labor supply, is not the exclusive province of students of labor problems; it is also a question of ethical and political philosophy (the ends of man and his relation to the state), of military expediency, and of international migration. The student of labor problems, however, might well read further in the more strictly economic phases of the question. The best single book for this purpose is Warren S. Thompson's *Population Problems*,¹⁷ especially Chaps. VI and VII on the effects of the Industrial Revolution on populations, Chap. VIII on "The Composition of Population," Chaps. XVII and XVIII on the implications of a stationary or declining population for the future of the United States, and Chaps. XXI and XXII on questions of quality.

However, Thompson is a sociologist and an optimist. Economists may have tended to be overpessimistic, but the case is not closed and much of the evidence to date supports their side of the argument. The best brief statement from a reputable economic

¹⁷ New York: McGraw-Hill Book Company, Inc., 1942.

source is Harold Wright's *Population*,¹⁸ one of the Cambridge Economic Handbooks, under the general editorship of J. M. Keynes. Wright is a Malthusian. No student of labor problems should fail to get a clear understanding of what Malthusianism means in economic terms, and few books do the job as well as this one in so few pages.

A more recent book and an antidote to Malthus is Carr-Saunders's *World Population*,¹⁹ which is both a statistical study of great value and a statement of the author's theory. The latter is found in Chaps. VIII, IX, and XXII. A still more recent publication and in turn an antidote to Carr-Saunders is Fairfield Osborn's *Our Plundered Planet*.²⁰ A careful study of the population problem in the United States is found in *Forecasts of the Population of the U.S. 1945-1975*,²¹ done by P. K. Whelpton for the Bureau of the Census. See especially Chap. III, "Indicated Population Changes," and Chap. IV, "Implications of the Expected Trends in Population Growth and Composition."

For current reports on the labor force, there are the "monthly reports" of the Census Bureau and the monthly magazine, *The Labor Market*, published by the U.S. Employment Service. There are also occasional articles in the *Monthly Labor Review* and the economic journals on certain phases of the subject. Mostly, however, the latter consist of detailed examinations of limited topics such as unemployment, old age, family budgets, etc. Analytical studies of the labor force as a whole are few.

Exercises

This chapter should raise questions of method (definition, measurement) as well as of social policy. It is designed to show the close relationship between two kinds of broad social problems, population and labor, and to indicate how theory in one branch of study may become the basis of policy in another. It also begins the difficult and almost endless study of problem definition and measurement, with a simple statistical picture of the population of the United States and of the labor force. The following exercises will test the student's grasp of the ideas presented and direct him to the standard statistical sources as well as further reading in population problems.

1. Review briefly three or four more theories of population (Spencer, George, Marx, etc.) and compare the answers they give to such questions as: (1) maximum limits of population for a country of the world, and (2) the quality of the population.
2. From the *Statistical Abstract of the United States* or the last census reports, make up a table showing the changes every 10 years beginning with 1900 in one of the following ratios: employment versus unemployment, agricultural versus nonagricultural employment, private versus government employment.
3. Malthus is still the most influential theorist on population. Look up and outline briefly: (1) the *arguments* for and against his doctrines, and (2) the *evidence* for and against, as presented by both his critics and his supporters.

¹⁸ New York: Harcourt, Brace and Company, Inc., 1923.

¹⁹ New York: Oxford University Press, 1936.

²⁰ Boston: Little, Brown & Company, 1948.

²¹ Washington: U.S. Government Printing Office, 1947.

4. Draw up a table showing the ratio of arable land to population for the following countries: the United States, the U.S.S.R., Great Britain, China, and Brazil.
5. What new labor problems will be created and which existing problems will be aggravated if, by the year 2000: (1) 20 per cent of the population of the United States is 60 years old or older, (2) 50 per cent of the population lives in 20 large metropolitan centers, or (3) 50 per cent of the population is college graduates?
6. Compare the information on the labor force to be found in the *Monthly Labor Review*, prepared by the Bureau of Labor Statistics, with that contained in *The Labor Market*, published by the U.S. Employment Service, and that found in the *Monthly Reports on the Labor Force*, which is the work of the Census Bureau.

3. THE EMPLOYERS

The labor force in the United States consists of about 60 million people (something over 40 per cent of the total population), most of them between the ages of 14 and 70. It rises in the summer and falls in the winter, with an over-all range of 3 to 5 million. Seven out of every ten persons in the labor force are men. In general, they are city dwellers, well educated, and a large proportion—probably half—would be classified as skilled workers. Two out of every ten run their own businesses or farms, or work for themselves or for a member of their own family without pay. The other 80 per cent (47 to 50 million) are the employed labor force who work for wages or a salary paid by a private business, a nonprofit institution, or a governmental agency. This includes the members of the armed services.

Who are the employers?

How many of them are there? Are they big or little, public, private, or institutional? If private, what business are they in: farming, banking, retail trade, manufacturing, building construction? If public, what agencies are the big employers: Federal, state, local, government corporations? What kinds of employers are growing in importance and which declining? In what ways does employment differ in different industries; how does it differ today from what it was a generation ago or will be a generation from now? Are opportunities, conditions of work, pay, employment security, radically different in public, private, and institutional jobs? Complete, up-to-date information is not available to answer all these questions, but it is possible to draw the general outlines of the hiring side of the labor market and define the more important problems which are raised thereby.

At the beginning of the second half of the twentieth century, the United States is a high-speed, commercialized, urban, industrial economy. Just as the seeds of many contemporary labor problems were contained in the job shifts described in Chap. 2, so the appearance of many more current problems is to be explained by the rapid changes in *industry* which have occurred dur-

ing the last half century and which were given a powerful boost by the Second World War and the accelerated rate of social change since 1945. No understanding of modern labor problems is possible without some grasp of the industrial pattern of twentieth-century employment, as well as some of the basic social changes which have accompanied it and helped to bring it about.

The Labor Market in the United States

Considered as a group, American employers constitute the largest, the most varied, the most dynamic free labor market in the world. Neither the market itself nor the market environment is easy to understand. Geographically, it extends from Maine to California and from Florida to Seattle, with some overflow into foreign regions. It contains literally millions of employers, ranging from small shops and farms to giant corporations and from tiny municipalities or townships with one or two employes to the gigantic Federal government establishment with approximately 2 million people on its payroll, exclusive of soldiers and sailors. In between may be found every size and variety of employing organization, with both city and country locations, widely varying conditions of work, all possible degrees of understanding with organized labor, and a multitude of differing legal responsibilities which the employer must observe.

Types of Employment. There are two principal kinds of employers in the labor market in the United States, public and private. Public employers are governments, government agencies, and governmental subdivisions, Federal, state, and local. They employ policemen, firemen, highway construction crews, clerks for Federal offices, and many other workers, ranging from day laborers to highly paid professional people. Their principal output is services, and as most of these services are free to the recipients at the time, there is little problem of demand. Government agencies are permanent, nonprofit organizations, paid from public funds (ordinarily taxes), with budgets that are independent of their revenues. Hence, government employment is not dependent upon its income.

Private employers are mostly businessmen. They may be farmers, shopkeepers, bankers, manufacturers, or proprietors of hotels, restaurants, and barbershops. They may be organized as single proprietorships, as most farmers and small retail tradesmen are, or they may be in partnerships, as many professional firms of lawyers, engineers, or accountants are; or they may be corporations, as most manufacturers and public utilities and practically all very large firms are. Their distinguishing feature is that they are in business to make a profit. They risk their own capital or capital supplied by others and attempt to manage their enterprises, be they farms, railroads,

department stores, or filling stations, so as to cover all expenses and show a net return on the money invested. Private firms can fail; hence, employment in a private business is dependent upon income and may be greatly reduced or disappear altogether in bad times.

Public and private employment differ considerably, although there are branches of the public service which closely resemble private firms in their working conditions, and a large group of so-called "private" corporations is steadily acquiring more and more of the characteristics of government work. While the two are thus coming together at the middle, they may still be clearly distinguished at the extremes.

Government work is generally regarded as steady, secure, low-pay, short-hour, strictly classified, noncompetitive service. Private employment, on the other hand, is more often competitive, unclassified, highly paid, insecure, and irregular in its service demands. Entry into the government service is mainly through two doors: political "clearance" and civil service examinations. Private recruitment is much more various, including in its sources trade unions, public and private employment agencies, personal recommendations, advertising, school and college contacts, etc. The top pay levels in private employment far outstrip anything offered in public work, with salaries of \$100,000 a year and more not uncommon; whereas the ceiling for career men in the Federal service was still \$10,000 a year in 1948 and the President's salary was only \$75,000 per annum.¹ In the lower and intermediate grades, however, there is no great difference in the rates paid public and private employes, particularly if *annual* earnings are compared; government workers have more security, private employes greater opportunity. On the other side of the ledger, the competitive demands of private business result in irregular hours, great nervous tension, and insecurity. There is less rigid classification of jobs, organization is more fluid, and there is always the danger of failure, bankruptcy, and unemployment. In depression times, the unemployed come from private enterprise; few governments reduce their payrolls and the more important ones show an increase.

There is a third major class of employers which falls somewhere between the public and private classifications, but whose characteristics more nearly resemble the public agency. This is the nonprofit institution under private control. It is not separately classified at the present time for statistical purposes and so its importance in the labor market cannot be accurately measured, but it is a large and rapidly growing segment of the American labor market.

Nonprofit institutions are private corporations set up to render a public service. They include: private schools, hospitals, churches, charitable or-

¹ Increased to \$100,000, with a big hike in the untaxed expense account in 1949.

ganizations (Red Cross, Y.M.C.A., Community Chest, etc.), maternity homes, child placement bureaus, museums, etc. In methods of finance, budget practices, assumptions of permanence, and community prestige, they resemble governments. Working conditions and employment practices are also similar to those of public agencies. Institutional work is steady, secure, low-pay, short-hour, strictly classified, and noncompetitive. One distinguishing feature is a very high proportion of professional personnel: teachers, doctors, ministers, social-service workers, librarians, curators, etc. The other large group in institutional service is the custodial class: janitors, caretakers, groundspeople, and other service classifications. Seniority, protection of job rights, perquisites of rank, generous vacation and sick-leave allowances, and provision for retirement are typical of institutional employment.

While statistical information on this group of employers is inadequate and unreliable, it is clear that individually and in the aggregate they are a significant element in the market. Some of them are very large: *e.g.*, the Red Cross, with its international organization; the Chicago Y.M.C.A., which operates a number of large properties, including one 30-story hotel and a 15-story office building in the heart of the business district; universities like Harvard, Columbia, and Chicago, each of which counts its employes in the thousands; and organizations such as the Roman Catholic Church with its tremendous properties and tens of thousands of priests and staff members.

The Number of Employers. There are about 9 million actual or potential employers in the United States, of which more than half are farmers and less than 2 per cent are governments or government agencies. The remainder are private business firms, professional firms, and nonprofit institutions. Table 14 shows the actual or estimated number of employers in each major classification.

One fact which stands out clearly in Table 14 is the number and variety of employing units. They present an unparalleled assortment of career opportunities in practically every type of environment imaginable. Outside of the area of government, there is clearly no monopoly of either general function or region. In every major class of service, large numbers of firms compete for the consumer's dollar, and indirectly for their share of the labor force. Another item of interest is the high proportion of private enterprises. Although government is a considerably larger proportion of the labor market when measured by volume of employment than when measured by the number of employers (see Table 15), a country in which 98 per cent of a total of more than 9 million employers are private individuals is still far from socialism.

The Pattern of Industrial Employment. The largest number of employers, of course, does not necessarily mean the most employes. For ex-

Table 14. Employers in the United States, Classified by Major Group, 1942*
(Figures rounded)

Class of employer	Number of employers		Per cent
1. Farms (1940).....	5,303,000		58
2. Business firms.....	3,229,000		36
Contract construction.....	230,400		
Manufacturing.....	224,700		
Wholesale trade.....	137,400		
Retail trade.....	1,518,500		
Finance, insurance, real estate.....	278,500		
Service industries.....	612,100		
All other.....	227,300		
3. Professional firms.....	150,000		2
Physicians and surgeons.....	33,000†		
Lawyers.....	30,000†		
Dentists.....	25,000†		
Engineers.....	16,000†		
Architects.....	5,000†		
Veterinarians.....	5,000†		
Accountants.....	5,000†		
Miscellaneous.....	31,000†		
4. Private nonprofit institutions.....	212,300		2
Churches.....	200,000†		
Schools.....	3,000†		
Hospitals (1946).....	4,300		
Charitable.....	5,000†		
5. Governmental units.....	155,100		2
Federal.....	1		
State.....	48		
County.....	3,050		
Township and town.....	18,919		
Municipal: urban (over 2,500).....	3,332	16,200	
rural.....	12,888		
School district.....	108,579		
Special district.....	8,229		
Total employing units, all types.....	9,049,400		100

*SOURCES: *Statistical Abstract of the United States*, 1947, pp. 61, 84, 179, 353, 593, and 607; *World Almanac and Book of Facts*, 1948, p. 448; *Municipal Yearbook*, 1947, p. 16; *Survey of Current Business*, Vol. 28, No. 5, May, 1948, "Industrial Patterns of the Business Population."

†Estimated.

ample, take farm employment. Although the largest single group of employers, farmers probably accounted for fewer hired employees than any of the other major classifications except professional firms, and in 1940 agriculture used only 17 per cent of the labor force. By 1948, this percentage had dropped to 13. Table 15 shows the distribution of employed persons in the United States by industry, 3 years after the end of the Second World War.

The big three from the standpoint of employment are manufacturing, trade, and the service industries, particularly when government is included in the last named, as it is in some classifications. The preponderance of the "service" group of industries over the production-processing group, as shown below, with an employment of 33,063,000 compared to 26,836,000, is strictly a post-Second-World-War development, although a continuation

Table 15. Industrial Distribution of the Employed Labor Force
in the United States, May, 1948*

Labor force	Persons employed	Per cent
Total labor force.....	61,660,000	100
Less the unemployed.....	1,761,000	3
Employed labor force.....	59,899,000	97
Industry:		
Production-processing group.....	26,836,000	44
1. Agriculture.....	7,861,000	13
2. Mining.....	933,000	2
3. Manufacturing.....	15,993,000	26
4. Contract construction.....	2,049,000	3
"Service" group.....	33,063,000	53
5. Transportation and public utilities.....	4,041,000	7
6. Trade (retail and wholesale).....	10,706,000	17
7. Finance, insurance, and real estate.....	1,816,000	3
8. Service industries (including professional firms and nonprofit institutions).....	9,638,000	15
9. Government.....	6,862,000	11
Federal: civilian.....1,788,000		
armed services.....1,238,000.....	3,026,000	
State and local.....	3,836,000	

*Sources: Adapted from "Current Labor Statistics," *Monthly Labor Review*, Vol. 67 (July, 1948), pp. 72ff.

of a trend of at least half a century. This is the first time that the industries which provide "intangibles" have led the industrial group which deals in "things." Table 16 shows some of the employment changes which a half century of commercial and industrial growth have brought about.

Some Basic Changes in the Labor Market. Table 16 illustrates dramatically one of the basic changes in the labor market during the twentieth century: the shift from overalls to white collars. With the heaviest demand for agricultural products on record in 1948, and with the largest crops, we could not use more than one-sixth of the labor force to produce food, or more than one-fourth to supply the elemental necessities of food, clothing, shelter, and warmth. The explanation, of course, is mechanization and release

of surplus labor supply to other industries. In 1870, we used three-quarters of our work force to produce and handle things, and one-quarter for immaterial satisfactions: transportation, amusement, recreation, education, professional advice, government, etc.; by 1946, the proportion was half and half; today, it is 55 to 45 in favor of the services and the trend continues.

It is this shift—from manual labor to the “cleaner” jobs—which has opened the door to the career woman. With or without marriage and motherhood, she is a growing proportion of the female population, having risen in 70 years from 1 in 7 to 1 in 3, and if voluntary services equivalent to

Table 16. Distribution of the Employed Labor Force by Industry for Selected Years, 1900–1948*

Industry	Per cent of the employed labor force						Change, per cent
	1900	1910	1920	1930	1940	1948	1900–1948
Agriculture and mining	39	35	30	27	25	15	Down 62
Manufacturing	22	24	26	22	25	27	Up 23
Contract construction	6	6	4	6	4	3	Down 50
Total production and processing of goods	67	65	60	55	54	45	Down 33
Transportation and public utilities	6	7	9	8	6	7	Up 17
Trade and finance	12	12	14	17	17	21	Up 75
Service and government	15	16	17	20	23	27	Up 80
Total “service” industries	33	35	40	45	46	55	Up 40

*SOURCE: National Industrial Conference Board, *The Management Almanac* 1946, pp. 23–25; *Monthly Labor Review*, Vol. 67 (July, 1948), pp. 72ff.

career responsibilities are added, the total is more nearly 1 in 2. Career women compete actively today for high-priced clerical, technical, professional, and executive jobs, of which there are already not enough to go around.

The prospect of an excess supply of highly trained personnel is one of the facts of life to which adjustment must be made during the next generation. It comes about primarily because of our increased propensity to go to school. Fifty years ago, only 1 boy or girl in 10 went to high school; today it is 3 out of 4. In 1900, colleges enrolled 1 youth in 30; in 1930, 1 in 16; in 1940, 1 in 7; today, nearly 1 in 4; and it has been predicted that inside ten years it will be 1 in 3. As a result, we can use only a minor fraction of our college-trained people in the established professions. Probably not more than 125,000 out of the 600,000 young people now entering college each year, or the 750,000 or more in prospect, can have any anticipation of becoming doctors, lawyers, engineers, professors, etc. New professions are in the making, and semiprofessions using technical skills without high individual

responsibility are multiplying, but the great body of tomorrow's graduates is headed for the undifferentiated salaried ranks of industry, commerce, and government, or for home-making careers. Restrictions on admission to the professions are steadily being multiplied, as are restrictions upon entrance to the more lucrative trades and occupations by their guardian trade unions and civil service.

Another feature of the American economy in the last half of the twentieth century will be a work force of adults instead of young people. Between 1900 and 1947, the proportion of the labor force between 14 and 24 years of age fell from 31 per cent to 20 per cent. The factors bringing this about—child labor laws, more schooling, obstacles to part-time work and informal apprenticeships—are still operative and growing. Except where it is deliberately incorporated into an educational system, work experience has largely ceased to operate as an agency of education, and the prospect of work opportunities for teen-age youth, apart from work-study plans, is dwindling rapidly.

At the other end of the age scale, a similar change is taking place. There are signs that formal retirement from work will before long become almost as universal as the experience of starting to work, and the reports thus far indicate that it is about as significant a milestone in the lifetime experience of the individual. Our population is growing, but mainly at the top age levels. Mature adults are increasing about four times as fast as adolescents. In 1850, one-half of the population consisted of youth under 20, and only 1 person in 11 had passed the age of 50. A hundred years later, we have about 1 person in 3 under 20 and 1 in 4 over 50. A universal retirement age of 65 would soon give us a leisure class of 12 to 15 million adults.

But by far the most important outcome of the industrial shift described in Table 16 is the emphasis upon job security. The American economy has grown acutely sensitive to shock as it has become less rural, less agricultural, and less concerned with necessities, and has grown more urban and more dependent on intangibles and luxuries. To most of us, prosperity means a good job. As a result, we seek security in job monopolies and social insurance, where our fathers sought it in ownership of property. The makers of our Constitution were property-minded; legislators today are job and social-security-minded. When this nation was first established, three-quarters of its people gained their living by the use of their own tools and property; today, about 1 person in 6 does so. General unemployment is recognized as a social calamity and a primary responsibility of the government. More than a third of those who work for wages and salaries—between 16 and 17 million people—are solidly organized in trade unions, the civil service, and professional associations, a main function of which is to defend seniority rights in work opportunities.

The Actual Labor Market. By combining census reports of the occupational and industrial distribution of the labor force in 1940, it is now possible to get an approximate picture of the actual labor market in this country for that date. Table 17 shows the way people were scattered through the major job classifications in the principal industries.

Table 17. The Labor Market in the United States, 1940*
(In thousands)

Industry	Occupation							In- dustry totals
	Prof.	Props., mgrs., officials	Clerical and sales	Skilled	Semi- skilled	Un- skilled	Service	
1. Agriculture.....	5	5,303	10	21	19	3,783	None	9,141
2. Mining.....	22	32	30	130	856	33	5	1,108
3. Manufacturing.....	454	453	780	2,616	5,327	2,021	105	11,756
4. Building construction	43	126	30	2,134	97	1,141	5	3,576
5. Transportation and utilities.....	78	230	506	377	1,436	561	323	3,511
6. Trade.....	100	2,113	3,965	67	941	242	1,217	8,645
7. Finance, insurance, real estate.....	50	191	1,356	6	5	7	95	1,710
8. Service.....	1,243	769	697	583	772	302	4,228	8,594
9. Government.....	1,263	240	896	18	24	53	202	2,696
Occupation totals.....	3,258	9,457	8,270	5,952	9,477	8,143	6,180	50,737
Plus: Occupation not re- ported.....	....	....	....	....	....	....	....	1,283
Total experienced labor force, 1940.....	....	....	....	....	....	....	....	52,020

*Source: Derived from Tables 207 and 210, *Statistical Abstract, 1947*, pp. 179-193.

This table permits the career-minded student to analyze the job opportunities in the nine principal industrial groups. (A much more detailed breakdown, by both industry and occupation, will be found in the yearly *Statistical Abstract of the United States*, from which these figures were taken.) Professional people work mostly in the service industries (which include the firms offering professional services for a fee), government (with almost a million teachers), and manufacturing. The self-employed who own and run their own businesses are concentrated in agriculture, trade (retail stores and shops mostly), and such service industries as the professions, hotels, restaurants, laundries, cleaning and dyeing shops, garages, and a variety of specialized aids to business. Clerical workers and salespeople are found mostly in trade, finance, government, and manufacturing. The great majority of skilled workmen and supervisory personnel is found in manufacturing

and building construction. Manufacturing and transportation call for more than two-thirds of the semiskilled operatives, while the unskilled are restricted more and more to farms, factories, and assistance to skilled mechanics in construction work.

The service *occupations* (domestics, cooks, waitresses, guards, and watchmen, etc.) are of course to be found mainly in the service industries with a liberal number in retail and wholesale stores. The most balanced industries—that is, with personnel needs spread evenly through all the job categories—are manufacturing, transportation and the utilities, trade, and the service group. There seems little reason to doubt that the shift from the upper to the lower part of the table will continue. More and more graduates of schools and colleges in this country should prepare for work in government, the service trades, the financial and real-estate houses, and retail and wholesale distribution.

The Problem of Size

Labor problems are a function of size. When employers are small (in terms of number of workers employed), labor problems are few, simple, and quickly disposed of. As employing units grow in size, management must solve special problems of supervision, coordination, and discipline; employees are faced with restraints, arbitrary personnel policies, specialized tasks, and insecurity; and both struggle with the evils peculiar to an industrial community: dirt, congestion, strain, and squalor, among others.

Nobody knows where the breaking point comes which distinguishes a "small" employing unit from a medium-sized or large one, and probably it is different in one industry (or even one firm) from what it is in another. There are grounds for suspecting, however, that it often lies somewhere in the range of 200 to 500 employees, for this is the interval in which employer-employee relations ordinarily move from an informal, personal, face-to-face basis to a formalized hierarchy of supervision. Size alone is not a complete answer to labor difficulties, but dissension between management and employees inevitably accompanies the appearance of the large employer. Labor problems did not become chronic in this or any other country until the rise of the large corporation, the large joint stock company, the large government agency, and the large institution.

By the middle of the twentieth century "large" is an inadequate term. In a number of the most important industries, the dominant employing units of today are giants in size, with tens and hundreds of thousands of employees. They are faced by even larger trade unions, which blanket entire industries in sufficient strength to overpower the largest corporations. The only agency

capable of dealing with both the corporations and the unions is the Federal government, itself the largest single employer in the country.

The large employer is an outgrowth of commercial and industrial expansion, which has reached its highest point of development in the United States. The fundamental factors are the amazing technological advances in industrial processes, transportation, and communication of the last hundred years. The first made possible great increases in efficiency, especially when combined with specialization of tasks and division of labor. The second and third extended the area of coordination and control, so that larger and larger numbers of people could be directed toward a common end without confusion or loss of time. Since 1900, the growth in size of individual employers and the concentration of control among relatively few firms in large industries have provoked criticism, legislation, litigation, and governmental investigation in almost endless succession. An illustration of the extent to which commerce and industry dominate American life is found in Table 18, which classifies the 22 largest metropolitan districts in the United States according to the proportion of the resident labor force employed in manufacturing and trade.

Table 18 *underestimates* the industrial concentration of these districts in several ways. A complete tabulation would take account of mining, building construction, transportation, and other public utilities, all of which are primarily industrial activities. Also, industrial communities always contain a large number of subsidiary service industries which contribute to the central enterprises of trade and manufacturing. They include mechanical repair services such as welding, railway repair shops, garages for the servicing of heavy trucks and trailers, and many others. All of these should be added into the total. An extension of the table would also be instructive. Of the 38 districts ranging in size from 200,000 to 500,000 population, 13 were classified as manufacturing (Akron, Allentown-Bethlehem, Bridgeport, Canton, Dayton, Fall River-New Bedford, Lowell-Lawrence, New Haven, Rochester, Springfield, Mass., Trenton, Worcester, and Youngstown), 2 were industrial (Grand Rapids and Toledo), and 9 were diversified industrial (Albany-Schenectady, Birmingham, Columbus, Ohio, Indianapolis, Louisville, Nashville, Norfolk-Portsmouth, Richmond, and Syracuse). Commerce and industry are not a monopoly of the largest centers.

Employment Concentration by Industry. The extent to which whole industries are dominated by a few large firms has been so widely publicized that it is considered typical by many. However, it is well to keep in mind that this is true of some industries but not of others. In the highly important activities of agriculture, building construction, most of the service industries, and retail trade, the very large corporation (defined as having more

**Table 18. Economic Base of the 22 Metropolitan Districts over
500,000 Population, 1940***

No.	Class	Met. District	Per cent of labor force in		
			Mfg.	Trade	Both
4	Manufacturing	Detroit†.....	48	17	65
		Pittsburgh†.....	36	18	54
		Hartford.....	44	15	59
		Providence.....	47	17	64
5	Industrial	Chicago†.....	35	22	57
		Cleveland†.....	38	20	60
		Philadelphia†.....	37	20	57
		Buffalo.....	39	20	59
		Milwaukee.....	39	20	59
5	Diversified (industrial)	Baltimore†.....	32	19	51
		Boston†.....	28	22	50
		New York†.....	28	20	48
		St. Louis†.....	33	21	54
		Cincinnati.....	33	21	54
1	Mining	Scranton-Wilkes-Barre.....	17	18	35
5	Diversified (Trade)	Los Angeles†.....	20	24	44
		San Francisco†.....	21	23	44
		Houston.....	21	23	44
		Kansas City.....	23	26	49
		Minneapolis-St. Paul.....	22	26	48
1	Trade and Transportation	New Orleans.....	18	24	42
1	Governmental	Washington, D.C.....	7	16	23

*SOURCE: *Municipal Yearbook*, 1947, p. 26. The classifications were defined as follows:

Manufacturing: over 35% of the resident labor force in manufacturing, less than 20% in trade

Industrial: over 35% in manufacturing, 20% or more in trade

Diversified (industrial): manufacturing employment greater than trade, but less than 35% of total

Diversified (trade): trade employment greater than manufacturing, but latter not less than 19%

Mining: 14% or more in mining, less than 40% in manufacturing and trade

Transportation: 12% or more in transportation, communication, or other public utilities, less than 40% in manufacturing and trade

Governmental: 14% or more in government service, less than 40% in manufacturing and trade combined

†Over 1,000,000 population.

than 10,000 employes) is practically unknown and the large corporation (between 1,000 and 10,000 employes) is conspicuous by its scarcity. As the Twentieth Century Fund reported in 1937,²

Taking the broadest view, it can be truthfully said that 81 per cent of all American economic activity is carried on by the medium or small corporations, by firms which are not incorporated at all or by individuals. More than two-fifths of the entire business activity in the United States is not in corporate hands at all—much less in the grip of the giants. Of the total national income produced, the corporations with \$50-million-or-more assets produced only 18.4 per cent in 1933. From this point of view the large corporation sinks into relative insignificance.

However, from the point of view of employment and labor problems, this conclusion is unsatisfactory, too. First, the year 1933 was decidedly abnormal on the side of contraction. In the second place, corporations with less than \$50 million of assets may be quite large, both in output and employment, and very important in their industry. Third, certain other industries—chiefly manufacturing, mining, transportation, the public utilities, and government—are just as notable for the large size of their more important firms as those mentioned in the preceding paragraph are for smallness. Quoting the Twentieth Century Fund again,³

The biggest corporations in the public utility field are only 1.2 per cent of the total in number but they own 83.9 per cent of the industry's corporate wealth. In mining the giants are but two-tenths of one per cent in number but they represent 35.2 per cent of the assets; while in manufacturing the giants number one-tenth of one per cent but control 45.8 per cent of the wealth.

Agriculture, retail trade, and the service industries are the home of the small firm, the self-employed man, and unpaid family labor. This environment does not produce labor problems with anything like the fertility of the huge congregations of employes in manufacturing, utilities, mining, and government. (Building construction is a special case, with typically small and medium-sized contracting firms, but with a long tradition of labor organization among the skilled mechanics who are the principal employes.)

A more recent study than that quoted above shows the influence of the war years, which is always in the direction of greater size and concentration of economic power. For the general business community (other than agriculture), it was reported that the relative advantage of the larger firms increased in each successive year. "In 1939 firms with over 1,000 employees accounted for 30 percent of the total employment of all American trade and industry, and 36 percent of the total payroll. By 1943 these figures

² *Big Business: Its Growth and Its Place*, pp. 98–99 (New York: Twentieth Century Fund, Inc., 1937).

³ *Ibid.*, p. 100.

had risen to 44 and 53 percent, respectively."⁴ By 1944, in manufacturing alone, firms with 500 employes or more "represented only 2 percent of all manufacturing firms in the United States and yet they accounted for 62 percent of total employment."⁵ The effects of the war years on concentration of employment in manufacturing are shown in Table 19.

Table 19. Shift to Larger Manufacturing Firms during War Years,
September, 1939 to December, 1944*

Number of employes per firm	Number of firms	Per cent	Number of employes	Per cent	Percentage change
1939:					
0-499	201,500	98.9	5,569,100	51.7	
500-999	1,456	0.7	1,010,000	9.3	
1,000-9,999	918	0.4	2,801,000	25.9	
10,000 and over	49	0.02	1,419,900	13.0	
Total, 1939	204,323	100.00	10,800,000	100.0	
1944:					
0-499	213,600	97.8	6,363,300	38.2	Down 26
500-999	2,308	1.1	1,511,300	9.0	Unchanged
1,000-9,999	1,809	1.0	3,737,000	22.4	Down 13
10,000 and over	344	0.1	5,082,600	30.4	Up 132
Total, 1944	218,061	100.0	16,694,200	100.0	

*Source: Sen. Doc. 206, 79th Cong., 2d Sess., pp. 311-318.

There is little doubt that Table 19 describes an abnormal condition, since the figures for the second date, December, 1944, reflect the unusual effects of high-level production for war. There is equally little doubt, however, that the postwar situation will show a greater concentration of employes in large manufacturing plants than was the case in 1939. For one thing, most government war plants have been sold to the already large and established corporations, many of whom had had a phenomenal expansion between 1941 and 1945 in the process of handling government orders. In the second place, there was an unusually large number of mergers between 1940 and 1946. More than 1,800 formerly independent firms in the manufacturing and mining industries were absorbed during those years, according to a member of the Federal Trade Commission, who concluded: "On the basis of historical precedent, it may be assumed that under continued prosperity the merger movement will be further accelerated."⁶

⁴ *Economic Concentration and World War II*, Report of the Smaller War Plants Corporation, Sen. Doc. 206, 79th Cong., 2d Sess., 1946, p. 27.

⁵ *Ibid.*, p. 25.

⁶ Harrison F. Houghton, "The Progress of Concentration in Industry," *American Economic Review*, Vol. XXXVIII (May, 1948), pp. 73-93.

Manufacturing, of course, is a very large industrial group and contains scores of subindustries classified by product. A more detailed analysis of manufacturing employment by subindustry was made by the Twentieth Century Fund for the year 1933. This study showed 2 industries in which

Table 20. Concentration of Wage Earners in Selected Manufacturing Industries, 1933*

Industry, classified by product	No. of firms	Per cent of wage earners employed
Typewriters	4	95
Cigarettes (99 per cent in 8 firms)	4	92
Asphalted, felt-base floor covering	6	93
Copper smelting and refining	6	91
Corn syrup	7	91
Sewing machines	6	91
Photographic apparatus	6	88
Explosives (78 per cent in 3 firms)	6	87
Matches	6	86
Firearms	6	85
Watchcases	6	84
Cash registers, etc.	6	83
Rayon, etc.	6	83
Motorcycles, etc.	7	81
Beet sugar	6	81
Motion pictures	6	79
Aircraft	6	79
Motor vehicles (autos, trucks, etc.)	6	78
Rubber tires and inner tubes	6	77
Cane sugar refining	6	76
Aluminum products (68 per cent in 3 firms)	6	75
Lead pencils	6	72
Tin cans	6	72
Wrought pipe	6	72
Agricultural implements (64 per cent in 4 firms)	8	71

*SOURCE: *Big Business: Its Growth and Its Place*, Chart 3, pp. 41-42 (New York: The Twentieth Century Fund, Inc., 1937).

over 90 per cent of all wage earners were employed by 4 firms, 3 more in which over 90 per cent were concentrated in 6 concerns, 9 in which 80 per cent or more were in the 6 largest companies, 13 in which over 70 per cent were in the 6 top firms, and 9 more in which over 60 per cent of the employes worked for the 6 biggest firms. Some of these industries, *e.g.*, cigarettes and motor vehicles, are very large.

The Big Employers. The size of some individual firms is astounding. Table 21 shows the employed personnel of 10 large corporations in the fields

**Table 21. Comparison of Public and Private Organizations by Numbers of
Employees, 1944-1948***
(Figures rounded)

	Date of information	Employees
Private corporations:		
1. American Telephone and Telegraph Co.	Apr. 1, 1948	683,800
2. General Motors Corporation.	1st quarter, 1948	389,000
3. United States Steel Corporation.	1st quarter, 1948	288,900
4. General Electric Company.	Dec. 31, 1947	197,300
5. Pennsylvania Railroad.	Mar. 15, 1948	140,100
6. Ford Motor Company.	May 5, 1948	132,000
7. New York Central Railroad.	4th quarter, 1947	120,000
8. Sears, Roebuck and Company.	May 6, 1948	115,000
9. International Harvester Company.	Mar. 1, 1948	95,600 (U.S. only)
10. Great Atlantic and Pacific Tea Company.	May 17, 1948	75,300
Total employees.		2,236,700
Federal government:		
1. Executive branch, U.S. (civilian).	March, 1948	1,964,400
Municipal corporations:		
1. New York.	October, 1946	140,400
2. Detroit.	" "	29,300
3. Chicago.	" "	27,200
4. Los Angeles.	" "	22,300
5. Philadelphia.	" "	21,900
6. Cleveland.	" "	16,600
7. San Francisco.	" "	14,900
8. Boston.	" "	13,500
9. St. Louis.	" "	12,500
10. Washington.	" "	12,100
Total employees.		310,700
State governments:		
1. New York.	April, 1947	68,000
2. Pennsylvania.	" "	65,000
3. North Carolina.	" "	56,000
4. California.	" "	51,000
5. Illinois.	" "	36,000
6. Texas.	" "	35,000
7. Ohio.	" "	34,000
8. Michigan.	" "	32,000
9. Virginia.	" "	24,000
10. Massachusetts.	" "	22,000
Total employees.		423,000
Grand total of employees.		4,934,800

*SOURCES: Figures for corporations furnished direct to the author; for Federal government, *Monthly Labor Review*, July, 1948, p. 85; municipal figures taken from *Municipal Yearbook, 1947*, pp. 135-139; statistics of state employment from "State Employment in 1947," *Government Employment*, U.S. Department of Commerce, Bureau of the Census (November, 1947).

of manufacturing, railroads, communications, chain stores, and mail-order houses. They are compared with the civilian employment of the executive branch of the Federal government, the 10 largest municipal corporations, and the 10 largest state government organizations. The private corporations which are listed are by no means all the firms of 75,000 employees or more in the country. They are not even the 10 largest (as contrasted with the state and local government figures), although the first 3 are probably tops in size. The 10 firms were simply chosen as typical of the huge employing units which have become commonplace during the second quarter of the century. Their selection also permits a historical comparison which appears in Table 22.

The largest private employer in the United States, the American Telephone and Telegraph Company, employed almost as many people as the 20 largest state governments and municipal corporations combined. There were more employees on the payroll of AT&T than there were people living in either Arizona, Utah, New Mexico, North Dakota, South Dakota, Vermont, or New Hampshire, or in Wyoming and Delaware combined. General Motors had more employees than Delaware had resident citizens. The United States Steel Corporation employed twice as many people as there were in the total population of Nevada, counting men, women, and children. The American Telephone and Telegraph Company had on its staff slightly more than one-third as many people as there were in the entire civilian force of the executive branch of the government of the United States. From the standpoint of employed civilian personnel, 8 private business firms counterbalanced the Federal government. Only one other public employer, New York City, was large enough to stand comparison with the private firms, and it was well down on the list, about the same size as the Pennsylvania Railroad.

According to the definitions used here, all of the organizations listed in Table 21 are very large (10,000 or over), and a special category should probably be adopted for the truly enormous aggregations of 100,000 or more. The 31 employers, public and private, had a total personnel of 4,934,800, or slightly less than 10 per cent of the nonagricultural labor force. (If the top 30 in private enterprise were added to those in the Federal government, the proportion would be considerably higher.) In December, 1944, there were more than 340 manufacturing firms alone with more than 10,000 employees, and more than 1,800 in the range 1,000 to 10,000. Together they accounted for more than half of all employment in manufacturing. There were also 64 cities in the 1,000 to 10,000 class, and the remaining 38 state governments had an individual personnel range from 818 (Nevada, the smallest) to 12,022 (New Jersey). Large employers are becoming an increasingly significant feature of the American economic landscape in three

ways. There are more of them; they employ a growing proportion of the labor force; and individually they are growing in size.

A general idea of the rate at which the big employing units are expanding may be gained by comparing some of the figures in Table 21 with em-

Table 22. Expansion of Large Employing Units, 1930 to 1946-1948*
(Figures rounded)

Employer	Employees, 1930	Employees, 1948	Change, per cent
Federal government:			
Federal government, civilian personnel, executive branch.....	544,000	1,964,400	Up 260
Private business, 1948:			
American Telephone and Telegraph.....	324,300	683,800	Up 110
United States Steel.....	211,100	288,900	Up 37
General Motors Corporation.....	172,900	389,000	Up 125
Pennsylvania Railroad.....	166,600	140,100	Down 16
General Electric.....	78,400	197,300	Up 150
Great Atlantic and Pacific Tea Co.....	40,000	75,300	Up 88
Municipal governments, 1946:			
New York City.....	86,500	140,400	Up 62
Chicago.....	42,000	27,200	Down 36 (??)
Philadelphia.....	22,000	21,900	No change
Boston.....	20,600	13,500	Down 34 (??)
Detroit.....	19,400	29,300	Up 51
Los Angeles.....	17,000	22,300	Up 31
State governments, 1947:			
New York.....	28,800	68,000	Up 136
California.....	17,500	51,000	Up 192
Illinois.....	13,100	36,000	Up 175
Ohio.....	6,400	34,000	Up 431 (??)
North Carolina.....	6,500	56,000	Up 761 (??)
Total.....	1,817,100	4,238,400	Up 133

*SOURCES: Figures for 1930 from *Recent Social Trends in the United States*, p. 1,512 (New York: McGraw-Hill Book Company, Inc., 1933); figures for 1946-1948 from Table 21 above.

ploye totals taken 18 years earlier. The comparisons are very rough, particularly in the state and city government groups, and some (like Chicago and North Carolina) are obviously thrown out of line by the inclusion or exclusion of special groups of employees (such as schoolteachers) in one of the totals. However, the over-all impression given in Table 22 is probably not in error. Expansion has been the rule, although differing in degree, and the growth of some already large units has been startling.

Conclusion

The problem of size cannot be cured, it can only be adjusted to. The economies of large-scale operation become more powerful with every advance in the speed of transportation, every increase in the speed and accuracy of communication. The record of history may not be complete, but it is clear and definite for the 75 years that size has been considered a problem in this country. Neither antitrust laws, anti-chain-store legislation, the strictures of economists, nor Congressional investigations have seriously interfered with the growth of big business through merger and acquisition. The expansion of governmental units has proceeded at an equal pace. Barring a cataclysm of such terrific impact as to change the social and economic pattern of the western civilized world, it appears likely that the average size of employing units will continue to rise, at least in the foreseeable future. What then, are the special labor problems which are identified with big employers?

Problems of the Large Employer. The manager of a large enterprise must not only understand the functions of the organization and pursue policies which will result in their successful discharge, he must also solve a complex of difficulties which arise solely because the organization is a large one. These revolve around the planning, coordination, supervision, and controls necessary to enable a large number of people to work together toward a common end. Thus a manufacturer of automobiles must not only know his product and how to produce and sell it; he must also know how to hire people in large numbers, select supervisors, delegate authority, plan production quotas and schedules, work out task and method requirements, time all branches of work—fabrication, transport, assembly, sales, and delivery—so that they combine in the proper quantities at the proper time, work out wage and salary scales, discipline for failure, and see that merit is rewarded. It is no small assignment. Many a small proprietor has found himself overwhelmed by the multitude of entirely novel responsibilities which showed up as his firm expanded beyond the point where he could deal face-to-face with all his men and keep all details of the business in his own hands.

The first notable attack upon the problems of large-scale administration was the *scientific management* movement led by Frederick W. Taylor. It flourished almost as a cult for about twenty years between 1890 and 1910, and the principles which Taylor formulated became basic rules for the operation of large industrial concerns. There were four of them:⁷

1. Management develops a science for each element of a man's work, which replaces the old rule-of-thumb method.

⁷ Frederick W. Taylor, "Principles of Scientific Management," pp. 36-37, in *Scientific Management* (New York: Harper & Brothers, 1947).

2. Management scientifically selects and then trains, teaches, and develops the workman, whereas in the past he chose his own work and trained himself as best he could.

3. Management heartily cooperates with the men so as to ensure all of the work being done in accordance with the principles of the science which has been developed.

4. There is an almost equal division of the work and the responsibility between the management and the workmen. The management take over all work for which they are better fitted than the workmen, while in the past almost all of the work and the greater part of the responsibility were thrown upon the men.

The most important of the four precepts were the first and the last, known respectively as the "task system" (precept 1), and the separation of planning and performance (precept 4). However, Taylor gave equal weight in his doctrine to precepts 2 and 3, which were focused directly upon the problems of personnel. When opposition to scientific management from trade-union and other sources became strong just prior to the First World War, these principles reappeared in the form of "personnel management." In a very real sense, Taylor and his associates were the fathers of modern personnel administration.

Personnel administration, the second phase of management's drive to solve the problem of large-scale employe relations is still with us and going strong. In less than 40 years it has become a recognized staff function of management, a field of specialization in college and university work, and a career opportunity in the public service. In its most advanced form it provides for (1) selection, by means of tests and interviews, (2) induction, (3) training, (4) job analysis, (5) wage and salary administration, (6) transfer, promotion, demotion, and layoff, by either seniority or merit rating or some combination of the two, and (7) discipline. It involves extensive record keeping and often includes a number of subsidiary functions such as research, counseling, grievance procedure, and a variety of employe services: house organs, credit unions, recreation, etc. Personnel administration is a major field of study in its own right, usually following in sequence a groundwork introduction to labor problems or industrial relations. In the history of industrial management, the heyday of personnel administration was the 1920's, following the First World War. Although still an indispensable function of management, it has been overshadowed and forced into a position of secondary importance by the growth of trade unionism since 1933 and managerial concentration upon the new technique of "industrial relations."

Industrial relations is the term usually applied to union-management association. It is currently the most important phase of management's re-

lations with employes, and the established position of trade unionism, legally and socially, implies that its influence will grow rather than decline. Industrial relations is a totally different animal from personnel administration or scientific management. In dealing with organized labor, management is *bargaining* with its equal in power, strategy, and purpose. Personnel administration is a system of direction, industrial relations a plan of offensive and defensive strategy. The legal rules for the conduct of operations are in many cases recent and complicated. They tend to encroach upon matters that management has long considered its sole prerogatives. The penalties for failure are heavy: strikes, picketing, boycotts, lawsuits, and perhaps investigation and prosecution by government agency.

At the close of the Second World War (1945), less than a third of the nonagricultural labor force (about a quarter of the total labor force) were members of trade unions, but this membership was concentrated in some of the most important industries of the country: manufacturing, transportation, utilities, building construction, etc. Employment contracts in those industries tended to set the pattern for many unorganized trades elsewhere. The simple weight of economic necessity forced management to give top priority to problems of industrial relations.

Problems of the Industrial Employee. Does large-scale employment have any special effects upon the work force, not found in more moderate-sized shops? The answer is an unqualified "Yes." In status and compensation, the industrial worker is less well off than his boss. There are compensations for the difficulties faced by the large employer. To offset the strain and bother of his added responsibilities, he may contemplate his increased authority, power, security, and prestige. They rise at least in proportion to the growth of his organization. The rank-and-file employe of the large unit, however, can find no such compensations. Every increase in size of the establishment as a whole means a decrease in his relative power and influence. The requirements of industrial discipline reduce his initiative, specialization of tasks limits his perspective, and the inexplicable, anonymous, mass work assignments (transfer, layoff, rehiring, etc.) create a nagging insecurity which has become the incubus of modern employment.

There is one important qualification to the preceding remarks. For the ambitious and competitive employe, the large organization offers more in the way of opportunity. The stakes are higher, the prizes bigger, and there are more of them. As was pointed out previously, the salaries, perquisites and prestige of the executive and supervisory personnel of large organizations are uniformly above those of lesser establishments. What is not so commonly recognized, however, is that the ratio of supervisory and staff personnel to rank and file rises with every increment of expansion. This is a mathematical certainty (as illustrated in Fig. 1). The larger the

enterprise, the more levels there will be in the supervisory hierarchy and the more special staff functionaries (auditors, inspectors, personnel technicians, etc.) will be needed to coordinate, supervise, and control the working force. Career opportunities abound in the large organization, where not obstructed by nepotism, outside hiring, or contraction due to depression or industrial decline.

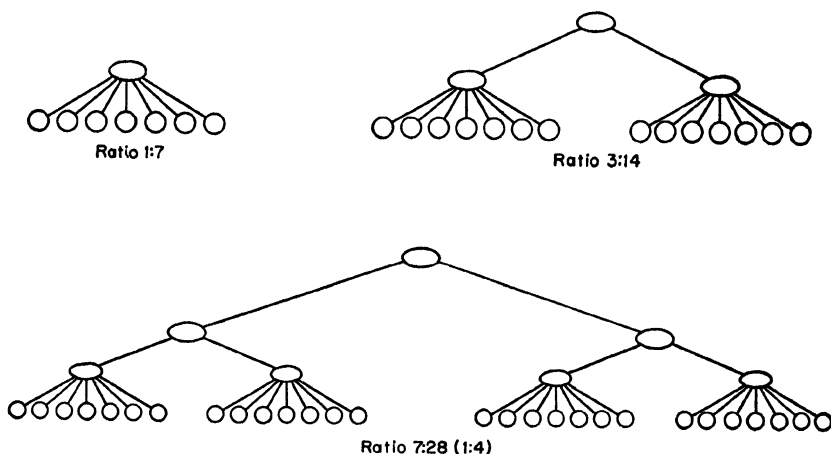


FIG. 1. Ratio of supervisory personnel to rank and file.

This exception having been noted, it remains true that a very large number of working people have almost no prospects of promotion into supervisory or staff positions and must therefore face the prospect of permanent mass employment in a clerical, skilled, semiskilled, or unskilled capacity. In 1940, the professional, semiprofessional, proprietorial, managerial, and official personnel in the experienced labor force was 24 per cent of the total (see Table 12, Chap. 2). If there were equal opportunity of access to these positions, it would mean that one out of every four in the labor force could look forward to supervision or staff work sometime during his career. However, there is not equal access to such jobs.

A very large number of the upper-level jobs are proprietorships, controlled by owner-managers, access to which is by inheritance or purchase. Many of the remainder, especially the professional and semiprofessional, are open only to candidates with special training which means several years of college or long apprenticeships or both. Only a small proportion of the population can afford such expensive preparation, and most of these are sons or daughters of those already in positions of responsibility and trust. There is a strong dynastic cast to the officer personnel of the armed services (and to appointments to West Point and Annapolis), the political hierarchy,

academic appointments, and the medical and legal professions. It is less distinct but still noticeable among the executive groups of large corporations. These occupations are invaded regularly by offspring of the clerical and manual working groups, but the latter get nothing like their proportionate share of the best jobs, whether because of lack of ability or lack of opportunity is not definitely known. The growth of an industrial proletariat in the United States has been pointed out by many observers, some of whom credit it with being a major influence toward trade unionism. Whatever its effects, there is no doubt of its existence.

Membership in the industrial proletariat means looking forward to a lifetime of work as a statistical unit in a large plant. To straw boss, foreman, superintendent, and payroll office, the employe is a badge number in a given classification with certain recorded skills, experience, ratings, merits, and demerits. All work is done at the direction of others, usually the lowest level foremen or supervisors. Disciplinary requirements are the next thing to outright regimentation. They may include several forms of mass identification: badges, passes, time cards, and special gates of entry and exit; restriction to certain geographical plant areas; strict hours for reporting, attention to the timing of shifts and operations, limited relief for personal needs; arbitrary call-outs, work assignments, and layoffs. For many, it means years put in on simple, repetitious tasks which can be learned in two or three weeks' time, with the principal variations in the day's routine being lunch periods, shutdowns, or changes in the speed of conveyor machinery.

The standard of living of the wage earner is determined by his wage, and for millions of families, the wage received just about covers basic living requirements. An *individual* member of the industrial proletariat has precisely nothing to say about his job classification or his pay. The company decides both and assigns him a rate. Increases and decreases in the rate, changes from piecework to time payment and back again, sick-leave and vacation allowances, shift differentials, bonus plans, and suggestion awards are announced by the company. There is no inquiry concerning worker preferences, no discussion, no conferences, no negotiation. Promotion, demotion, dockage for carelessness or spoilage, disciplinary action, and discharge are strictly unilateral processes initiated by the company without employe recourse. In the unorganized plant, complaints rarely go beyond the foreman. If workers don't like it, they can quit.

Above all, membership in the industrial proletariat means insecurity and fear of unemployment. An accident or illness may cost a man his job in addition to the expenses of treatment. Workmen's compensation rarely comes to half the regular pay, and unemployment insurance will not cover food and rent. Layoff due to shutdown from lack of business is unpredictable,

both as to occurrence and length, but it is the normal lot of industrial employes. It may last a week or it may last six months. The company does not know or will not say. A man around 40 or 45 years of age laid off in a dull year may not be put back on at the same company or in the industry or in any similar industry. He may be overage, industrially. When he finds another job, if he does, it is likely to be at a different kind of work of lower grade and for less pay.

What should such a man, who has a family to support, do? He can pitch in and try to go up in the company, but he knows and others like him know that few of them can make the grade, perhaps not more than one in ten. The rest must stay on the time clock. He can rely for help in time of difficulty on relatives and friends, except that most of them are in the same boat and have little surplus to spare. He cannot put his children to work until after they are 14 or 16 years of age, because it is against the law, and he prefers not to then as he thinks that education is valuable. Government charity will probably keep away starvation, but getting on the list is slow, embarrassing, and a last resort. A minimum pension is due from social security at age 65, which is a long way off. He does not own his own tools; the only property he has of any value is his job. The only organizations he knows of that regard jobs as property rights are trade unions. The union idea of collective security seems to him to make sense; it goes directly to the heart of the matter, jobs and wages. Most of his friends, coworkers, and relatives are members. He joins. It is a thoroughly rational and understandable decision.

The Responsibility of Employers, Employes, and the Public. Is the large employer responsible for the existence of an industrial proletariat? Or are both of them products of a technological age whose forces are too impersonal to be assigned to any group or class? If industrial workers cannot answer for their own security, someone else will have to, since the industrial machine cannot run without them and they must either be kept at work or in reserve. Is it the employer's responsibility? As a matter of record, it may be stated categorically that large employers as a class have refused to take responsibility for the major forms of insecurity with which their employes have been faced: accident, illness, irregular hours, depression layoff, etc. The important steps which have been taken to combat these risks were almost without exception public measures originating in legislative bodies and forced upon employers in the interest of the general welfare.

It may be that the problem of insecurity in an industrial age is too big a risk for the individual employer. Many think so. However, the large employer himself, who refuses to underwrite the basic needs of his employes, often just as consistently opposes public moves toward the same end.

The policies of the National Association of Manufacturers during the past quarter century are a good example: undeviating opposition to organized labor, social security, minimum-wage and maximum hours laws, public housing, etc.

The wage question is in a similarly confused state. By and large, American employers, particularly the big ones, are high-wage operators. However, management's view has always been the shortest of short-run outlooks. Management thinks in terms of payment for service received, the employee in terms of income to cover expenses. Expenses continue with a regularity which is disturbing, but the irregularity of working hours in manufacturing, mining, building construction, and transportation is notorious in normal times and appalling during bad. The drive for the guaranteed annual wage, following the end of the Second World War, would be humorous if it were not so serious to many workers. In some industries, a guaranteed *weekly* or *daily* wage would be a marked improvement over present practice.

Even a high wage and steady hours of work are no secure foundation unless the job is also secure. Just as the tariff is a local issue, so to employees the right to a job is a personal problem. Management has traditionally opposed seniority as an inefficient method of settling questions of job rights or the order of layoff and rehiring. To employees, seniority and security are practically synonymous.

Then what is the answer? Trade unions are ready and eager to accept responsibility for the security of their members. They offer to go to bat for higher wages, more regular hours, job control through seniority, and a variety of other benefits all calculated to add to the stability of the employee's position. It is now established practice for large employers to negotiate such matters (including pensions and health and welfare funds) with the representatives of their organized employees, but the relationship could hardly be described as one of universal cooperation. Would a solid coverage of industry by organized labor settle the question of employee security? Trade unionists say "yes," management says "no," and many serious students of the question are frankly undecided.

Labor problems revolve around the major issues of wages and income, insecurity, and trade unionism. They are primarily the concern of the industrial employee and become most acute in the large enterprise. They are therefore inevitably, to some degree, the responsibility of the large employer. How much of the responsibility is the employer's, how much the employee's, how much belongs to the trade union, and how much should be assumed by the public are major questions of domestic policy. There are few clear yes-and-no answers anywhere along the line, but the problems can be clarified and the issues defined so as to eliminate some of the guesswork. That will be the purpose of the rest of this book.

Readings

Not much has been written about the labor market, in the United States, or anywhere else. The original book in this country, *The Labor Market* by Don D. Lescohier,⁸ is still well worth reading, as are other publications by the same author. A number of Sir William Beveridge's studies of unemployment⁹ contain brilliant analyses of the labor market in Great Britain. For current information, the official source is the monthly publication of the U.S. Employment Service, *The Labor Market*.¹⁰ The Employment Service classifies labor markets by region, by industry, and by occupation, and each issue of the magazine contains reports on conditions in specific markets as well as a summary of national conditions, regional trends, current statistics, and now and then market analyses of specific occupations.

In contrast to the labor market, a library could be filled with books on the problem of size in industry. There is a complete literature on the many phases of the "trust problem," "monopoly," and "concentration of economic power." The standard source material in recent years has been the hearings, reports, and studies published by the Temporary National Economic Committee in the late 1930's, and the reports of the LaFollette Civil Liberties Committee. However, these are long, detailed, and often hard to find. A good short statement (102 pages) of conditions up to the middle of the 1930's is The Twentieth Century Fund's *Big Business: Its Growth and Place*.¹¹ A study with more recent data in it is *Economic Concentration and World War II*, Report of the Smaller War Plants Corporation, printed as Sen. Doc. 206, 79th Cong., 2d Sess.¹² For briefer sources see Chap. 5 of M. J. Bowman and G. L. Bach, *Economic Analysis and Public Policy*,¹³ or H. F. Houghton, "*The Growth of Big Business*."¹⁴ Almost every standard economics text has a chapter on the subject.

Exercises

This chapter is a further illustration of problems of definition and measurement, focused primarily on the demand side of the labor market rather than the supply side, although it is not possible to separate the two completely, in discussion any more than in operation. The labor market is the labor market because it is the place where people are employed and without either the employees or the employers there would be no market. It is the interaction of employers and employees—hiring, firing, going to work, quitting, laying off, bidding, offering, accepting, refusing, bargaining, negotiating, striking, locking out, dealing, and refusing to deal, which makes a market. Yet the labor market is like no other kind of market in the free-enterprise system, and simple

⁸ New York: The Macmillan Company, 1919.

⁹ *Unemployment: A Problem of Industry* (1909); *Unemployment* (New York: Longmans, Green & Co., Inc., 1930), and *Full Employment in a Free Society* (New York: W. W. Norton & Company, 1945).

¹⁰ Washington: U.S. Government Printing Office.

¹¹ New York: The Twentieth Century Fund, Inc., 1937.

¹² Washington: U.S. Government Printing Office, 1946.

¹³ New York: Prentice-Hall, Inc., 1946.

¹⁴ *American Economic Review*, Vol. XXXVIII (May, 1948), p. 72.

explanations of its operation, without proper allowance for special characteristics, may be very inaccurate. The following exercises will test the reader's general understanding of the demand side of the employment pattern.

1. Describe your own employment preference as between public, private, and institutional work and explain why you think you would like it better than the other two.
2. One of the peculiar features of the labor market is the fact that the thing to be sold (services) must be delivered in person by the owner who must remain at the point of delivery throughout the life of the agreement. What personal, social, legal, or ethical problems can you see arising out of this situation?
3. Why do the salaries of public employes tend to fall below those of people doing similar work in private industry, especially in the upper brackets?
4. Select one type of nonprofit private institution (*e.g.*, churches, schools, or charitable organizations) and make a survey of the number of people who earn their living working for this kind of employer in a given area. If possible, get information about the kind of jobs they have, salaries, hours of work, apprenticeship and training required for the best jobs, etc.
5. For 50 years, farm employment has fallen steadily and government employment has risen, both absolutely and proportionately. Why?
6. Compare the advantages of the large and small organization (company, governmental unit, or institution) from the standpoint of employment and careers.
7. Give a detailed explanation of why technological developments encourage industrial expansion, including the growth of larger and larger individual business firms. Is it necessary for governments to expand too, at all levels—federal, state, and local? Why or why not?

PART TWO. Wages

THE PROBLEM OF COSTS
VERSUS INCOME

4. THE PROBLEM OF WAGES

Wage Differentials

What is a man-hour of labor worth?

It is worth more in one kind of business than in another. In March, 1948, the average straight-time hourly pay in four industries was:¹

Manufacturing	\$1.29
Soft-coal mining	1.84
Retail trade	1.05
Building construction	1.79

It is worth more in one year than another. The average pay in the four industries above jumped a bit between 1939 and 1948.

Industry	1939, yearly average	1948, March	Change, per cent
Manufacturing	\$0.63	\$1.29	Up 105
Soft-coal mining	0.89	1.84	Up 107
Retail trade	0.54	1.05	Up 94
Building construction	0.93	1.79	Up 92

It is also worth more in one place than in another. In September, 1947, for instance, the average hourly pay of class B stenographers in plants manufacturing women's shoes ranged as follows:

Los Angeles, Calif.	\$1.01
Boston, Mass.	0.84
Southeastern New Hampshire	0.79
Haverhill, Mass.	0.76
Lynn, Mass.	0.72
Worcester, Mass.	0.67

¹ These and the following figures are taken from the *Monthly Labor Review*, July, 1948

And everybody knows that it is worth more in one job than in another. In Los Angeles, in September, 1947, the pay spread on different kinds of work in women's shoe manufacturing was as follows:

<i>Men:</i>	
Bed machine operators	\$2.11
Machine cutters, vamp and whole sole	1.87
Maintenance mechanics	1.62
Machine edge trimmers	1.54
Cement sole attachers	1.32
<i>Women:</i>	
Fancy stitchers	1.68
Vampers	1.66
Treers	1.04
Stenographers, class B	1.01
Clerk-typists	0.92

If management, professional employes, and unskilled custodial help had been included, the spread would have been much greater.

What causes these differences? Why should a stenographer get more in Los Angeles than one does in Boston and the one in Boston more than one in Worcester? Why should a coal miner get paid more than a salesclerk? Why should pay rates practically double between 1939 and 1948, with some rising more than others? What sets the wage of a bed machine operator at \$2.11 an hour and that of a typewriter operator at 92 cents an hour? These are just a few details picked at random from the crazy-quilt wage pattern that blankets the country from one end to the other. They illustrate the problem of *wage differentials*, one of the most important individual economic problems in the modern world. For wage differentials set the level of individual pay and earnings.

The term "wage differentials" means simply relative differences in rates of pay. As indicated above, there are job differentials, regional differentials, industry differentials, and so on. The problem of differentials is one of the two big issues which are tied up with the pay check. The other is the general level of wages, or the standard of living. It will come later.

There are no quick answers to the questions raised by wage and salary differentials, but generations of employers, employes, labor leaders, and economists have argued them. Employers and employes are interested in specific wage rates, the ones that apply to their plants and their jobs; they give only incidental attention to the general pay level. Union officials are interested in both. They must negotiate actual contracts which set specific rates, but their jurisdictions are often broader than the single employer and may cover an entire industry or a number of them. Hence, they cannot afford

to ignore what is happening elsewhere. Students of labor problems are still less concerned with specific rates, except as they outline job and skill differentials, regional trends, comparative increases and decreases in different industries, and the theories which are put forth to explain or justify them.

What Are We Talking About? Some Definitions. One reason why there appear to be so many differences in rates is that the figures being compared often do not refer to the same thing. The word "wages" is rather inclusive and frequently has different meanings for different people. It may or may not include *salaries*, which in ordinary talk means pay by the week or month or some longer period, while *wages* refers to pay by the day, hour, or piece. Wages, in turn, may be either *time rates* or *piece rates*. The former means that an employee's pay is measured by the number of hours he puts in; the latter, by the number of pieces produced. Either time or piece rates may be divided into the *basic rate*, which is the "standard" or "normal" amount paid for an hour worked or piece produced, and an *overtime rate* or *bonus rate*, which is the higher price paid for extra hours or pieces produced beyond a certain quota. The figures quoted previously in this chapter, however, are still different, being the *average straight-time hourly rate*, which is a statistician's figure, but not a rate paid by an employer or received by an employee, except as a coincidence. It means merely the total number of hours worked divided into the total pay check, so that any changes in rate for overtime or otherwise will affect the average.

Of course it is clear that *earnings* are a different thing from wage rates, whether basic, average, or otherwise. Earnings are the total wage receipts of the employee for a given period and will reflect changes in rates, deductions, additions, bonuses, etc. They may include such extras as *shift differentials*, which are extra rates added to basic pay for working night shifts, especially the "graveyard," from midnight to eight in the morning. Then earnings may be more or less than *income*, which includes money from all sources during a given period: from investments, profit or loss on business activity, rents, royalties, etc. Finally, money wages are a different thing from *real wages*, just as money income or earnings are different from *real income* and *real earnings*.

Real wages are money wages measured in terms of purchasing power. They are what money wages will buy. If prices drop and wages stay up, then real wages will rise. If, on the other hand, both prices and wages rise, but prices rise more rapidly, as happened in 1946, real wages fall. Real wages are figured by dividing money wages by an index of the cost of living, such as that released each month by the U.S. Bureau of Labor Statistics. For example, money wages in manufacturing rose from 63 cents to \$1.29 between 1939 and March, 1948. During the same period, the BLS cost-of-

living index went up from 99.4 to 166.9. If the index was correct and reflected accurately the things working people bought, this means that real wages rose 22 per cent. It is worked out as follows:

1. The purchasing power of 63 cents in 1939 was 63 cents (63 cents divided by 0.994).

2. The purchasing power of \$1.29, March, 1938, was 77 cents (\$1.29 divided by 1.669).

3. The real wage (purchasing power in dollars of equal value) rose 14 cents (77 cents minus 63 cents).

4. The rise in real wages was 22 per cent (14 cents divided by 63 cents).

Many different figures appear in arguments over pay rates, and much misunderstanding can be avoided if it is made clear just what the figures stand for. During the Second World War, officers of the CIO and the AFL were at times critical of the War Labor Board for refusing certain pay increases, since the union spokesmen argued that the wages in question had not risen as much as the cost of living. The Board, in turn, contended that the wages were up considerably more than the general price level. It turned out that the union leaders were referring to basic rates, which *had* lagged behind the cost-of-living index, whereas the Board had in mind total earnings, which had outstripped the rise in prices, due to steady work, long hours, and overtime.

However, wage differentials go much deeper than just misunderstanding. After the most careful definition, innumerable variations remain as between jobs, skills, tenure, firms, industries, and regions. Why? One big contributing factor is the imperfection of the market in which personal services are bought and sold. Another is the intensity of the worker's struggle for increased earnings and leisure. Still another is the competitive pressure on employers to reduce costs, of which payments for labor may be a large proportion. And adding to the complexity are all the nonlogical factors which enter into the employment situation, making some jobs more desirable than others: the status of the industry, the status of the job, character of associates, the working environment, etc.

The Market for Labor. A labor market is the hardest kind to describe, since it meets fewer of the requirements than any other typical market. This shows up particularly in the most fundamental test of all. According to Marshall, a market is the area within which the price of a good tends toward equality quickly and easily.² However, everyone knows of cases where different wages are paid for exactly the same kind of personal services by companies which are obviously in the same labor market, if there is such an animal, since they may be next-door neighbors or face each other across the street. In fact, it often turns out that a single company pays

² A. Marshall, *Principles of Economics*, p. 324 (New York: The Macmillan Company, 1936).

different rates to employes doing precisely the same kind of work; such cases are practically certain to turn up during wage and salary surveys. Since it may be assumed that one employer is in a single market for one particular kind of employe, the only conclusion possible is that the market is very imperfect.

There is little doubt that most labor markets are highly imperfect and that the effects of competition, if felt at all, are indirect and slow. This judgment is further borne out by a study of the usual criteria of a good market: (1) homogeneity of the product, (2) mobility of the product, (3) large numbers of buyers and sellers, and (4) full knowledge of market conditions on the part of the participants.

It would be difficult to think of anything which is regularly exchanged for money which is less homogeneous (uniform) than labor services. No matter how highly specialized and carefully classified, employes are never as equal in the productivity as machines or as predictable in quality or reliability as commodities. The fact that they are human beings and that employment is inevitably a cooperative situation makes it certain that no two employes will prove to be exactly alike and probable that no one employe will be precisely the same on successive days or even in successive hours of the same day. Fatigue, anger, disgust, fear, pain, sorrow, and boredom, all are capable of changing the workingman's productivity, with little or no outward sign. The extensive recent researches into human relations in industry are an attempt to measure the strength of some of these intangibles and discover ways of neutralizing their effects.³

Nor are workingmen highly mobile in search of jobs. It is a considerable decision for an employe, especially if head of a family, to give up his home and friends and neighborhood contacts, including schools, churches, and clubs, in search of a better position. The out-of-pocket expense is large, and the uncertainty of recovering it through the *marginal* addition to his wages is a strong deterrent. Labor mobility is concentrated heavily in the young, unmarried, unattached persons just entering the labor market. And many of them have strong aversions to leaving their home communities and friends in the absence of good proof of the wisdom of the move.

Such proof is frequently lacking. In no other kind of market is information concerning prices and offers so difficult to get. In normal times, employers treat news of job openings as highly confidential, and both employers and employes tend to consider wage and salary information as personal and confidential data, a factor which undeniably contributes to the lack of

³ See, among others, B. B. Gardner, *Human Relations in Industry* (Chicago: Richard D. Irwin, Inc., 1945); F. J. Roethlisberger and W. J. Dickson, *Management and the Worker* (Cambridge, Mass.: Harvard University Press, 1939); and F. J. Roethlisberger, *Management and Morale* (Cambridge, Mass.: Harvard University Press, 1942).

standardization of wage rates. Both buyers and sellers of labor services often move in complete ignorance of available supplies, competitive prices, and the intentions of potential bargainers. Although this situation has been improved somewhat by the equalizing effects of trade unionism and by the attempts of the U.S. Employment Service to publicize employment conditions, the labor market is still an area of opaque mystery to the great majority of those who work for a living.

Finally, the major requirement of a competitive market is conspicuously lacking. There is never a large number of buyers (employers) competing for the services of a group of sellers (employees), and only in the most unusual situations do workingmen actually bid competitively against each other for jobs.⁴ The actual mechanics of employment make competitive bidding almost impossible, and the efforts of both organized employers and organized employees have been pointed in the opposite direction—that of increasing the monopoly positions of the two parties.

The points raised above make it clear that the standard supply-and-demand economic analysis must be used with great care and with extensive qualifications if it is to be applied to the determination of wage rates. It is nevertheless a fact that personal services are bought and sold daily in tremendous quantity in some kind of market. There *are* “going rates” for certain kinds of jobs, and while individual wage rates may differ, they often vary within a moderate range, indicating that some equilibrating force sets in when the extremes are reached. The relative potency of institutional and competitive forces is a matter of argument and will be considered at length in the next chapter. Here it is sufficient to note that the imperfections of the market undoubtedly contribute to the many inexplicable differentials which exist.

The Struggle between Employers and Employees. If an imperfect market sets the stage for wage differentials which cannot be explained, the intensity of the struggle between employers and employees for a greater share of the product aggravates the situation considerably.

The wage problem originated when the first employer furnished materials, tools, or workplace, or some combination of the three, and paid people to do certain things at his direction. Specialization of tasks (division

⁴After an exhaustive study of employment conditions following the First World War, Lescossier came to the following conclusions: (1) that the labor market suffered from excessive decentralization and private labor reserves, with many large employers in effect constituting themselves individual labor markets; (2) that there was overspecialization and consequent high turnover, instead of transfer of employees and retraining; (3) that there was defective distribution of the labor supply, due to limited public assistance and fraudulent and inefficient private employment agencies. He recommended restrictions of immigration, regulation or abolition of private employment agencies, and creation of a public employment service. See *The Labor Market* (New York: The Macmillan Company, 1919).

of labor), with its great contribution to efficiency of production, practically eliminated the possibility of telling what the employee's work was worth. In the nature of things, no one can say how much value is contributed by a vamped, a treer, a fancy stitcher, or cement sole attacher, all of whom work on the same pair of shoes. Management, including the foremen, accountants, and salesmen, must also be paid from that pair of shoes, as well as janitors, watchmen, and investors who put up the money.

Yet hit or miss as the determination may be, the wages paid are incomes to the employees. This means that for all employees, from management down, the rate of pay will determine the scale of living. Since we are all alive to the advantages of a higher living standard, and since we know and our employers know that there is no way of accurately estimating what we are worth in our jobs, and since there is no reason to consider ourselves overpaid rather than underpaid, we all of us spend a good deal of time figuring out how to "put the bite" on our employers for a raise. We use personal pressure (a baby in the family), organization pressure (union demands), economic pressure (threat of leaving) arguments, entreaties, cajolery, and threats. Some of us, being more strategically situated or perhaps better tacticians, succeed, while others do not. The results do not make the wage pattern more orderly.

Employers, meanwhile, are on the other side of the fence. Wages are costs to them, and they cannot possibly pay all employees all they want. In fact, with the best intentions in the world, two manufacturers of the same product, located side by side, might not have anything like the same ability to pay for work done, since one of them might be going bankrupt while the other was prospering. The success of a firm is a complex of general prosperity, demand for the product or service, sales outlets and contacts, efficiency of operations, and good capital structure. And while employers may reject "ability to pay" as a principle of wage negotiations, it is a constant factor in their decisions. Prosperous times are times of rising wages, high-profit industries are high-wage industries, and no one rejects a wage demand more quickly than an employer who is losing money. So employers meet the pressures devised by their employees to extract pay raises and react to them in various ways, depending upon the state of business, their estimates of individual employees and the validity of their requests, and the importance of labor costs to operations. This last varies considerably.

Table 23 gives some idea of the relative importance of labor costs in different industries. All of the percentages are understated since the ratio is of labor costs to sales, rather than to total costs. However, the comparisons are still valid, though exaggerated slightly. For example, a general wage increase by a typical employer in the shipbuilding industry would have six or seven times the effect on total costs of a similar increase by a typical

flour miller. Other things being equal, a petroleum refiner would contemplate a 20 per cent wage increase demand by the United Oil Workers of America with more equanimity than would be possible for a machine-tool manufacturer faced with a request for one-half or one-third as much. Maintenance employes in the shipbuilding industry would be in a more strategic position to request a raise than indirect labor groups in the manufacture of textile machinery; they represent a much smaller proportion of the total wage bill.

Table 23. Percentage Ratio of Labor Costs to Total Sales for Ten Industries, 1940*

Industry	Direct labor	Other labor	Total labor
Iron castings.....	25.87	8.44	34.31
Shipbuilding.....	28.46	5.11	33.57
Textile machinery.....	18.21	13.25	31.46
Screw-machine products and wood screws.....	20.40	11.01	31.41
Machine tools.....	18.25	10.45	28.70
Lead and zinc (secondary).....	5.53	1.68	7.21
Petroleum refining and marketing.....	3.71	2.69	6.40
Cereal preparations.....	4.98	1.13	6.11
Cane sugar.....	3.88	1.92	5.80
Flour milling.....	3.10	1.49	4.59

*SOURCE: Federal Trade Commission, cited in *Modern Management*, July, 1948, p. 2.

And so it goes. Employers, even corporation executives, are human beings. In spite of trade-union propaganda, most management officials pride themselves on paying the best wages possible. They yield to the same kind of pressures—economic, political, personal, and social—as other people. And their decisions, rational as they may try to make them, are another factor contributing to the complicated pattern of wage differentials everywhere.

The Government's Influence. Then the government steps in. As an employer, it competes with private business for 11 per cent of the labor force, much of it (*e.g.*, the armed services) on a noncompetitive basis with perquisites and security which cannot be matched from private sources. With its civilian employes, the government compensates for low pay with light work loads, security, and early retirement. Private contractors working on government orders find their labor relations under close scrutiny and their contracts subject to cancellation if wages, hours, or working conditions fall below statutory or administrative norms.

In private employment, government rules and administrators are everywhere. It is a careless state that does not have its child labor law, its 8-hour-day law for women, its minimum-wage regulations, its factory act regulating

safety conditions in industrial plants, special hours restrictions for dangerous occupations, and its workmen's compensation legislation. On the Federal level, minimum wages, maximum working hours (before overtime), and child labor restrictions are universal, applying to the great majority of employers in interstate commerce. Employer-employee bargains must fit within a rigid framework of labor standards, many of which directly affect wage rates and earnings.

The basic pay rates in government itself, the salaries of elective and important appointive officers, are set by statute, the most rigid and inflexible method of salary determination. The rates so established stand for years, in spite of changes in comparable occupations elsewhere, creating such distortions as salaries of \$75,000 for President of the United States, \$15,000 for congressmen and Cabinet officers, and a \$10,000 maximum for career civil servants, at the close of the Second World War. Many a governor and mayor receives less salary than the manager of a large chain store within his jurisdiction. It is not surprising that government work probably offers the maximum in nonfinancial incentives.

The Things That Are Not in the Pay Check. Every job has its "angles," which are not formally reflected in the pay, but nevertheless make it more or less attractive. Government work, for instance, is low-pay and, on the policy level, uncertain in tenure, but it carries power and prestige, which to some people is worth a great deal. Even if the government employee is not in an important position or agency himself, it is easy to make influential acquaintances. The government is boss in its jurisdiction, and people who work for it get many small (and some large) advantages and are saved many petty irritations. (How many policemen or members of their families get traffic tickets or are arrested for ordinance violations?) They are also "in the know," or think they are, on civic and political affairs, a source of satisfaction to many.

To a man who likes the outdoors, a forestry job at moderate pay might seem like being paid for enjoying himself, while a high salary for sitting at a desk would be drudgery. In the first crowded years following the Second World War, a job in an uncongested community where houses were available at reasonable rents had a distinct leverage in its favor. Some people prefer steady routines the year round, while others like interruptions and a varied schedule. Personal associates on the job may mean the difference between satisfaction and disgust, and the preeminent influence of the immediate superior (the boss) upon the work situation is acknowledged by all. Some kinds of work—the priesthood, military, artistic, scientific, among others—are chosen with almost no concern for the wage; attention is concentrated on the nonfinancial attractions. In its way, directly or indirectly,

each of these factors affects the wage pattern by making an employe more or less ready to accept, decline, leave, or stay with his job, thus weakening or strengthening his bargaining position vis-à-vis his employer.

The problem of wage differentials is mainly one of competition among wage earners. It is important. Just how important will become apparent to most college graduates when they get jobs and start supporting families on their salaries, and begin to figure what they could buy with the extra earnings of someone they know who enjoys a favorable wage differential. The relative positions of one employe versus another are of interest to both of them (and especially to their wives).

Then how is the general pattern of wage differentials to be explained? Nobody knows for sure, although there are several explanations handy. The answer, if there is one, will come in the form of a theory of wages which fits the facts and resists the efforts of those who disagree to discredit it. There may be no such theory, at least to satisfy everyone, and the modern three-cornered dogfight between the marginal productivity theory, the bargain theory, and the Keynesian doctrine may well be an all-time high in discord. However, if there is to be any understanding of the problem of differentials or of the other posers coming under the heading of wages, such as living standards, the labor-capital ratio, the guaranteed annual wage, minimum wages and maximum hours, among others, it will be made possible by a theory which points to the main forces in wage determination and leads to the adoption of policies which will maximize the general welfare. We shall therefore give a good deal of attention to wage theory, both past and present. First, however, there is the problem of the general wage level.

The Standard of Living

Wage differentials are a short-run problem. That is to say, there is constant shift, change, and readjustment in relative wage levels, even in very short periods and while many of the important factors of production—land use, capital investment, buildings, machinery, and even labor skills and job preferences themselves—are fixed and unchangeable. The other side of the wage question is a longer run proposition and raises questions which may be of even greater importance, economically and socially. One of them is: How do workingmen come off in relation to the people who supply the other factors of production, *i.e.*, capital, primarily, and perhaps land? Do workmen get their fair share of the national output? This is the question asked (and answered) with such emphasis by Karl Marx in his exploitation theory of wages.

Labor's Share of the Pie. What is labor's share of the national income? Well, it's not all of it, as Marx said it should be, but it's pretty big. Tables

24 and 25 show how the national income went down and back from 1929 to 1947, and how it was split up between employees, proprietors, corporations, rents, and interest. Table 24 gives the amounts in millions of dollars, while Table 25 shows the split-up by percentages. Both the amounts and the percentages going to wages and salaries should be increased considerably, since the wages of farmers, proprietors, self-employed business and profes-

Table 24. National Income by Distributive Shares, Selected Years*
(Millions of dollars)

Shares	1929	1933	1939	1943	1947
The national income.....	87,355	39,584	72,532	168,262	202,500
1. Wages and salaries of employes..	50,786	39,584	47,820	109,102	127,501
2. Income from unincorporated business (farms, stores, and professional service).....	13,927	5,207	11,282	25,951	38,866
3. Profits of corporations.....	10,290	-1,981	5,753	23,692	24,709
4. Rents.....	5,811	2,018	3,465	6,150	7,131
5. Interest.....	6,541	5,010	4,212	3,367	4,293

*SOURCE: *Survey of Current Business*, July, 1948, p. 16.

Table 25. National Income by Percentage Shares, Selected Years*

Shares	1929	1933	1939	1943	1947
The national income.....	100	100	100	100	100
1. Wages and salaries.....	58	74	66	65	63
2. Unincorporated business income	16	13	15	16	19
3. Profits of corporations.....	11	-5	8	14	12
4. Rents.....	7	5	5	3	4
5. Interest.....	8	13	6	2	2

*SOURCE: Adapted from Table 24.

sional men, and unpaid family labor are included in the totals of the unincorporated income account (number 2 in the tables). A very conservative estimate of the amount of the transfer required to correct for this blind spot in the statistics would be 10 per cent of the national income. (The self-employed and unpaid family labor comprise about 20 per cent of the labor force, and the one year when there was probably no net balance in the unincorporated business account, 1933, it still got 13 per cent of the national income. This \$5,207,000,000 undoubtedly went in its entirety to repay proprietors and their relatives for work in family enterprises.) Adding 10 per cent to the wage and salary account would give a labor-capital income ratio for the five years as shown in Table 26.

Of course, to say that in ordinary years labor gets \$3 out of every \$4 of national income is to say very little, as it gives no clue to whether the proportion is too much, just right, or not enough. This is another con-

troversial point in modern arguments over wage theory and will be considered more fully in the next chapter. We cannot even be certain about the trend, if there is one. Our statistics of national income and its detailed breakdown into distributive shares go back only to 1929, and we are therefore unable to say whether the lower labor-capital income ratio of 1929 was typical of predepression times or whether it was as much out of line as presumably the 1933 figures are, since they reflect the bottom trough of the depression. However, we have some information on wage trends which seems to support the belief that the labor side of the income ratio has been growing.

Table 26. Labor-Capital Income Ratio for Selected Years*

	1929	1933	1939	1943	1947
1. Labor.....	68/ 32	84/ 16	76/ 24	75/ 25	73/ 27
2. Capital.....					

*Source: Adapted from Table 25.

For instance, farm wages in the United States, which fluctuate wildly with good and bad times, rose from \$1.11 in 1933 to \$4.83 (per day without board) in 1947, or something over four times. An index of union hourly wage rates in the building trades showed an increase from 39.6 in 1914, to 107.4 in 1939, and to 205.5 by March, 1948. During the same period, from 1914 to 1948, the cost-of-living index rose from 71.8 to 166.9. Hence, the rise in real wages was 123 per cent. In 1840, coal miners received \$1.20 per day of 10 hours. By 1939, the pay for a 10-hour day in the mines at the average straight-time hourly rate would have been \$8.86, and in March, 1948, it would have been \$18.41.⁵ It is the conclusion of most economists who have examined the statistics that the remarkable increases in output of the past century, and especially of the last 50 years, have been made available to the American people at a relatively stable price level, while the increase in living standards has come about through a steady rise of wages.

Real Wages and Earnings. Yet there is many a slip between a rise in money wages and a higher standard of living. If the cost of living goes up as fast as wages, there is no gain in purchasing power; if it goes up faster, there is a loss, although wages may appear to be rising at the time. This is what happened to wages in the United States between June, 1946, and June, 1947. Average weekly earnings in manufacturing, for example, rose from \$43.31 to \$49.33, with practically no change in hours worked, an increase of 14 per cent. But in the same 12 months the cost-of-living index jumped from 133.3 to 157.1, due mainly to the cancellation of rationing and price controls, a rise of 18 per cent, making the change in real earnings a net loss.

⁵ *History of Wages in the U.S. from Colonial Times to 1928*, BLS Bulletin 604, 1942, and *Monthly Labor Review*, July, 1948.

The \$43.31 of 1946 was worth \$32.49 in 1935 to 1939 dollars, whereas the \$49.33 of 1947 was worth only \$31.40.

Another weakness in the formula, "Higher pay = Better living standards," is the hours-of-work factor. Earnings equals the rate of pay times the hours worked. A gain in wage rates may be more than offset by a reduction in the hours worked. This was a problem after the end of the Second World War. Many employes in war work had been putting in 48 hours a week and receiving time and a half for the last 8 hours. At \$1 an hour, what would be the loss in earnings if the work week were cut to 40 hours with no change in the basic rate? Figure it out. The great United Automobile Workers (CIO)-General Motors strike of 1945-46 was fought over a wage demand for exactly the amount of the increase in basic rate necessary to offset such a cutback to normal operating hours. The demand was rejected, and the strike was long-drawn-out and only partially successful, but the arithmetic was correct.

The UAW-General Motors walkout of 1945, though serious enough to both parties, was a special case, part of a general postwar readjustment. Something not so special, but a common experience in the mass-production industries, is layoff. It may be caused by a seasonal drop in sales, shutdown for retooling, a bottleneck on the final assembly line, or any one of a dozen other reasons. It may be a disguised discharge. Whatever the explanation, it means short time, smaller pay checks or none for a while, and reduced annual earnings. It is the uncertainty and bad previous record for regularity of employment in some of the larger manufacturing industries which is responsible for the drive for guaranteed annual wages. Paradoxically enough, the agitation has been greatest in industries where a guaranteed *daily* rate would be a contribution to employment security.

The Final Test: Per Capita Real Income. Probably the surest clue to the state of prosperity and living standards is the average real income of the population as a whole. It is arrived at very easily by taking the per capita money income, as reported by the U.S. Department of Commerce, and "deflating," to correct for changes in the cost of living. Table 27 shows the changes in per capita money and real income between 1929 and 1947.

What this table shows is the richest nation in the world bouncing back from the greatest depression in its history (which, incidentally, cut average purchasing power 28 per cent—from \$555 to \$398), and rapidly getting richer during the war years, 1941 to 1945. The real income of every man, woman and child in the United States in 1947, 2 years after the close of the war and 1 year after the big price rise of 1946, was still exactly one and one-half times what it was in the glamour year of 1929. This means that the money income of a typical American household in 1947, composed of a husband and wife and 1.7 children, amounted to \$4,895.10. (There were

39,138,000 households in this country in 1947.) Its buying power in 1935-1939 dollars was \$3,074.70.

There is no getting around this picture of unprecedented material prosperity. It explains the tens of millions of automobiles, radios, refrigerators, washing machines, and telephones in American homes; the unprecedented demand for new houses at high prices; the high per capita consumption of meats and other expensive foods; the heavy vacation and tourist traffic; and the crowded classrooms in colleges, universities, and

Table 27. Changes in Per Capita Income, 1929-1947*

Year	Per capita money income	Cost-of-living index (1935-1939=100)	per capita real income
1929	\$ 680	122.5	\$555
1933	368	92.4	398
1936	531	99.1	536
1939	539	99.4	542
1940	575	100.2	574
1941	693	105.2	659
1942	870	116.5	751
1943	1,045	123.6	845
1944	1,145	125.5	912
1945	1,177	128.4	917
1946	1,213	139.3	871
1947	1,323	159.2	831

*SOURCE: *Statistical Abstract*, 1947, p. 293; *Survey of Current Business*, August, 1948, p. 19.

private schools. The one big question mark in the table is a weakness of all averages; they do not reveal the distribution. In this case, however, there are other data to confirm the widespread nature of the abundance. In 1947, wages and salaries accounted for approximately three-quarters of the national income, and average hourly earnings in four large industrial groups (manufacturing, coal mining, retail trade, and building construction) with over 40 per cent of the labor force, were up 92 to 105 per cent over 1939, with unemployment practically eliminated. It was a workingman's, not a rich man's, boom.

What caused it?

Here again the answers will depend on the affiliations and wage theories of the persons replying. A trade unionist would say the improved bargaining position of the organized labor movement, grown from a feeble 3 million members in 1933 to five times that many by 1945. A businessman, who is more likely to be a marginal productivity theorist (without knowing it), might point to the improved capital-labor ratio, brought about by the rapid wartime expansion of plants and facilities. A Keynesian would ascribe

the rise to the increased propensity to consume arising from a transfer of purchasing power to lower income groups, combined with the huge increase of government spending (investment) in the war and postwar period.

The problem here is not differentials, but the general level of incomes. The most recent tendency in economic thinking, with its emphasis upon national income analysis and its indebtedness to Keynes, is to assign primary importance to the general level of wages and purchasing power and to give less attention to the issue of interwage adjustments. There is nothing unusual about this, since economists have normally been more concerned with the total wage bill than with relative rates. From Adam Smith to Keynes, the general welfare has been considered paramount, and it is the standard claimed for each of the competing modern doctrines. Before taking up current theories, however, a glance at some of the earlier attempts to explain either what *does* or what *ought to* determine the wage pattern will give some perspective. This has been a much disputed problem, and some of the older theories are not without value, even in modern times.

Wage Theories Prior to 1900

The purpose of this summary is to lead up to an examination of current wage theory. No one is in a good position to analyze or criticize modern social theories without some historical perspective. There is an evolutionary process in both social thought and social action, although it must be distinguished from the slow mutations of biology. Social evolution is very rapid and the rate of change seems to be increasing. Also, social change is Lamarckian in character. The transmission of acquired characteristics is an obvious factor in both social thought and organization. Many remnants of earlier philosophies and vestiges of discarded institutions may be found in modern society, some good and some bad. A knowledge of their origins is often useful in evaluating them.

Wage theory has gone through three stages of development since the Middle Ages. The first, and longest, historically, was the medieval period of church domination, with its doctrine of the "just price," which meant in reality a just wage. The second began with Adam Smith's publication of the *Wealth of Nations* in 1776 and carried through the nineteenth century. It was the period of British classical economics, and the wage theories of Smith, Ricardo, Mill, Senior, and Marx are all in the classical, Malthusian tradition. It remained for Karl Marx, the last of the true classicists, to carry Smith's labor theory of value to its logical conclusion in his exploitation theory.

The modern period in wage theory began with the formation of the "Austrian School" of economics (composed of an Englishman, Stanley Jevons, a German, Karl Menger, and a Frenchman, Léon Walras) and its

development of the neoclassical doctrine of marginalism. The marginal productivity theory of wages was a direct outgrowth of this intellectual movement and dominated "sound" economic thought from the beginning of the twentieth century up to the present day. It has met strong competition, however, from trade-unionist supporters of the "bargaining" theory of wages, led by Sidney Webb in England and John R. Commons and his disciples in America, and since 1936 it has been challenged even more violently by John Maynard Keynes, in *The General Theory of Employment Interest and Money*.

The "Just Wage" of the Middle Ages. The "just price" of medieval times was really a wage concept. Whether for the trader or the craftsman, it was that price for his wares which would enable him to maintain himself and his family according to their established position in the community. The just price was concocted by churchmen and given a moral flavor to support the *status quo*. It is a relic of a static society, from which both intellectual and natural progress were absent, and it might seem to be of merely historical interest. Nevertheless, there are vestigial remnants of the just wage in some of the more advanced societies of modern times. How else explain the allowances of members of the British royal family? Are the services of the King worth £410,000 (\$1,600,000), of Queen Mary, £70,000 (\$280,000), of the Duke of Gloucester, £35,000 (\$140,000), a year to a Labor government?⁶ Or is it a better explanation that these sums permit the individuals receiving them to maintain themselves "in a manner that befits their station in life"?

Adam Smith's Wage Theories. When the Industrial Revolution got under way around the middle of the eighteenth century, a new set of economic ideas with more flexibility than those of the church fathers became a necessity. The need was answered eventually by Adam Smith, the father of political economy, whose versatility and breadth of understanding are still a source of amazement to those who trouble to read his great work. Smith had much to say on the subject of labor: (1) He formulated the labor theory of value. (2) He pointed out the bargaining advantage enjoyed by masters over workmen, thereby foreshadowing the bargain theory of wages of a century later. (3) He anticipated Ricardo's subsistence theory. (4) He developed a theory to account for wage differentials.⁷

The labor theory of value, which Smith stated as a doctrine and then conveniently disregarded or qualified out of existence, is as follows in the words of the author:

The full value of any commodity. . . to the person who possesses it, and who means not to use or consume it himself, but to exchange it for other commodities,

⁶ *The Statesman's Yearbook*, 1947, p. 4 (New York: The Macmillan Company, 1947).

⁷ *Wealth of Nations*, pp. 30, 66-68, 100-109 (New York: Modern Library, Inc., 1937).

is equal to the quantity of labour which it enables him to purchase or command. Labour, therefore, is the real measure of the exchangeable value of all commodities.

The real price of every thing, what every thing really costs to the man who wants to acquire it, is the toil and trouble of acquiring it. What every thing is really worth to the man who has acquired it, and who wants to dispose of it or exchange it for something else, is the toil and trouble which it can save to himself, and which it can impose upon other people. What is bought with money or with goods is purchased by labour, as much as what we acquire by the toil of our own body. That money or those goods indeed save us this toil. They contain the value of a certain quantity of labour which we exchange for what is supposed at the time to contain the value of an equal quantity. Labour was the first price, the original purchase-money that was paid for all things.

This peculiar idea has long been defunct as a principle of economics, but its influence is far from dead. Seventy years after Smith wrote, Karl Marx seized upon his theory of value and made it the central point in the most explosive social doctrine of modern times—the labor exploitation and class-struggle dogmas of nineteenth-century socialism and the communism of today.

In his chapter on the “Wages of Labour,” Smith gave an early argument for labor organization, in terms which have a very modern ring:

What are the common wages of labour, depends every-where upon the contract usually made between those two parties (masters and workmen), whose interests are by no means the same. The workmen desire to get as much, the masters to give as little as possible. The former are disposed to combine in order to raise, the latter in order to lower the wages of labour.

It is not, however, difficult to foresee which of the two parties must, upon all ordinary occasions, have the advantage in the dispute, and force the other into compliance with their terms. The masters being fewer in number, can combine much more easily. . . . In all such disputes the masters can hold out much longer. . . .

At the same time, he observed that there was a level below which wages could not go, in spite of the masters’ advantage, and this was the minimum amount necessary to maintain the laborer, his wife, and family.

Smith’s principal contribution to wage theory, however, was his analysis of the causes of wage differentials. He proposed five “principal circumstances which . . . make up for a small pecuniary gain in some employments, and counter-balance a great one in others”:

First, The wages of labour vary with the ease or hardship, the cleanliness or dirtiness, the honourableness or dishonourableness of the employment. “Thus, in most places, take the year round, a journeyman taylor earns less than a journeyman weaver. His work is much easier. A journeyman weaver earns less than a journeyman smith. His work is not always easier, but it is much cleaner. . . .

Secondly, The wages of labour vary with the easiness and cheapness, or the difficulty and expense of learning the business. "Education in the ingenious arts and in the liberal professions, is . . . tedious and expensive. The pecuniary recompence, therefore, of painters and sculptors, of lawyers and physicians, ought to be much more liberal: and it is so accordingly."

Thirdly, The wages of labour in different occupations vary with the constancy or inconstancy of employment. [The lower wages in manufacturing are compared with higher rates in the building trades.]

Fourthly, The wages of labour vary according to the small or great trust which must be reposed in the workmen. "The wages of goldsmiths and jewellers are every-where superior to those of many other workmen . . . on account of the precious materials with which they are intrusted."

Fifthly, The wages of labour in different employments vary according to the probability or improbability of success in them. [Where success is practically certain—as in shoemaking—the reward is low; where it is questionable, as in the legal profession, the reward of those ultimately successful is in proportion to the losses of all those who fail.]

Smith did not explain why these circumstances would move employers to raise the wage of the workman, or improve the latter's bargaining position. However, put in the form of supply-and-demand analysis, they might make a respectable showing, *e.g.*, excessive hardship, dirtiness, or dishonorableness of employment will tend to discourage candidates, and the reduced supplies will bring about an increase in the rate relative to those occupations into which the surplus was drawn off. And so on, through difficulty and expense of learning, inconstancy of work, improbability of success, and the like. It at least sounds more logical.

The main difficulty with Smith's argument, of course, is simply that it isn't so—at least, not regularly enough to stand up. The dirtiest and hardest jobs are not the best paid, they are usually about the worst. Some of the hardest jobs to learn, with the longest and most expensive training periods, are among the most poorly paid: ministers, college professors, scientists, and researchers. Bank tellers handle the most valuable commodity of all, money, but are anything but highly paid for it. And so on. There are, of course, an equal number of good examples on the other side, but that doesn't add up to a valid theory. On the other hand, modern wage and salary classification experts regularly incorporate data very similar to Smith's in job descriptions to justify their schedules of wage differentials.

Ricardo's "Iron Law" of Wages. Where Smith was concerned with wage differentials in the short run, Ricardo, a more confirmed theorist, took notice mainly of the general wage level in the long run. His theory was simply a restatement of Malthus in wage terms, to the effect that any short-period increase in wages above the level of subsistence would be

canceled out within a generation or so by the increase in the population, so that the wage would forever remain a bare sufficiency to support life. In diagrammatic form, Ricardo's theory would take the shape of Fig. 2. In a long-run schedule, each point on a line represents a period great enough for all factors to adjust, so that no elements are invariable. The wage would then be represented by a horizontal line at the subsistence level. The supply of labor would be whatever could be supported at this rate. It was a depressing view. Probably more than any other one thing, nineteenth-century wage theory earned for economics the title of "the dismal science."

If Malthus is correct, Ricardo is right, and if Malthus is wrong, Ricardo's "iron law" is invalid. There is a modern tendency for the *Essay on Population* of the reverend doctor to be considered as thoroughly discredited as the

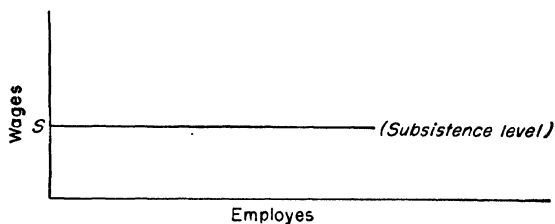


FIG. 2.

theory that the earth is flat. However, some recent writers of distinction have dissented from this conclusion and, since the end of the Second World War, a number of eminent conservationists have begun to be alarmed.

The Malthusian-Ricardian theory is an issue upon which the evidence of a single country may be misleading. America is the shining example of an economy with a constantly rising standard of living and a small fraction of the population at the subsistence level. During the first half of the twentieth century, it was approached in opulence by a number of countries in western Europe. Several of the latter are now far down from the prewar scale, and it might prove a worth-while exercise to estimate how long it will take England, France, and Germany to regain the standards of living they enjoyed fifteen years ago. Malthus was writing for the world, and the world picture is something else again. There has probably never been a time when more than 30 per cent of the world's population (which would have been 650 million in 1947) has been above a subsistence minimum, with the United States supplying at least a sixth of the lucky ones, and it is at least doubtful that the proportion is rising.

From 1939 to 1947, the world's population rose 200 million, most of the increase coming in subsistence areas such as India, the U.S.S.R., Japan, and the Netherlands Indies. It is still going up at the rate of 20 million a year.

At the same time, according to the practically unanimous conclusion of conservationists, the carrying capacity of the world's arable land is rapidly falling, as a result of erosion, soil exhaustion, deforestation, etc. The two curves cannot continue indefinitely to swing in opposite directions. Either there is error in the facts somewhere, or Malthus (and with him, Ricardo) is due for a revival.

The Wages-fund and "Residual Claimant" Theories of the Later Classical Economists. Not much need be said about the wages-fund theory which dominated the thinking of political economists like John Stuart Mill and Nassau Senior at the end of the classical period. It gave more stress to short-run supply-and-demand analysis and the dependence of wages upon the capital available for the employment of laborers, but in essence it was Ricardo, expanded and restated. The fundamentals in the situation were still the supply of food and the growth of population.

The pure wages-fund doctrine was followed by the "residual claimant" theory of Francis A. Walker, who argued that the amount of the wages fund was determined by the product of industry, not the quantity of capital on hand. The manner of statement, however, infuriated labor spokesmen and sympathizers, of whom there were more by this time (1887) than in earlier days. Their objection was to the order in which the employer was presumed to divide up the product. First, he deducted a portion for rent. Next, he set aside the necessary return of capital. A third deduction was his own remuneration, profits. And lastly, the remainder became a wages fund for the hiring of labor. This position of the workingman as the "residual claimant" in the production process was rejected as harsh and unfair. Also, it was manifestly inaccurate in many commercial and industrial enterprises. For laborers were employed and wages paid during the production period, in advance of sales, and often before it was known whether there would be a margin of profit or not.

The Exploitation Theory of Karl Marx. Marx took Smith at his word. The value of a commodity, Smith had said, was determined by the amount of labor used in its production. If this was the case (and Marx agreed that it was), then any part of the return withheld (profits, for example) was a surplus appropriated by the capitalist, and the result was exploitation of the workingman. Marx denied any productive contribution on the part of capital, holding that it was simply labor value withheld from its rightful owners. Land and other natural resources were as much the property of the working population as of those who held title to them. Also, they were useless without labor. The solution he proposed has received as much publicity as any social reform of modern times: Abolish the capitalist class and let laborers take over the means of production. Then everyone would contribute

in line with his capacity and receive back a just share of the product. "From each according to his ability, to each according to his need."

There were, of course, several holes in the argument. What about the productive contribution of management (which Alfred Marshall later included among the factors of production along with land, labor, and capital)? And where would the savings and capital accumulations, which are undeniably a necessity, come from? How would "need" be determined, and by whom? Also, who would settle the really fundamental economic issue of resource allocation, and on what basis would industry be organized and its product divided among the workers? These are fundamental questions, which it is the job of any system of economic organization to answer. How they are answered will also have a significant effect upon efficiency.

In Marx's case, the technical inaccuracy of his theorizing has proved to be of secondary importance. One of the astounding events of the twentieth century has been the mass appeal of his theory of the exploitation of the working class and the rapid spread of Marxist socialist doctrines among large populations, especially those at or near the subsistence level.

Readings

There is a constant stream of articles on all aspects of wages in the *Monthly Labor Review* (e. g., "Occupational Wage Differentials, 1907 to 1947,") and the principal economic journals, such as the *American Economic Review* ("The Annual Wage: Where Are We?" December, 1947), the *Industrial and Labor Relations Review* ("Labor's Attitude toward Wage Incentive Plans," July, 1948), the *Journal of Political Economy*, the *Quarterly Journal of Economics*, etc. These and many other similar periodicals are indexed regularly in *Public Affairs Information Service* (P.A.I.S.), along with books, legislation, and reports. An excellent brief review of the subject of living standards is in Chaps. II and III, "The Trend of Real Earnings" and "Share of the Workers in the Increasing National Income," in H. A. Millis and R. E. Montgomery's *Labor's Progress and Some Basic Labor Problems*, Vol. I of *The Economics of Labor*.⁸ For older material presented in brief and readable form, there are few better sources than P. H. Douglas, C. N. Hitchcock, and W. E. Atkins, *The Worker in Modern Economic Society*, Part III, "The Worker in His Relation to the Market."⁹

Exercises

The chances are at least four out of five that your pay check will be your biggest problem for the rest of your life: (1) its size in relation to the pay of fellow employees, friends, and neighbors; (2) the regularity and certainty with which you get it; and (3) which way it goes and how fast when prices rise and fall. You will do a lot of

⁸ New York: McGraw-Hill Book Company, Inc., 1938.

⁹ Chicago: University of Chicago Press, 1923.

theorizing (whether you call it that or not) about what is responsible for its size and variation and you may give a thought to getting your son a head start in the direction of a good job with regular pay checks of satisfactory size. The following exercises will raise some of the problems that every wage earner meets eventually:

1. What is your explanation of the different hourly rates of pay in manufacturing (\$1.29), soft-coal mining (\$1.84), retail trade (\$1.05), and building construction (\$1.79), in March, 1948?
2. Name, outline the main points, and criticize the wage theory which is implied in the following call to action:

"The proletarians have nothing to lose but their chains.
They have a world to win.
Working men of all countries, unite!"
3. If you were planning to locate in the high-wage section of the United States, where would you go? Which region or regions would you avoid at all costs? Prove your answers by quoting comparative rates, as given in the *Statistical Abstract* and in articles in the *Monthly Labor Review*.
4. Prepare a short bibliography (five to eight titles) of recent publications on the problem of world population and compare the arguments in two or three of them.
5. What is meant by "office politics" or "job politics"? How important are they in matters of advancement for: a commissioned officer? a life insurance salesman? a foreman of a steel plant? a Federal civil servant?
6. In the *Statistical Abstract* you will find a table giving average hours and earnings of production workers in manufacturing, 1923 to 1946, and another called the consumer's price index for moderate-income families in large cities, 1913 to 1946 (the Bureau of Labor Statistics' cost-of-living index). Use the second table to "deflate" the first and compare the changes in money earnings with the changes in real earnings. Chart the results on graph paper.

5. WHO IS RIGHT ABOUT WAGES?

The Current Controversy

Wage theory is not just an academic problem, dreamed up by professors to make trouble for students. It is a matter of day-to-day practical importance and of long-run security to every wage earner in the country (and there are about 50 million of them) whether he believes the size of his pay check is, or should be, settled by: (1) the value of the marginal addition he makes to production, (2) his bargaining power relative to that of his employer, or (3) the level of national income and expenditure.

If he thinks that competition for labor services will force employers to pay him the full marginal return for his class of work, it will be rational for him to conclude that the loss of time due to strikes and money spent on union dues is wasted, since no employer is going to pay him more than he is worth and unions are simply another obstacle to the efficient functioning of supply and demand in the labor market. Governmental intervention in the form of minimum-wage laws, a national wage policy, or otherwise will be equally undesirable. It can only create inflexibility and red tape which will hamper labor mobility and the free adjustments necessary to keep the market in equilibrium, whereby each unit of the factors of production (of which every employe is one) is assured the maximum return in its employment.

On the other hand, if experience or argument makes him doubt that competition is effective, then his bargaining position relative to that of his employer becomes more important. If competition does not force him to it, why should an employer pay a workman the full value of his productivity? It is good business to buy below the market if one can. The employe probably has not read Adam Smith, but many others since 1776 have suspected that "the workmen desire to get as much, the masters to give as little as possible."

To the extent that the market does not function efficiently, the wage to be paid becomes a bargaining proposition. How does he, the employee, stack up against his employer for purposes of trading? The answer to this question may make the price of union membership seem less a cost than a necessity to an industrial employee. He is also liable to favor government action supporting the right to organize. A national policy of wage controls which may imply limiting the right to strike and other forms of organized action, however, is another thing. It limits his bargaining power and that of his union, and he will probably oppose it.

But suppose the employee we are considering was a wage earner from 1929 to 1948. Whether a believer in a competitive labor market or a union member in a solidly organized industry (like coal mining or the railroads), he may well have had a strong dose of lowered wages, along with unemployment, layoff, and short time. The employer could hardly be blamed; he was obviously losing money and may have gone broke or into receivership. The union could not save its members' jobs, although it could insist on a share-the-work policy and protect the older men through seniority rules. The wage level (and with it, regularity of work) did not improve markedly until 1941, when the government began to spend heavily on rearmament. After that, earnings rose steadily, until by 1948 they were more than double what they had been in 1939. The business boom continued, after public spending tapered off, carrying money wages and earnings rapidly upward during the first 3 postwar years.

If this employee were of a thoughtful turn of mind, he might look backward over the 20 years' experience and try to put his finger on what was responsible for the hard time he had in the 1930's and the relative prosperity of the 1940's. He might conclude that a large volume of spending (high national income) meant full employment, with steady work and good wages. And who could make certain that there was a large volume of spending? Not private employers or their customers, whose demand for goods and services fell more than 50 per cent between 1929 and 1932. Nor trade unions, who were equally helpless. Only the Federal government, which had demonstrated its purchasing strength during the war years, 1941 to 1945, seemed to be in a position to keep business going at a high level. To such an employee, a national wage policy as part of a guarantee of continued full employment might make more sense than reliance upon either the free market or his trade union.

The three points of view illustrated in the preceding paragraphs are merely very brief examples of the influences held to be most important by those who rely on the marginal productivity theory of wages, the bargain theory of wages, and the Keynesian analysis of the general level of wages and employment. They are not necessarily mutually exclusive, although

complete reliance upon one of them would make acceptance of either of the others difficult. Even within the factions most closely identified with the three theories, however, there are probably few who find it possible to accept without reservation all the premises and implications of their particular doctrine.

These three groups are employers, trade unionists, and a miscellaneous combination of academic scholars and public officials. Their special interests are obvious. Employers, including the general group known as "management," endorse the supply-and-demand aspects of the marginal productivity theory as a part of their general approval of competition and a free market, as well as their general disapproval of labor organization and public intervention. Endorsement, however, does not necessarily mean full personal agreement. It would be a rare employer who would deny privately the importance of bargaining power in the settling of individual or group wage rates or who would contend—after the disastrous experience of the 1930's—that private business alone can guarantee steady employment and a high-level national income. Likewise, the more than two-thirds of the country's employes who are not members of trade unions do not necessarily give full faith and credit to competition in the labor market. They may simply find individual bargaining less hazardous than others do and the requirements of organization too burdensome.

The bargain theory of wages is, of course, a central tenet of organized labor, but trade unionists have no illusions that it is a complete solution to the wages problem. The AFL and the CIO are officially on record as favoring a full-employment program for the United States which would make the maintenance of a high level of spending a responsibility of the Federal government. There is some doubt, however, whether this apparent underwriting of the Keynesian program would extend to support of a national wage policy along the lines laid down in *The General Theory*. Some unions also admit the fact of competition, through policies rigidly restricting admission to membership, especially during depressed periods when their own members are out of work.

Most Keynesians, in turn, support labor organization as a method of raising the earnings of lower income groups, but advocate severe restrictions upon union activity where it interferes with public management of the economy. Their policy suggestions also include proposals for improving the mechanism of the labor market, which has been the main reliance of the believers in competition. Wage policy is a practical affair and calls for a compromise of doctrines, with emphasis upon the elements which seem most important at the time. To understand the policy proposals, however, it is essential to know what the theories are, their strong points and weaknesses, how they are argued and how criticized.

The Marginal Productivity Theory of Wages

The marginal productivity theory is the "orthodox" theory of wages. It is the oldest, the best known, and the most widely taught of the dominant wage theories of the twentieth century. And during the past generation it has steadily lost ground as a basis for policy, bargaining, or public regulation. Like many other social theories, it was finally perfected and became most widely understood just as the conditions necessary to its validity were becoming less and less typical of the business world.

The long-standing popularity of the theory is not hard to understand. It was the competitive theory at a time when the emphasis was upon production for the free market. In relating wages to worker productivity as measured by market demand, it satisfied ethical as well as scientific requirements. Men were paid what they were *worth*, rather than according to their social positions (just price), job characteristics (Smith), subsistence requirements (Ricardo), the available working capital (wages fund), what was left over (residual claimant), need (Marxian socialism), or bargaining power.

From the standpoint of the teacher and scholar, the marginal productivity theory was a beautifully symmetrical part of a total theory of price and distribution which explained the workings of an economic system that was always tending toward equilibrium and the full use of all factors of production. If it did not in fact describe what happened, it ought to, and the environment should be modified, not the theory. It taught well, looked good, and sounded good. The theorists did not look too closely at the market institutions, and the influential people in the market (employers) were strong for the theory. It is still widely taught and believed, upon assumptions that were questionable 50 years ago and today are even harder to defend.

How It Works in the Short Run: Wage Differentials under Competition.

The marginal productivity theory is deceptively named. It should have been called the "competitive" theory, since it is the assumption of competition in the labor market which distinguishes it from other modern wage doctrines. Under competition, there is a tendency for each factor of production (employee) to be paid an amount (a wage) equal to the value of the marginal addition to production of the last factor in the class to be employed. Hence, the "marginal productivity" theory. The one fundamental underlying assumption is *competition for the factors of production and a free labor market*, with all that implies: large numbers of buyers and sellers, homogeneity of product (or service), mobility of the factors, full knowledge of market conditions by both buyers and sellers, free entrance to and exit from the market, and flexible prices.

Here is how it is supposed to work in the short run.

A competitive market is an impersonal market, in which price is the guide and regulator. No single buyer or seller or any organized group of

either is able to influence the market significantly. The value of anything offered for sale will correspond to the quantity of it that is offered. If the quantity is large relative to demand, the price at which all can be sold will tend to fall; if the supply is scarce, the price will tend to rise. Labor, being perishable and mobile, will shift from those occupations in which the supply is excessive to those in which there is a relative shortage until wage rates within each class are uniform for all employers (buyers),¹ and differences between classes reflect the productivity differentials of different skills modified by the available supplies of qualified workmen for each occupational class.

Within the firm, the effects of this shifting are registered on the employer's cost curve. According to the law of diminishing productivity, when other factors are held constant, each unit of a given type of labor added by an employer results in a smaller increment of production than its predecessor. The value increment is lower still since it is ordinarily true that larger output can only be sold at a lower price. Hence, the employer's cost function for each class of labor will be the reciprocal of a downward-sloping curve of diminishing value increments of his product. It will be to the employer's advantage to expand the number of employes of each class until the additional wages he is required to pay just equal the final value increment of production assignable to the last employe added. This will be where Marginal Labor Cost (MLC) equals Marginal Revenue (MR):

The wage rate paid cannot be above or below that of another employer in the same market, since employes with knowledge of the differential will leave the low-wage firms and underbid their more highly paid competitors. This shifts the high-wage employer's cost curve downward and to the right, making it to his advantage to hire more workmen. The process is shown graphically in Fig. 3. The employer's demand curve for labor is the marginal revenue function of his product. Under supply conditions *S*, equilibrium will be reached with *A* employes at wage *C*. Competitive underbidding by employes attracted away from lower wage firms will move the labor cost curve downward and to the right, whereupon employment is expanded to a new equilibrium position with *B* employes at wage *F*. Final equilibrium is reached when the rate of pay is uniform for each class of employe in the market area, and there is no inducement for workers to transfer from one occupation or one employer to another.

For the labor market as a whole, the situation is similar. Demand func-

¹ Note that this does not imply equal wage rates for the various classes or unlimited mobility. Some classes of labor are more productive than others and will receive higher prices; the class ratios will be determined by the kind of business the employer is in and the form of organization adopted. It is the marginal substitution of the employer's wage dollar which is equalized. Mobility would be high within the major classes—semiskilled or unskilled, for instance—but would need to be only marginal as between these classifications.

tions for different classes of labor are simply the sums of the demand curves of individual employers, and supply curves are totals of potential employes available at given wage rates. The market is in equilibrium at the point of

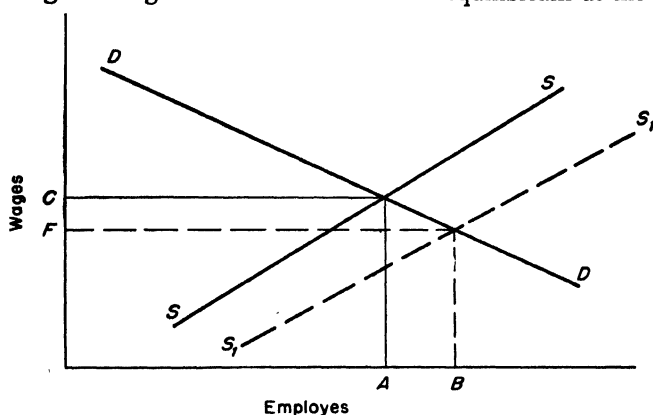


FIG. 3. Shift of employer's labor-supply (cost) curve due to influx of low-wage employees.

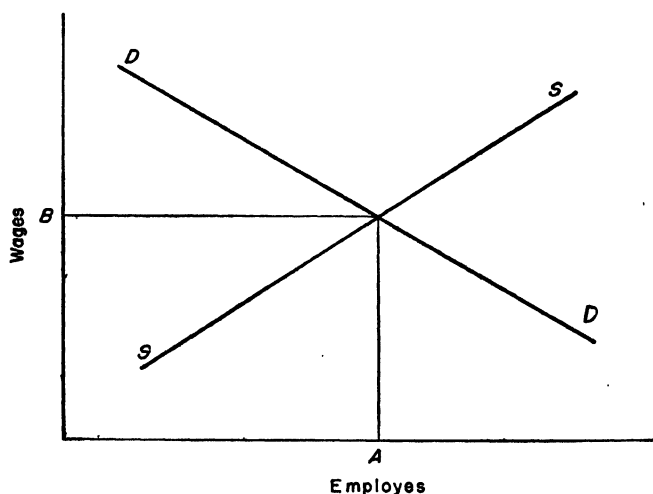


FIG. 4. Equilibrium in the labor market.

intersection of the curves, as at *A* in Fig. 4, when the quantities demanded by employers just equal the offerings of employes at wage *B*.

Changes in either the demand or supply functions may come about quite naturally through an increase in the population of the area, expansion or contraction of firms in size or number, withdrawal of people from employment, or for other reasons. As the curves shift in response to changing conditions, wage rates adjust themselves flexibly and employees transfer from

one employer or occupation to another, with full employment and maximum return to each employe the outcome of each new equilibrium position.

The question of wage differentials is therefore answered as follows, according to marginal productivity theory: (1) Short-run regional differentials are possible, since most labor markets are local in character. These would be cured through time, however, as new entrants to the labor market, unattached and highly mobile, would search out the locations with the maximum pay levels. (2) Job differentials will reflect two things: (*a*) the relative productiveness of different classes of work, and (*b*) the supply of qualified workmen in each grade or class. (3) Employer or firm differentials will be of short duration, since the combined pressures of employers in search of lower costs and employes looking for increased incomes will soon wipe them out.

Does the Theory Hold Water? How much competition is there in the labor market? The marginal productivity theory of wages stands or falls on the answer to this question.

It is doubtful if anyone can reply conclusively for the country as a whole. In the United States, there are more than 9 million employers and around 50 million employes, working at thousands of different kinds of jobs in thousands of different industries, ranging from the complete monopoly of government to the cutthroat competition of the garment trades. The perspective is very broad for any summary judgment. Nevertheless, it may be possible to narrow the range of the controversy somewhat and perhaps illuminate the issues, which are themselves none too clear.

One thing is certain. If serious doubt is cast upon the competitiveness of the labor market in the *United States*, there is no need to look further. Among the great powers of the world at the middle of the twentieth century, America is the only one to make even a pretense of the competitive way of life. Only a handful of the smaller nations—Canada, Australia, Switzerland, the Low Countries, and Scandinavia, perhaps—manage to retain some semblance of freedom in economic matters, and some of these would hardly be classed as competitive economies. Perhaps no generalized explanation of wages, on a world basis, is possible, but if it should be attempted, the marginal productivity theory would have to be discarded at the outset.

How competitive is the labor market in the United States? There is probably no one who has worked for a living who does not have convictions of his own on the subject. However, there is evidence available of a more comprehensive nature than personal opinion.

To begin with, 25 per cent of the 50 million wage and salary workers in this country are employed in primarily noncompetitive industries: government, transportation and public utilities, some banking and insurance,

and private nonprofit institutions. It does not follow absolutely that lack of competition in the sale of product or service means a corresponding lack of competition in the factor markets, but it is a reasonable presumption. Certainly, governments are partially immune to competitive pressures from business rivals, and the influence of cost factors upon employment is at a minimum. The same is true, in large degree, of other highly monopolized services. The necessary elements of competing buyers, flexibility of prices (wages), and freedom of entry to the market are to a degree lacking.

In manufacturing, with the largest volume of employment of any industrial group, there are three important circumstances which hinder competitive adjustment in the hiring of labor. Sheer size is one. Employes may compete with one another (in fact, they do not) for jobs with General Motors, but who does the Corporation, with its 389,000 employes, compete with? Who are the rivals of the United States Steel Corporation (289,000 employes) or the Bethlehem Steel Company (143,000 employes) in the markets in which they operate? The answer is that such mammoth employers are markets in themselves, with their own labor pools, reserves, and wage systems, influenced only slightly by competing offers in their territory.

The large employer is also frequently one of a small group of firms dominating both an industry and a locality. Chicago's Packing-town and State Street Merchants' Association are examples, as are the steel processors in Pittsburgh, the automobile manufacturers in Detroit, and the motion-picture producers in Hollywood. Where from four to six companies provide 75 to 90 per cent of the employment in an industry (as in motor vehicles, aircraft, motion pictures, and cigarettes, for instance), it is unlikely that there will be severe competition, in either the product or the factor markets. The long history of antitrust prosecution and Federal Trade Commission investigation in this country has revealed a marked capacity for combination, understandings, and agreements for the purpose of controlling market prices. It is unlikely that the labor market has been overlooked. In fact, there is much informal evidence of employer refusals to "upset the market" or conduct "raiding parties."

The third circumstance is of more importance than the other two combined. There are between 14 and 15 million members of trade unions in this country. One of the basic purposes of trade unionism is to eliminate the competitive labor market with its individual bargaining. Collective bargaining reduces the number of *sellers* in the market to not more than the number of buyers (and sometimes less), it places restrictions upon entry to the trade, and it rigidifies the wage structure. How successful have the unions been? Listen to an authority on the subject:²

² John T. Dunlop, *American Wage Determination: The Trend and Its Significance*; paper read to the Economic Institute on Wage Determination and the Economics of Liberalism, Chamber of Commerce of the United States, Jan. 11, 1947.

As a result of the growth of labor organizations, particularly in the past 15 years, the wage level of the country is very significantly determined by the processes of collective bargaining. It is unfair to estimate the influence of collective bargaining on the wage structure simply by referring to the number of wage earners organized. With collective bargaining so extensive, its influence on wage rates extends far beyond the particular wage bargains. Although it is commonly estimated that there are about 15 million organized wage earners in the country, the main features of the wage structure of whole segments of our economy, like mining, manufacturing, transportation and communication, and construction are effectively set by collective bargaining—sectors with almost 25 million wage and salary earners.

Government employes and production workers in manufacturing, mining, railroad transportation, and building construction total 25 million out of the 50 million wage and salary workers in the country. If they are largely insulated from the effects of competition, how about the others—the service, sales and clerical, professional, and managerial employes? These are the salaried classes, the “indirect” labor of private industry. Do employers compete for them and do they contend actively on a price basis for positions? Opinions will differ on this, and there is little or no statistical evidence to offer, but personal observation and inquiry lead to a negative conclusion.

The salaried groups in general move around less, have a poorer knowledge of comparable wage structures, and tend more toward specialization (and hence, immobility) than hourly wage employes. The widest discrepancies in pay rates uncovered by wage and salary surveys always appear in the salary account. It is not at all unusual to discover two clerks or stenographers doing precisely similar work in different parts of a large organization, with one of them receiving double the other's pay. Professional pay rates are equally crazy. A salary survey at a large private university in 1946 revealed a minimum-maximum range of \$4,500 to \$15,000 for the rank of full professor. If salaried employes are paid on the basis of their marginal productivity, competition in the market plays a small part in establishing the rate.

It is, in fact, a common criticism of the marginal productivity theory that employers do not know what their marginal revenue and marginal cost schedules are and therefore can have no way of knowing at what point the two intersect for maximization of profit. This argument, however, is none too strong. It is true that they cannot know for sure, since there are as yet no accounting methods subtle enough to reveal incremental quantities early enough to affect operating decisions. But it may well be asked: If the businessman does not attempt to equate marginal revenue and marginal cost, what is his measure of optimum production? Is it likely that an employer contemplates an additional outlay for wages without raising the question whether the return will justify it? Businessmen, like other types of managers, must make decisions on the basis of only partial knowledge of the

facts. It is probable that the ability to estimate the point where MR and MC intersect is one of the principal components of what is known as "business judgment," distinguishing the successful operator from the failure.

There are still other questions to be raised about the marginal productivity theory, however. For example, it is important to the theory that the supply curve of labor in a given market be positively inclined, as shown in Fig. 5a and not negatively inclined as pictured in 5b. This means simply that people act competitively and acquisitively in the sale of labor services, increasing the quantities offered as the price rises. But in fact do they? As wages rise, do workers put in longer hours and those who hesitated before, apply for jobs? There is considerable prima-facie evidence to the contrary.

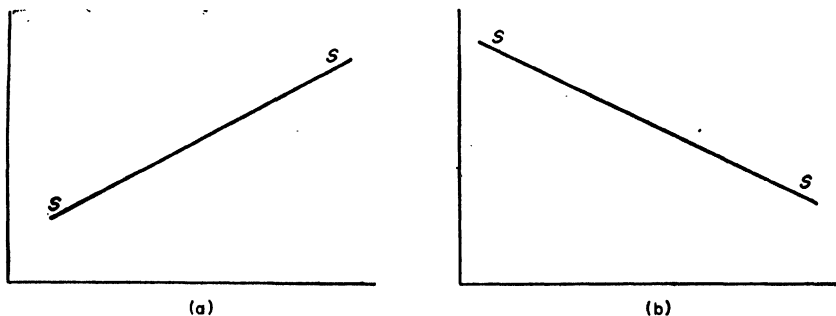


FIG. 5. Positively and negatively inclined labor-supply curves.

Who is there who does not know of the *withdrawal* of a wife or child from regular employment as a consequence of an increase in earning power of the head of the family? And conversely, how many times has the layoff of a workingman sent two or three people in search of jobs, as other members of the family attempted to retrieve the loss of income? Increased leisure is one of the marks of a high standard of living. If these illustrations are typical, the supply curve of labor may well be negatively inclined, at least at certain times and in certain markets. Such a possibility has in fact been argued by several able and thoughtful wage theorists.⁸

A negatively inclined labor supply curve would have grave consequences for a competitive theory of wages, which has as its strongest point a constant tendency toward a stable equilibrium with full employment and maximum return to each employe. For example, it could easily result in the disastrously unstable situation shown in Fig. 6, where competitive bidding for jobs and personnel merely drives the wage farther away from the point

⁸ R. A. Lester, *Economics of Labor*, Chap. 5, "The Labor Market" (New York: The Macmillan Company, 1941); Paul H. Douglas, *The Theory of Wages*, pp. 269-314 (New York: The Macmillan Company, 1933); Sumner H. Slichter, *Modern Economic Society*, pp. 620-627 (New York: Henry Holt and Company, Inc., 1931).

of intersection of the curves and increases the gap between the quantity demanded and that supplied. Below the spurious equilibrium point E , competitive bidding by employees will only drive the wage down and increase the unemployment gap F . Above E , competitive recruitment by employers will raise the wage level, but merely widen the gap G , leaving personnel needs unsatisfied.⁴

Negative inclination of the labor supply curve creates other possibilities, two of which are illustrated in Fig. 7a and 7b.

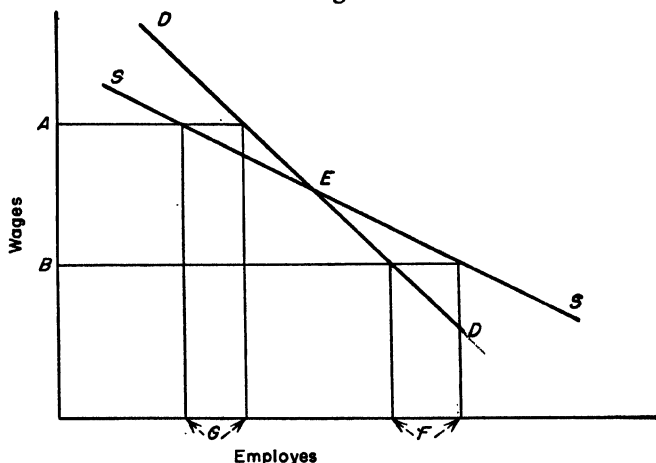


FIG. 6. The negatively inclined labor-supply curve and instability.

According to 7a, the supply-and-demand curves for labor are congruent throughout a considerable range. Equilibrium may be reached at any wage between A and B or any range of employment from G to F . With the situation as described in 7b, there is no possible point of equilibrium, as the supply-and-demand curves do not intersect at any point. There will always be unemployed labor resources in the market. Any experienced observer will recall apparent examples of both: either constant unemployed labor reserves (7b) or the matching of demand and supply at various levels of wages and employment (7a).

To the foregoing must be added the evidence of lack of homogeneity, mobility, full knowledge, and price equality reviewed in Chap. 4. The pricing mechanism of the labor market, in which long-term contracts of indefinite tenure, subject to interruption by either party upon short notice, are established orally and the terms worked out as conditions arise, is totally different from that ordinarily referred to by economic theorists and departs

⁴ This occurs only when the supply curve is negatively inclined *but more elastic than* the demand curve.

still further from the competitive ideal. The latter is best served by the bourse-type system of bids and offers for the exchange of commodities of an even quality which may be graded and classed for distribution to anonymous buyers. Personal services are not fungible and are hard to depersonalize.

Then what is left of the marginal productivity theory? For the short run, not much. In many large and important sectors of the market, wage rates and differentials are influenced only indirectly by competition in the short run. It is extremely doubtful that wages reflect with any precision the marginal productivity of the last employee added in each class or grade. As a basis for short-run wage policy, the theory is bankrupt. It does not fit the facts, a circumstance which probably explains its virtual rejection by policy makers of the past two decades.

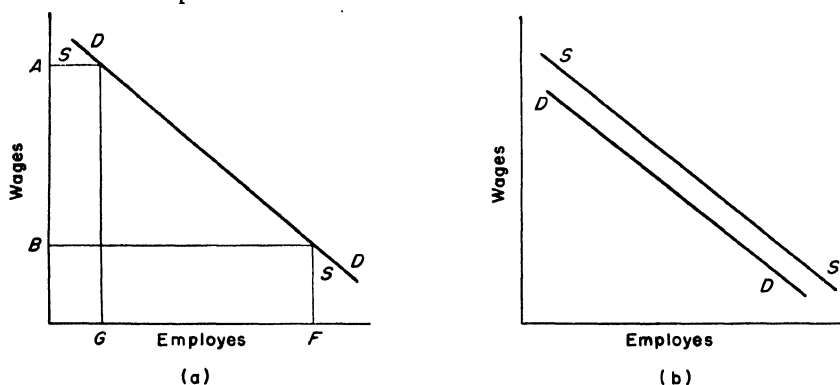


FIG. 7. Labor market possibilities with a negatively inclined labor-supply curve.

The Marginal Productivity Theory in the Long Run. If it is to be a complete theory, the marginal productivity doctrine must have something to say about wages in the long run. It does, as follows: The general level of wages in the long period is determined by the capital-labor ratio. According to this view, the productivity of labor varies directly with the tools it has to work with. Capital investment provides the tools. If capital investment is high, relative to the number employed, the wage will be high; if capital investment is low, there will be limited equipment for workers to use, productivity will be low, and the wage, which comes out of the product, can only be small. A simple illustration will be sufficient. A man digging a trench with his bare hands would make slow progress. Furnished with a pick and shovel, his productivity would be multiplied several times. But equip the digger with a caterpillar tractor bucket-type trench digger, and he will do the work of a hundred men with hand tools.

Industrial progress is technological progress, the harnessing of mechanical inventions to a succession of prime movers which give control over hun-

dreds and thousands of horsepower: steam, electricity, internal combustion, and perhaps in the future, atomic energy. Prime movers and mechanical equipment require tremendous capital outlays. If this form of outlay is continued, expanded, and extended to new areas, labor productivity, which rose at an average rate of 3.5 per cent a year between 1850 and 1940,⁵ may well continue to rise and perhaps at an increasing rate. But it will only do so if the capital investment is forthcoming.

The capital-labor ratio is also subject to an equilibrating process. Employers try to equalize the rate of marginal substitution in all the factor markets, capital as well as labor. If the price of labor is low, there is little incentive to substitute capital equipment for manpower. But if wages are high, there is rapid introduction of laborsaving devices through mechanical development and the use of other forms of energy than manpower. An economy with a high capital-labor ratio tends to be a high-wage economy, which in turn exerts a pressure toward increasing capital outlays. If the marginal productivity theorists are correct, there can be no turning back from increasing industrialization except at the cost of lowered wages and earnings and a drop in the standard of living.

The Bargain Theory of Wages

The weaknesses of marginal productivity theory are the strengths of its competitors. Foremost among these is the bargain, or "bargaining," theory of wages. This theory, which has none of the extensive technical apparatus of its orthodox opponent, is very simply stated. Its major assumption is:⁶

That wages, hours, and working conditions are largely a matter of the relative bargaining strength of the two sides; that without organization and concerted action there will be a tendency toward undesirable, if not the worst possible, conditions for the workers; that no adequate safeguard is found in the operation of the factors at work in the unorganized trade [competition]; that there is a flexible, changeable situation and that by means of organized effort positive improvement can be secured in wages, hours, and other important details of the labor contract and in their administration.

In recent years, especially since 1933, the bargain theory has gained steadily at the expense of the marginal productivity theory as an explanation of the significant forces determining wage rates and differentials in the short run.

It took the bargain theory a long while to catch up with marginal productivity. The classic statement of the helplessness of the individual workman in dealings with his employer, and the competitive pressure on wage

⁵ *America's Needs and Resources*, p. 23 (New York: The Twentieth Century Fund, Inc., 1947).

⁶ H. A. Millis and R. A. Montgomery, *Organized Labor*, p. 356 (New York: McGraw-Hill Book Company, Inc., 1945).

rates is found in the Webbs' great bible of trade unionism, *Industrial Democracy*.⁷ In their chapter on "The Higgling of the Market," they outlined the chain of transactions which would force every employer, no matter how intelligent, farsighted, and public spirited, to take as much advantage of his workpeople as the most grasping and shortsighted of his rivals.

The first link in the chain is the bargaining (higgling) advantage of the capitalist employer over the individual applicant for work. On the score of inconvenience, waiting power, knowledge of the market, and awareness of the economic strength of his opponent, the employer is in a position to outgeneral and outmaneuver the workingman, who is typically a novice in the art of bargaining. And this he will be forced to do in self-defense, notwithstanding his sentiments of fair play. Why?

Paradoxical as it may appear, in the highly developed commercial system of... today the capitalist manufacturer stands at as great a relative disadvantage to the wholesale trader as the isolated workman does to the capitalist manufacturer. In the higgling of the market with the wholesale trader who takes his product, the capitalist manufacturer exhibits the same inferiority of strategic position with regard to the alternative, with regard to knowledge of the circumstances, and with regard to bargaining capacity.

But it would be a mistake to consider that the pressure originates with the wholesaler. "Just as the manufacturer is conscious of his weakness in face of the wholesale trader, so the wholesale trader feels himself helpless before the retail shopkeeper to whom he sells his stock." This arises from the retailer's closer contact with the ultimate market, the consumer. Retailers, therefore, must be courted by the wholesaler and induced to push the particular lines that he is interested in.

We come now to the last link in the chain, the competition between retail shopkeepers to secure customers. Here the superiority in knowledge and technical skill is on the side of the seller, but this is far outweighed by the exceptional freedom of the buyer. We thus arrive at the consumer as the ultimate source of that persistent pressure on sellers, which, transmitted through the long chain of bargainings, finally crushes the isolated workman at the base of the pyramid.

The conclusion is obvious from the analysis. Workmen should combine and resist the downward pressure on wages with a united front of their own. Equality of bargaining power through collective action is the only practical way to offset the harsh effects of competition.

The essential difference between the Webbs' theory and orthodox economic analysis was in the former's refusal to admit that there was competition in the factor markets. Employers of all classes competed bitterly and

⁷ S. and B. Webb, *Industrial Democracy*, pp. 654-671 (New York: Longmans, Green & Co., Inc., 1911).

ruthlessly in the sale of their products, but not for employees or (by implication) for capital. Whether this was because of a continual labor surplus or by tacit agreement of employers not to "break the market" and bid up wages is not clear, but the analysis would dissolve if it were assumed that employers were scrambling for personnel as they unquestionably do in prosperous times. The Webbs' analysis would hardly fit the facts in 1919-1920 or 1941-1948. On the other hand, it rings only too true in depressed periods. In the 1930's there was little competition for factors of production. They were lying around unused on every side, for sale at bargain prices. In a period of industrial stagnation and unemployment, the Webbs' explanation made sense.

The bargain theory of wages is also supported by doubts concerning the positive inclination of the labor supply curve. Under any of the conditions illustrated in Figs. 6 and 7 above (and others which would be possible with a negatively inclined supply function), the wage level is indeterminate and the equilibrium unstable. What the wage will be is dependent upon chance, bargaining power, or authoritative third-party settlement. Of the three, collective bargaining has so far seemed the most desirable.

Additional support for the bargain theory came in 1936 with the publication of J. M. Keynes's revolutionary *The General Theory of Employment Interest and Money*.⁸ The prestige of the author and the timeliness of the publication (after 6 years of extreme depression), gave a sharp edge to his denial that flexible wage rates led to full employment. When combined with the argument for transfer of income to the lower wage groups in order to increase consumption, the criticism of orthodox wage theory proved a powerful stimulant to collective bargaining. Keynes himself proposed a wage policy that left little room for bargaining of any sort, individual or collective. However, the bargain theory is currently endorsed by many of his followers.

Criticisms of the Bargain Theory. The bargain theory of wages is not immune to criticism. It has been questioned both as to its accuracy and its desirability; that it is, whether it *is* or *should be* the most important influence in wage determination. Employers, for instance, would be the first to attack the idea of the negatively inclined supply curve of labor on grounds of their own experience. When they need job applicants, personnel managers do not advocate lowering the wage, but raising it. And it works. There are few employment managers who could not give positive evidence on the point. However, even a large volume of such evidence might be less than convincing. This is what Samuelson calls "the fallacy of composition."⁹ The general labor market is a different thing and may show quite different responses

⁸ New York: Harcourt, Brace and Company, Inc., 1936.

⁹ Paul A. Samuelson, *Economics: An Introductory Analysis*, p. 9 (New York: McGraw-Hill Book Company, Inc., 1948).

to a change in price than a single employer in the market. By bidding up the wage, employers may simply take employes away from other firms, without increasing the total number in the market or even decreasing it.

Another criticism of the bargain theory is the contention that collective bargaining is not efficient, that it does not actually raise wages as rapidly or to as high levels as individual bargaining. The natural reaction is to dismiss this view as silly, the product of NAM propaganda. In the public mind, trade unions are indissolubly connected with wage demands, bargaining pressures, strikes, and championship of higher standards of living. However, take a look at the evidence.

The wages that on the record rose the most during the Second World War were those of one of the most completely unorganized large groups of employes in the country, farm laborers. From a daily rate (without board) of \$1.53 in April, 1939, average farm pay in the United States rose to \$4.77 in April, 1947,¹⁰ a jump of 212 per cent, or just about double the proportionate rise in pay of bituminous coal miners. Nor were the wage increases stimulated by any threat of organization. With a few minor exceptions, farm labor has been by-passed by union organizers.

There is also strong informal evidence of equally significant pay increases for another very large group of individual bargainers, domestic servants. In Chicago, a 1939 rate of 30 cents an hour had become, by 1947, 75 cents to \$1 an hour plus carfare, and reports from other cities contain news of pay raises of the same order of magnitude. Domestic servants are not a small, isolated, strategic group. In 1940 there were 2,098,000 of them in this country, as many as there were employes of the railroads, coal mines, and the automobile industry combined.¹¹

It would be a serious blow to union prestige and the bargain theory of wages if it were established that collective action does not raise wages as high or as rapidly as individual bargaining. One answer to the charge made above is that the wages in organized industries had not fallen as far during the 1930's as those in the unorganized trades and therefore had less distance to rise to maintain living standards. Another is a simple comparison of current daily rates:

Manufacturing	March, 1947	\$ 9.44	8 times average hourly earnings
Soft-coal mining	March, 1947	11.84	8 times average hourly earnings
Retail trade	March, 1947	7.68	8 times average hourly earnings
Building construction	March, 1947	12.88	8 times average hourly earnings
Farm labor	April, 1947	4.77	daily without board

A union spokesman would say: "Who wants to transfer from manufacturing,

¹⁰ *Monthly Labor Review*, June, 1947, p. v.

¹¹ George J. Stigler, *Domestic Servants in the United States, 1900-1940*, p. 3 (New York: National Bureau of Economic Research, Inc., 1946).

with its \$9.44 a day, or bituminous coal mining, with its \$11.84 for 8 hours, to the sunup-to-sundown routine of a farm laborer at \$4.77?" It would be contended instead that the rise of union pay scales has been the strongest influence in dragging the sweated wage rates of domestics and farm laborers out of the cellar.

A comparison of the industries is also instructive. Farm labor and domestic servants are hired in markets which very nearly approximate the competitive ideal of large numbers of small units buying and selling without any significant influence upon the market by individuals on either side of the counter. There is a gain in flexibility of prices (wages) and easy adjustment to changes in the demand-and-supply functions, but man-hour productivity and earnings are low. The conditions are hardly comparable with the employer monopsony in manufacturing, mining, transportation, building construction, and other large-employer industries, with their division of labor, efficiency, high unit productivity per man-hour, and corresponding wage scales.

A more serious indictment of the bargain theory consists of a series of objections to the end results: wage agreements between employers and their organized employees. For one thing, the comparative bargaining strengths of the two parties does not assure either a just or economic settlement, and the wage may be just as badly out of line as before. There is nothing rational about a test of economic strength, and the development of bargaining tactics to date gives little promise of improvement. Also, there are certain obvious social and economic costs of wage dispute settlement under collective bargaining—strikes, lockouts, boycotts, etc.—which need not be contended with under alternative forms of wage determination. Lastly, industry-wide collective bargaining results in uneconomic simplification and standardization of wage structures, where local variation is called for by market conditions.

However, the most impressive weakness of the bargain theory is probably its opportunistic character. It is not a complete theory, since it has no long-run postulates. Wages are determined by the relative bargaining power of employers and employees, it says, and employees should organize in order to match the employer or overpower him. And for the future, what do employees and their trade unions want? "More," said Samuel Gompers, long-time head of the AFL. However, this runs head on into the long-run argument of the marginal productivity theorists. If labor gets a steadily increasing share of the national product, can the capital-labor ratio be increased, or even maintained? Wages come out of the product of industry, and even trade unionists do not contend that they can be raised indefinitely without an increase in the output of goods and services. However, gains in output are a function of improved tools and equipment, not of harder work. And tools and equipment require capital. Where is it coming from?

The answer came from Keynes, who rejected the competitive labor market as the Webbs and the trade unionists since them had done, and proposed a national wage policy coupled to a guarantee of continuous full employment at steadily rising levels of earnings for the lower income groups. There are grounds for thinking that bargain theorists have not examined the short-run policy implications of Keynes's wage program too closely, as in numerous respects it conflicts with long-established trade-union practices. Nevertheless, there has been unqualified support of the long-run full-employment objective. If the problem of wage adjustments in the short period can be compromised, the Keynesians and the bargain theorists may be able to offer a complete substitute for the rapidly declining marginal productivity theory.

Keynes on Wages

Failure of the Flexible Wage Policy. Nowhere in *The General Theory* did Keynes make his rejection of the classical theory more definite than in his now famous dictum on wages: "There is . . . no ground for the belief that a flexible wage policy is capable of maintaining a state of continuous full employment. . . . The economic system cannot be made self-adjusting along these lines."¹² He gave several reasons for coming to this conclusion, and the step-by-step argument recalls the Webbs' indictment of the "higgling of the market." Only this time, the villains are national income and the price level:¹³

1. A reduction of wages will mean some reduction in prices, with its main effect a redistribution of real income from wage-earners to other members of the community who enjoy more stable earnings. This is more than likely to diminish the "propensity to consume" and therefore total purchasing power.

2. A wage reduction leads to the expectation of further wage cuts and results in the postponement of both investment and consumption, with consequent reduction of total spending.

3. There will be general resistance to wage cuts by workers, since it is always to the interest of workingmen in each individual case to try to maintain their own rates. The outcome will be unemployment from strikes and lockouts.

4. Widespread wage reductions imply a falling price level, which hastens the insolvency of businesses operating on borrowed money and increases the burden of the national debt and taxation, with adverse effects on business confidence.

The criticism of free-market wage adjustments is summed up concisely as follows:¹⁴

¹² Keynes, *op. cit.*, p. 267.

¹³ *Ibid.*, pp. 262-264.

¹⁴ *Ibid.*, p. 269.

It follows, therefore, that if labour were to respond to conditions of gradually diminishing employment by offering its services at a gradually diminishing money-wage, this would not, as a rule, have the effect of reducing real wages and might even have the effect of increasing them, through its adverse influence on the volume of output. The chief result of this policy would be to cause a great instability of prices, so violent perhaps as to make business calculations futile in an economic society functioning after the manner of that in which we live. To suppose that a flexible wage policy is a right and proper adjunct of a system which on the whole is one of *laissez-faire*, is the opposite of the truth.

The Keynesian Wage Policy: Inflexibility. The Keynesian solution, however, repudiated collective bargaining along with competitive individual wage adjustments, in favor of nationwide regulation to stabilize earnings. Said Keynes:¹⁶

I am now of the opinion that the maintenance of a stable general level of money-wages is, on a balance of considerations, the most advisable policy for a closed system; whilst the same conclusion will hold good for an open system, provided that equilibrium with the rest of the world can be secured by means of fluctuating exchanges. There are advantages in some degree of flexibility in the wages of particular industries so as to expedite transfers from those which are relatively declining to those which are relatively expanding. But the money-wage level as a whole should be maintained as stable as possible, at any rate in the short period. . . .

Thus with a rigid wage policy the stability of prices will be bound up in the short period with the avoidance of fluctuations in employment. In the long period, on the other hand, we are still left with the choice between a policy of allowing prices to fall slowly with the progress of technique and equipment whilst keeping wages stable, or of allowing wages to rise slowly whilst keeping prices stable. On the whole my preference is for the latter alternative, on account of the fact that it is easier with an expectation of higher wages in future to keep the actual level of employment within a given range of full employment than with an expectation of lower wages in future, and on account also of the social advantages of gradually diminishing the burden of debt, the greater ease of adjustment from decaying to growing industries, and the psychological encouragement likely to be felt from a moderate tendency for money-wages to increase.

There are three essential ideas in the Keynesian wage program, two of them unique for a free-wage society, and the third already in operation. They are:

1. A national wage policy
2. A stable (rigid) money wage level in the short run
3. A rising money wage level in the long run

Propositions 1 and 2 are novelties, proposition 3 an established fact of American economic life.

¹⁶ *Ibid.*, pp. 270-271.

A national wage policy might originate in either of two ways: cooperation or supervision. Supervision would mean an "administered" wage policy, and there is only one agency with the power or resources to attempt the job: the Federal government. An administered national wage policy would be a novelty only in peacetime; we had one in the last war, with the "Little Steel formula" as the policy and the National War Labor Board as the administrative agency. Opinions differ both as to the wartime efficiency and results, and the peacetime possibilities of this method of wage determination. In a sense, Australia and New Zealand have had the mechanism without the policy for a generation. To date, there have been few strong advocates of an administered national wage policy in peacetime for the United States.

What about a national wage policy through the cooperation of employers and employees? Professor Dunlop sees it as a possibility, but at the risk of jeopardizing the stability of wages in the short run:¹⁶

We have reached the stage where a limited number of key bargains effectively influence the whole wage structure of the American economy. . . . The number of really key bargains may be placed in the neighborhood of twenty-five to fifty. . . . It would be a mistake to presume that labor organizations alone had brought us from a condition of isolated and independent labor markets to the present condition in which a few bargains are decisive to the whole wage level. Frequently the fact and location of price leadership determines the key wage bargain. The traditions of industries and localities or dominant personalities frequently establish the order in which firms wish to make any wage changes. Individual business firms are reluctant to make wage changes until recognized leaders have made their decisions.

There are thus a limited number of strategic and decisive points of wage determination in our system which effectively condition, within narrow limits, the whole structure and level of wage and salary rates. I believe this fact is not likely to be altered in the years ahead for it is deeply entrenched in our whole wage-price fabric. *This fact creates the possibility that labor and management in this country in the years ahead may develop a national wage policy.* It creates the danger that these key bargains may contribute to unwarranted and inflationary wage increases throughout the system.

The inflation bugaboo has plagued the dreams of most Keynesians. Even with an administered program (the managed economy), the problem of a stable wage level in the short run has been regarded with apprehension.

Sir William H. Beveridge, one of the foremost British disciples of the late Lord Keynes, dumps the problem squarely in the lap of organized labor. Brusquely, he says:¹⁷

¹⁶ Dunlop, *op. cit.*, italics supplied.

¹⁷ *Full Employment in a Free Society*, pp. 199 and 200 (New York: W. W. Norton & Company, Inc., 1945).

So long as freedom of collective bargaining is maintained, the primary responsibility of preventing a full employment policy from coming to grief . . . will rest on those who conduct the bargaining on behalf of labour . . . there is no inherent mechanism in our present system, which can with certainty prevent competitive sectional bargaining for wages from setting up a vicious spiral of rising prices under full employment.

He has two proposals: (1) that the central labor organizations (the British Trades Union Congress and the AFL and CIO in the United States) work out a unified wage policy which will ensure "that the demands of individual unions will be judged with reference to the economic situation as a whole"; and (2) arbitration of wage demands.

Neither of these suggestions is ripe for adoption yet. The central labor organizations in both the United States and Great Britain were created and have waxed fat on a policy directly opposite to the one he asks for, namely, a guarantee of the autonomy and sovereignty of their members and consistent refusal to interfere in their affairs. To date there is no evidence of any intention to modify their purposes. The arbitration which he recommends is contrary to the emphatic preferences of most unions and employers, who consider third-party settlement of contract terms incompatible with their responsibilities. Furthermore, although Beveridge's description of the arbitration arrangements makes them sound suspiciously compulsory, he is unable to bring himself to describe the sanctions which would be used to force it on a recalcitrant minority. Unless something gives, the Beveridge plan for implementing the Keynesian wage policy seems destined to founder on the rocks of free collective bargaining.

An equally distinguished Keynesian on this side of the Atlantic, Professor Alvin H. Hansen, is also concerned with the problem of wage adjustment under full employment. In his book on *Economic Policy and Full Employment* he starts from the premise that wage policy involves not only the *level*, but also the *structure* of wage rates:¹⁸

We cannot achieve full employment and a balanced development, if we allow building trades wage rates, for example, to rise far out of line with the general wage structure. If this should happen, wage earners could not afford with their relatively low incomes (low in comparison with the building trades) to buy houses that are priced out of the market by reason of high labor cost.

A full-employment wage policy thus involves (1) control of the level of wage rates, as aggregate demand is expanded, so as to promote an equilibrium ratio of wages to profits, on the one side, and prevent increases in unit costs and prices on the other; (2) a balanced wage structure so as to prevent important products (construction, for example) from being priced out of the market; (3) cost reduc-

¹⁸ New York: McGraw-Hill Book Company, Inc., 1947, pp. 157-158.

tions, involving both advances in techniques and removal of monopolistic and restrictive practices.

What does he suggest? A number of things, including guaranteed annual wages; more and better statistics on wages, prices, productivity, and costs; a permanent system of Federal mediation and arbitration of wage disputes (without a single detail on how it is to be used or when); a peacetime office of price research and administered prices on major products such as steel and automobiles; and industry-wide collective bargaining, with full facts on the total economic situation made a part of each negotiation.

The most intriguing feature of Professor Hansen's analysis is his reliance upon collective bargaining to bring about the delicate balance by which "wages in general . . . rise in accordance with *average* over-all gains in productivity."¹⁹ The pessimism of Beveridge and Dunlop (and many others who share their doubts about independent trade-union negotiations under full employment) is shelved. No unified labor policy, no bargaining compulsions, no third-party interferences are specified. Instead, Hansen states his conviction that "under a policy of full employment there is reason to believe that labor's sense of responsibility will increase." The argument is as follows:²⁰

Under full employment, arbitrary advances in wages, out of line with productivity and a balanced wage structure, will clearly be at the expense of consumers—in other words at the expense of labor as a whole. . . . With the over-all facts available, the labor movement as a whole may be counted upon to resist such distortion. . . . During the war, in all the democracies, labor has demonstrated a sense of social responsibility. When society as a whole, through the government, undertakes responsibility for full employment and social welfare, labor may be expected, on past experience, to respond by living up to its social responsibilities. A positive program, policies openly arrived at based on all the available facts, protection from exploitation by unscrupulous groups, active participation by labor in policy formation—these are among the most important measures that may be counted upon to foster within the ranks of labor a high sense of social responsibility.

If this works out as planned, it might be the wedding of the bargain theory and the Keynesian wage program.

A Few More Criticisms of the Keynesian Wage Policies. The Keynesian wage analysis is part of a general program for the preservation of continuous full employment, which is not even at the blueprint stage yet. Beveridge and Hansen illustrate the variety of methods which may be proposed to reach practically identical objectives of a national policy and short-run wage stabil-

¹⁹ *Ibid.*, p. 244.

²⁰ *Ibid.*, p. 246.

ity. A program which has not been tried is less subject to criticism than one in operation. Nevertheless, the premises and aims of the "new economics" as delineated in its wage doctrines would certainly come under violent attack if more widely understood.

The criticism might well begin with an examination of the wartime experience with a national labor policy, when both wages and prices were held in check during a period of high employment, and real earnings rose steadily. The reactions of management, union leaders, and members of the National War Labor Board were not such as to encourage its extension into peacetime operation. A national wage and price policy, with rates of pay practically frozen except for microscopic increases year by year as productivity rises, has a strange sound to one accustomed to the tactics of American management and union leaders. There is, of course, little of the "free" economic society as we know it left in such a picture, no matter how glamorous its other aspects might turn out to be. In Mr. Beveridge's portrait of the fully employed society, the first two major casualties appear to be the rights to engage in private business and to bargain collectively. A lengthy educational process may be necessary before management and union leaders adopt his viewpoint.

Notwithstanding Mr. Hansen's optimism, most Keynesians see the necessity of a large amount of central management of the economy before the theory of national income analysis becomes a practical reality in the form of stable full employment. With respect to wage controls alone, several questions immediately come to mind:

Where is the government agency and the omniscient personnel which is going to take responsibility for adjusting pay rates and differentials in line with changing productivities, costs, and prices throughout the economy?

How will man-hour productivity (which is the gauge for wage increases) be measured in government, banking, schoolteaching, motion-picture production, the granting of legal and medical advice, and in the service industries generally which are beginning to overbalance in employment the older extractive and processing lines?

Will industry averages of productivity satisfy the employees of the more efficient firms?

How is the productivity of managerial, professional, custodial employees, and other "indirect" labor to be computed?

What form of enforcement mechanism will be used to discipline non-cooperating minorities?

What is likely to be the effect of these restrictions upon productivity generally?

Will the incentive to greater effort and efficiency be sharpened or dulled?

The current mixture of competition, employer monopsony, and collective bargaining in the labor market produces some weird situations and is open to violent criticism, especially of a particularistic nature. But it does give answers of a sort to the questions listed above and a number of others which would be just as embarrassing to a central wage-control agency. It might well be asked whether the "managed economy," in wage matters at least, would not create more problems than it solved.

Readings

Wage theory has been the subject of considerable discussion by economists and the results are about as lacking in uniformity as the pattern of wages itself. Adam Smith pops up continually and is mixed in with marginal productivity analysis, examination of market institutions, bargaining power, and Keynesism. The student might compare, for example, the following four presentations, by "orthodox" writers:

Boulding, K. E.: *Economic Analysis*, pp. 196–205 and 470–474. (New York: Harper & Brothers, 1941).

McIsaac, A. M., and J. G. Smith: *Essential Economic Principles*, Chap. XX, "Wages and the Supply of Labor Services" (Boston: D. C. Heath and Company, 1941).

Meyers, A. L.: *Elements of Modern Economics*, Chap. XIV, "Wages" (New York: Prentice-Hall, Inc., 1947).

Millis, H. A., and R. E. Montgomery: *Labor's Progress and Some Basic Labor Problems*, Chap. IV, "A Survey of Wage Theory" (New York: McGraw-Hill Book Company, Inc., 1938).

The most serious recent attempt to explain the bargain theory and its effects upon costs is found in H. A. Millis and R. E. Montgomery, *Organized Labor*,²¹ Chap. VIII, "The Union in Industry: The Theory of Collective Bargaining." It might be supplemented by a study of the Webbs' classic explanation of "The Higgling of the Market," in their *Industrial Democracy*.²²

For Keynesian wage policy, the following are recommended:

Beveridge, W. H.: *Full Employment in a Free Society*, pp. 170–175 and 194–201 (New York: W. W. Norton & Company, 1945).

Hansen, A. H.: *Economic Policy and Full Employment*, Chaps. XIII, "Wage Policy," and XX, "Inflation Risks under Full Employment" (New York: Whittlesey House, McGraw-Hill Book Company, Inc., 1947).

Keynes, J. M.: *The General Theory of Employment Interest and Money*, Chap. 19, "Changes in Money-wages" (New York: Harcourt, Brace and Company, Inc., 1936).

A particularly violent attack upon the incompatibility of trade unionism with planning and a managed economy under full employment is to be found in Barbara Wootton's *Freedom under Planning*.²³

²¹ New York: McGraw-Hill Book Company, Inc., 1945.

²² New York: Longmans, Green & Co., Inc., 1911.

²³ Chapel Hill, University of North Carolina Press, 1945.

Exercises

Wage theory underlies both public policy and private action with respect to employment. Employers and employees cannot avoid decisions which depend for their wisdom upon a theory which fits the facts. Neither the public welfare nor private interests are served by reliance upon wage doctrines that are invalid, no matter how attractive they may sound. The following exercises are designed to raise questions concerning the three most important current doctrines:

1. If it would work out exactly as planned, is there anything wrong with stabilizing wages at their present levels in return for a guarantee of continuous full employment for everybody able and willing to work?
2. Compare the chapters on "wages" in three current economic theory or labor problems textbooks and point out the sources of the ideas presented. See if you can identify each writer as a marginal productivity theorist, a bargain theorist, or a Keynesian.
3. Diagram and explain both a stable and an unstable equilibrium in the labor market, identifying clearly the assumption which makes the difference. How do you feel about this assumption? From your own experiences and those of your friends and acquaintances, which way would you vote on the question?
4. Does it seem reasonable that one theory of wages might be valid in prosperous times and another in depression? If so, which is which, and why do you think so?
5. Compare the long-run aspects of the wage theories of Ricardo, the marginal productivity school, and the Keynesians. Is there any conflict? If so, join the issue and indicate who has the best of the argument and why.
6. Criticize collective bargaining as a method of arriving at wage rates and differentials.

6. PROTECTING THE WAGE AND THE WAGE EARNER

Many who would balk at a set of nationwide wage controls *à la* Keynes might be considerably less alarmed if they knew how many rules employers already have to observe in order to enjoy the privilege of hiring people and paying them wages. From one end of the country to the other, on Federal, state, and local levels, the United States is crisscrossed by a solid pattern of laws and regulations set up for the protection of the wage earner.

The life of an employer is not a happy one in this day and age, unless he enjoys records, reports, claims, investigations, cease-and-desist orders, lawsuits, and politics. For over a hundred years, legislatures, courts, labor departments, and administrative commissions have been moving in on him, limiting his discretion, reducing his options, and steadily cutting down his freedom of action. They set limits as to whom he can hire, how much he can pay, how long his employees can work, the kind of equipment they must have, how they are to be insured against accidents and disease and unemployment, the limits of his interference in their private affairs, whether he can discipline them or not, and whom he can fire. The whole movement—and it *is* a movement—in the direction of protective labor legislation rests upon one basic assumption: *the employee's unequal economic position relative to that of his employer.*

Some Early Reforms

The greatest inequality of employer-employee relations, of course, was found in the case of *servile labor*. An era of employment came to an end with the Emancipation Proclamation of 1863 ruling out *slavery*, and the prohibition of *peonage* contained in the thirteenth Amendment to the Constitution of the United States. Henceforth no man could be legally restrained and

forced to work out his debt, a device which had been used by some employers to produce forced labor over long periods.

Servile labor, however, was only the most extreme example of a broader class of employment association, known as the *master-and-servant* relationship. This terminology, which was inherited from the British common law, stood for a wide range of employment practices, including, among its more restrictive forms, *indentured service*, *apprenticeship*, *contract labor*, and the *padrone system*. In its most liberal pattern it consisted of *paternalism*, which meant, in effect, employment at the will and upon the terms and conditions set by the master. Paternalism is still a feature of certain large classes of employment in this country, notably domestic service and farm labor.

Wherever the provision of living quarters or other necessities of life is an essential part of the employment contract, there is a tendency for paternalism to appear. It is therefore typical of the handling of migratory farm workers and fruit harvesters and thrives in "company towns" like Kimberley, Wis., and Hershey, Pa. Even this remnant of employer domination has been under heavy fire during the past generation. In courts of law, as elsewhere, "master-and-servant" is rapidly giving way to the "employer-employee" relationship.

The elimination of slavery and its near-substitutes, such as peonage, indentured service, and childhood apprenticeship, was of course fundamental in the process of liberalizing a system of employment founded on a federal constitution in which the sole original reference to the rights of labor was a guarantee of the return of runaway slaves. What most people are unaware of is how far the process has gone.

The one thing the slave has that the free workman does not is security. Someone is responsible for feeding, clothing, and sheltering the slave and his family. In colonial times, when the bond servant worked out his term and became a free agent, the burden of responsibility settled on him like a cloud. He had to find work, negotiate the terms of employment, assume the risks of accident and injury on the job, collect his pay, provide his own tools in many cases, feed and clothe his family, and pay his debts. His risks included unemployment, from accident, illness, discrimination, or inability to find work; poverty, due to low wages; loss of pay owed him by unscrupulous employers; attachment of tools and home, or garnishment of wages by creditors; and imprisonment for debt. Every one of these risks has been attacked by Congress or state legislatures and either reduced or done away with entirely. Wages are about the most carefully protected commodity in the United States today, and the extension of security is by no means at an end. There are grounds for thinking that it is just getting under way.

Protection from Debt. The earliest acknowledgment that a free-contract society needed some special rules to protect wage earners came in the form

of limitations upon the collection of debts. The first and biggest step was abolition of imprisonment for debt. The state laws and constitutional provisions which brought this about applied to the population as a whole, but there was no doubt about the classes which were supposed to benefit from them. Even in the 1820's and 1830's, when the first laws were passed, most creditors were employers and most debtors employees. The typical employee, then as now, was propertyless except for personal belongings, tools, and perhaps a home. The prohibition of jail sentences for failure to pay debts was one of the demands of the early workingmen's parties in the Jacksonian era. From the close of the War Between the States onward, no state has permitted such a harsh and illogical penalty.¹

Close behind the veto of imprisonment for debt came the exemption of wages from attachment and execution, or their garnishment by creditors. This was another early reform which took strong hold in the 1840's. At the present time there is no state in the country which permits a sheriff to seize all a debtor's wages to satisfy a judgment. The pattern of protection varies a good deal, depending, as it does, on state laws, but in most jurisdictions the amount excluded from seizure (like 90 per cent of the preceding 3 months' earnings, or a flat sum such as \$25 or \$100) is sufficient to save the employee from legal action. Garnishment is a slightly different method and is levied upon the employer to force him to pay part or all of the employee's wages to a creditor. The usual statutory defense is to make the employer still liable to the employee for any wages delivered to a third party which are exempted by the law.

Wage assignments, which are voluntary transfers of earnings by employees in advance of actual receipt from the employer, are also hedged around with safeguards. They may be required to be in writing, to be recorded, to be assented to by husband or wife, and a copy of the agreement filed with the employer. Assignments of future earnings may be prohibited, as may those for certain purposes, such as to secure loans and get salary advances.

Another form of protection widely employed in the United States is to exempt the debtor's homestead and the tools of his trade from attachment and execution. The homestead rule is a general one, like the injunction against imprisonment for debt, and customarily applies to all heads of families or the population as a whole. The only exception to it is a specific favor to wage earners granted in some states whereby the homestead exemption is held to be void against mechanics' liens.

Collecting the Pay. Having fenced off the pay envelope from creditors, the government turned its attention to seeing that it was received in good shape and without delay by employees. One line of attack upon this objective

¹ J. R. Commons and J. B. Andrews, *Principles of Labor Legislation*, 4th rev. ed., p. 326 (New York: Harper & Brothers, 1936).

was through mechanics' lien and wage preference laws. The essence of these regulations was to make the mechanic's (wage earner's) claim for wages a preferred legal right against the property or assets of the employer or (in some cases) his customer.

Mechanics' liens are a special case of wage preference and apply to building construction only. Under the laws of most states, a mechanic or laborer employed in the construction of a building who has not received all the wages due him may file a lien against the property, which in effect becomes a form of mortgage and constitutes a cloud on the title until a formal release is recorded. The lien is a preferred claim and comes ahead of payments to the contractor or subcontractors, or the discharge of other forms of financial obligations (notes, mortgages, claims for building materials) by the owner. A standard procedure by contractors in the delivery of property to purchasers is to guarantee them against the filing of liens or to deposit with them formal releases from their employees of all further claims for wages.

Wage preference laws are a broader class of legislation and may be found in every state in the country as well as on the Federal level. For the most part, they provide that in cases of bankruptcy or receivership of any business, the wages of employees come first in any distribution of assets after legal fees, court costs, and taxes. Few classes of unsecured creditors have as much certainty of receiving 100 per cent of what is owing them as American employees.

Mechanics' lien and wage preference laws are basic rules establishing the legal position of *unpaid* wages. Employees in general have paid more attention to the wages which are *paid* by going concerns, and legislatures have reflected their interest by regulating the time, place, and medium of payment. It is, for example, practically a universal rule in this and other countries to require a regular payday, either once a month, once a week, or somewhere between the two. Some states insist that employees be paid during working hours and practically all demand immediate delivery of all wages due upon discharge. The place of payment preferred in most statutes is the employer's place of business, which automatically excludes the place prohibited in some—barrooms.

The medium of payment which most employees favor is cash or check. However, the necessities of employment have at times called for variation of this rule, to include room, board, and "kind" (goods and services, such as milk and vegetables for farm labor). There has been some regulation of mine and factory housing in this country, but most of the laws have had to do with payment in "scrip" which was good only at "company stores." There is little doubt that this system was used at times to defraud employees through limitation of their choices of merchandise and the charging of high prices. Some legislation has been aimed at eliminating "store orders" entirely as a

means of wage payment, especially in industries where it was under most suspicion: mining, manufacturing, and railroads. New York, New Jersey, and Pennsylvania state laws are examples of this approach. Other states have attempted to regulate the prices charged and the quality of goods offered in the stores. With the increase in mobility brought about through ownership of automobiles, and also as a result of adverse publicity against it as an extreme example of paternalism, the "company store" problem has declined in importance until today it is more of a memory than an issue.

Minimum Wages, Maximum Hours, and Child Labor

The lawmakers did not stop with making sure that employes got their wages, and telling employers when, where, and how to pay them. They have also ruled extensively on what the wage should be. Along with this, they have limited the hours which employes may work and have excluded women and children from certain kinds of jobs or from the labor market entirely.

For more than a decade, the United States has been blanketed by a broad and inclusive Federal law plus dozens of state statutes and municipal ordinances which have the purposes of setting "floors" under wages, "ceilings" over working hours, and reducing or eliminating child labor. The principal Federal statute is known officially as the Fair Labor Standards Act of 1938,² and unofficially as the Wage and Hour Law. It is supported by the Walsh-Healey Public Contracts Act,³ which authorizes the government to regulate the wages, hours, and working conditions of employes on government contracts of \$10,000 or over, and the Bacon-Davis prevailing wage law,⁴ which sets wage standards to be included in the advertised specifications of contracts above \$2,000, for the construction, alteration, or repair of public buildings. There are literally scores of state and local regulations limiting hours of work in hazardous trades, setting a maximum 8-hour day and 48-hour week for women, requiring compulsory school attendance for children below a certain age, prescribing minimum wages that may be paid to women and children, or otherwise regulating the terms of the employment contract.

The movement to regulate wages, hours, and child labor passed through a number of stages and reached a climax in the passage of the Fair Labor Standards Act of 1938. That law summed up the three different lines of regulation which had been in process for a century or more in an omnibus statute and practically put a stop to further state and local efforts to impose "labor standards" upon employers. It contained the following main provisions:

² 52 Stat. 1060.

³ 49 Stat. 2036 (1936).

⁴ 46 Stat. 1494 (1931), as amended.

1. Its coverage was all employes in interstate commerce, with certain stated exceptions.

2. The primary objective was a universal minimum wage of 40 cents an hour, to be approached gradually, as follows:

- a. A legal minimum rate of 25 cents an hour the first year (1939)
- b. A legal minimum rate of 30 cents an hour the next 6 years (1945)
- c. A legal minimum rate of 40 cents an hour thereafter
- d. The Administrator of the act could vary these rates for particular industries by means of special wage orders instituted upon recommendation of "industry committees." The variation permitted was up to 40 cents an hour during the first 7 years (until 1945) and down to 30 cents an hour after that.

3. The second objective was a universal maximum work week of 40 hours at regular rates of pay, also to be approached gradually, as follows:

- a. A legal maximum work week of 44 hours the first year (1939)
- b. A legal maximum work week of 42 hours the second year (1940)
- c. A legal maximum work week of 40 hours thereafter
- d. Any hours worked in excess of these limits to be paid for at not less than one and a half times the regular rate

4. The third major objective, which was achieved outright, was prohibition of the employment of children under 16 years of age by anyone not a parent or guardian, or the employment of children under 18 in hazardous trades.

This type of regulatory law presents a whole series of issues in a single package, some of which have been decided for the time being, while others are still in process. While the problems lie in the general areas of constitutional law, economics and administration, their solutions have had a terrific practical impact upon employers and employes throughout the country. In the early months of 1947, for example, American employers were being sued for several *billion* dollars in back wages held to be due them under the overtime pay provisions of the law. In more ways than one, the Federal Wage and Hour Law may be a proving ground for the central direction of wage policy in the United States.

The Judicial Barricade. For a long time, the most important question was not whether wage and hour regulation was a good thing, but whether or not the judges would permit it. The legislative and executive branches of government, being closer to the people and more representative, have been easier to influence, but there is a long line of state and Federal supreme court decisions declaring such acts unconstitutional. At the same time the courts exercised their prerogative of inconsistency by alternating now and then with favorable rulings. A brief catalogue of famous court cases on these issues follows:

Maximum Hours

Ritchie v. People, 155 Ill. 98 (1895). Eight-hour law for women employed in factories and workshops declared unconstitutional by the Illinois supreme court.

Holden v. Hardy, 169 U.S. 366 (1898). A maximum 8-hour day for workmen in mines and smelters in the state of Utah upheld by the United States Supreme Court.

Lochner v. New York, 198 U.S. 45 (1905). A New York law limiting bakers to 10 hours a day held unconstitutional by the United States Supreme Court.

Muller v. Oregon, 208 U.S. 412 (1908). Oregon's maximum 10-hour day law for women in factories or laundries upheld by the United States Supreme Court. The case for the state of Oregon (and regulation) was successfully argued by Louis D. Brandeis, later Associate Justice of the top Federal Court, and his voluminous brief for the defense, containing reams of social and economic data and a few paragraphs of legal precedent, gave rise to the term, a "Brandeis brief."

Bunting v. Oregon, 243 U.S. 426 (1917). An Oregon law limiting factory workers to 10 hours a day at regular rates of pay, plus 3 hours at time and a half, held constitutional by the United States Supreme Court.

Wilson v. New, 243 U.S. 332 (1917). A Federal law establishing a basic 8-hour day on the railroads without reduction in pay held constitutional by the United States Supreme Court.

Child Labor

Hammer v. Dagenhart, 247 U.S. 251 (1918). A Federal law making it illegal to ship in interstate commerce goods produced with the aid of child labor held unconstitutional by the United States Supreme Court.

Bailey v. Drexel Furniture, 259 U.S. 20 (1922). A Federal law taxing firms 10 per cent of their net profits if they ship in interstate commerce goods produced with the aid of child labor held unconstitutional by the United States Supreme Court.

Minimum Wages

Stettler v. O'Hara, 243 U.S. 629 (1917). An Oregon minimum-wage law for women held constitutional by the United States Supreme Court.

Adkins v. Children's Hospital, 261 U.S. 525 (1923). A Federal minimum-wage law for women in the District of Columbia held unconstitutional by the United States Supreme Court.

Schechter v. United States, 295 U.S. 495 (1935). The National Industrial Recovery Act of 1933, which contained in its famous Sec. 7a the authority for the President to prescribe labor codes with minimum wages, maximum hours, and other conditions of employment, held unconstitutional by the United States Supreme Court.

Morehead v. People ex rel. Tipaldo, 298 U.S. 597 (1936). A New York minimum-wage law for women and children held unconstitutional by the United States Supreme Court.

West Coast Hotel v. Parrish, 300 U.S. 391 (1937). A Washington state minimum-wage law for women and children held constitutional by the U.S. Supreme Court.

United States v. Darby Lumber Co., 312 U.S. 100 (1941). The Federal Fair Labor Standards Act of 1938, regulating minimum wages, maximum hours of work, and child labor, held constitutional by the United States Supreme Court.

It is now a well-settled ruling of constitutional law that Congress and the state legislatures may regulate wages, hours of work, and the labor of women and children within their respective jurisdictions, without interference by the courts. It has been a long uphill fight to establish this right, and the detailed legal arguments in the cases listed above are much too complex for examination here. The main ground for nullification when statutes were held invalid was usually the due process clause of either the fifth or the fourteenth Amendment to the Federal Constitution, and the reasoning went something as follows:

1. The due process clauses read: "No person shall be . . . deprived of life, liberty, or property, without due process of law" (fifth); "nor shall any State deprive any person of life, liberty, or property, without due process of law" (fourteenth).

2. Freedom of contract is a property right.

3. Regulatory laws of this kind limit both the employee's and the employer's freedom of contract, thereby depriving both parties of property.

4. Hence, the laws are unconstitutional.

Where state laws were upheld, the explanation was that the regulation was a "reasonable" exercise of the state's police power. Federal regulations tend to be sustained on the basis of the commerce clause of the Constitution of the United States. ("The Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.")

No one has ever been able to find the thread of consistency running through the United States Supreme Court's decisions on regulatory questions, although scores of legal scholars have tried their hand at it. The big shift in judicial attitudes came in the spring and summer of 1937, following

the court reorganization plan which President Franklin D. Roosevelt proposed earlier that year. It was reflected most dramatically in the change of view on minimum-wage legislation, whereby the Court, by a 5 to 4 decision, upheld the Washington state law (West Coast Hotel case), after turning down the New York law (Morehead case) by a 5 to 4 decision the year before. Since 1936, no major Federal regulatory law has been held unconstitutional.

Interstate Commerce. Under a Federal form of government, one of the main problems of regulation is to decide who has jurisdiction. If employment is local (intrastate), the state government is responsible. If the employment is in an activity which crosses state lines (interstate), the national government is boss. Where there is uncertainty, it is up to the courts to decide, and the decisions have often been crucial for programs of regulation. For example, the first Federal child labor law was declared unconstitutional (in *Hammer v. Dagenhart*) largely on the grounds that it was an attempt by Congress to regulate activities which were essentially local in character, the employment of children in factories.

However, as conditions have changed and businesses have grown larger and the economy became more interdependent, the judicial view of interstate commerce has expanded, with the greatest expansion occurring since the court reform of 1937. In 1937, the Supreme Court held, in *National Labor Relations Board v. Jones and Laughlin Steel Corporation*,⁵ that manufacturing was in interstate commerce, after 150 years of ruling just the opposite. The basis for this and subsequent decisions of the same type was that some portion of the employer's business was conducted across state lines. In passing on the coverage of the Fair Labor Standards Act of 1938, the courts have given this principle its most extreme application to date.

They have held, for example, that a company doing less than 1 per cent of its business in interstate commerce was covered by the act.⁶ They have also ruled that the law applied to employes of a fertilizer company which sold its product to farmers who used it to grow sugar cane, which was sold to sugar mills, processed into sugar and molasses, and then exported.⁷ Neither the fertilizer nor the sugar cane moved in interstate commerce. However, it was reasoned that the occupations were necessary to the production of an ingredient of an article moving in commerce and were therefore equivalent to being engaged in interstate commerce itself.

The Supreme Court's more generous view of the jurisdiction of Congress relative to the states is approved by those who favor regulation and deplored by those who oppose it. For one thing, the Court has never

⁵ 301 U.S. 1 (1937).

⁶ *Muldowney v. Seaberg Elevator Co.*, 39 F. Supp. 275 (1941).

⁷ *McComb v. Super-A-Fertilizer Works, Inc.*, U.S.C.C.A. (1st), Jan. 27, 1948.

returned any authority to the states after once assigning it to Washington; the traffic is all one-way, from state to Federal levels. For another, the Federal government is a much more powerful regulator than state and local agencies. It is not unknown for businesses to move out of states that attempted to control their activities, into a more friendly territory, or to extend their business across state lines in order to be classed as interstate and therefore out of reach of the local authorities. These excursions are checkmated by Federal controls, which are uniform throughout the states, and there is much less likelihood of transfer to foreign territory, since the out-of-pocket costs and subsequent risks would be much greater.

At the present time, no one knows exactly where the line is drawn between interstate and intrastate commerce, but there is little doubt that the former has superseded the latter as a basis for governmental controls in many lines of activity previously regarded as local. The trend in all fields of regulation, but most noticeably with respect to employment, is transfer of responsibility from state to Federal levels. The new interpretation of the commerce clause gives Congress a basis for exploring practically any form of economic activity and indicates that the courts are not likely to be a barrier to further extension of Federal controls over wages and employment.

Child Labor. There has never been much public defense of child labor in this country, although there has been powerful unorganized opposition to Federal attempts to prohibit it. After the Supreme Court stopped Congress's first two moves in that direction (in *Hammer v. Dagenhart* and *Bailey v. Drexel Furniture*), the House and Senate passed a joint resolution proposing an amendment to the Federal Constitution which would permit Congress "to limit, regulate, and prohibit the labor of persons under 18 years of age."⁸ Considering the ease and promptness with which Congress had legislated on the subject, the Child Labor Amendment had a curious history.⁹

Following a heated conflict in Massachusetts, where ratification was defeated by popular vote, state legislatures throughout the country turned almost solidly against the idea. Within two years there were only four affirmatives, although practically every state body considered the question. (The proposal was voted on by one or both legislative bodies of 31 states during the first year after action by Congress.) In 1927, Montana ratified, and Colorado voted "Yes" in 1931. The situation stood unchanged until 1933, when a sudden shift in sentiment brought 14 ratifications. Four more appeared in 1935 and another four in 1937 bringing the total up to 28 states as against a needed 36.

⁸ 43 Stat. 670 (1924).

⁹ O. W. Phelps, *Legislative Background of the Fair Labor Standards Act*, p. 13 (Chicago: University of Chicago Press, 1939).

With the passage of the Fair Labor Standards Act and its subsequent approval by the Supreme Court, the amendment passed out of the picture.

No one has been able to explain fully the difficulty the amendment encountered. There was always opposition in the farm states, where there was fear of interference with the use of unpaid family labor, but even the industrial states, with good previous records of support for liberal legislation (like Massachusetts), voted it down. Probably as good a guess as any is to blame it on the times. The latter half of the 1920's was not a period of either demand or support for public regulation of any kind. The Harding-Coolidge-Hoover era was a period of "normalcy" and revival of belief in *laissez faire*. A sharp change in public thinking is reflected in the 14 ratifications which showed up in 1933, and the subsequent successful legislative moves by the Roosevelt Administration.

Child labor is unpopular in the United States because it runs counter to the great American religion, education. The issue is work versus school, and the verdict, for the record at any rate, has never been in doubt. Every state has a compulsory school attendance law (the most efficient means of controlling the work of minors) and an equal number regulate the conditions of employment of young people. The customary school-leaving age in the state statutes is 14 (which would normally be at the end of grade school), but quite a few states set it at 16 (end of the sophomore year in high school), like the Federal law. There are also rules concerning hazardous occupations (age 18, usually), 8-hour days, 40-hour weeks, night work, and the use of special permits.

Since the issue is work versus school, and free public education is provided through high school everywhere, with almost enough junior college facilities for everybody in some states (California, for example), and more than a third of all boys and girls finish high school now, a move to raise the legal minimum age of employment to 18 would not be surprising. It would be supported by educators everywhere, trade unionists (who would prefer to have the competition of minors removed from the labor market), and public sentiment in bad times, when employed children and unmarried women are accused of taking jobs away from the heads of families. Extensive regulation of child labor may be expected to continue and increase, as another step in the process of formalizing the employment relationship, a development which has been proceeding rapidly in this country since 1930.

The Shorter Hours Movement. There has been a good deal of confusion concerning the drive for shorter working hours in this country, especially in recent years. In the United States today, and for the past quarter century, the hours question has been almost entirely a *wages* question. What employes want, by and large, is not shorter hours of work, but shorter hours at basic rates of pay and more hours at time and a half or double time. Raising the wage rate has been an objective of the shorter hours movement

ever since Ira Steward started the agitation for an 8-hour day back in 1860. Even in those days, the philosophy of the reform was expressed in the widely quoted verse:

Whether you work by the piece or the day,
Decreasing the hours increases the pay.

Ninety years ago, or even twenty-five years ago, however, there were other important purposes to be secured. Industrial work prior to 1900 approximated the sunup-to-sundown routine of farm life and work weeks of 60, 72, and 84 hours were common in mines, mills, factories, and on the railroads. Emergency stretches of 18 to 24 hours, or longer, like the swing shifts in steel mills, were commonplace, and outright physical exhaustion of workmen at the end of the day was taken for granted. Remnants of this treadmill discipline carried well into the twentieth century. At the beginning of the First World War, the normal work week for over a third of all manufacturing employes in the country was 60 hours or more; the steel industry did not abandon the 12-hour day and the 7-day week until 1923.¹⁰

The early legislation limiting hours of work had the aim of cutting down fatigue and exhaustion. It therefore applied only to women, children, or men in heavy or hazardous trades like mining, railroading, and manufacturing. The 16-hour-day law on the railroads, which required any train crew with 16 consecutive hours of work to tie up for 8 hours of rest, is an example. These laws set limits to the working day and are quite different from modern legislation, like the Federal Wage and Hour Law, which limits only the number of hours which may be paid for at the regular rate.

The hours provisions of the Fair Labor Standards Act have increased the earnings of American workmen far more than its wage provisions. The great majority of working people were well above the 25-, 30-, and 40-cent minimums at the time they went into effect, and the rise in the wage level during the 1940's made them still less significant. During a period of full employment, however, the only method of increasing the labor force may be through an increase of working hours. Throughout the Second World War, large numbers of employes, especially in government and war industries, worked a regular 48-hour week, the last 8 hours of which was at time and a half.

The Fair Labor Standards Act was passed in 1938, and its provisions were based on the depression experience of the preceding 8 years. Average working hours and wages had both fallen to very low levels during this period. By 1943, five years after the law was passed, both wage and hour provisions were thoroughly unrealistic by comparison with standard practice throughout the country. This revealed one major weakness of the act from

¹⁰ "Hours of Work in Manufacturing, 1914-43," *Monthly Labor Review*, April, 1944.

the standpoint of administration: the inflexibility of standards written into the law itself for the regulation of a dynamic, changing economy.

The important thing to understand with respect to any further suggestions for reduction of working hours (the American Federation of Labor, for example, is on record as favoring a basic 30-hour week) is that it is a *wage* question which is being raised. The issue is: Should earnings be increased by public action and if so, is this the way to do it? A secondary purpose which might be important in depressed periods would be to "spread the work" among more employes and thus alleviate unemployment. As a matter of fact, this was one of the primary aims of the Fair Labor Standards Act of 1938 at the time that it was passed.

The Economics of Minimum-wage Laws. This is a subject on which there are vigorous and divergent views. In addition to the hazards of unconstitutionality and the problem of jurisdiction, proponents of minimum-wage legislation have also had to contend with economists who told them that what they were trying to do was all wrong. A recent and typical denunciation is that of Professor George J. Stigler, who argues that the guaranteed minimum wage must fail to achieve its major objective of reducing poverty and can do little if anything to reduce the employers' control of wages.¹¹ Instead, he finds that the principal results will be: (1) misallocation of resources, (2) reduction of aggregate employment, and (3) distortion of family incomes plus reduction of total earnings.

Starting with the proposition that "each worker receives the value of his marginal product under competition," he disposes of point 1 as follows:

If a minimum wage is effective, it must therefore have one of two effects: first, workers whose services are worth less than the minimum wage are discharged (and thus forced into unregulated fields of employment, or into unemployment or retirement from the labor force); or, second, the productivity of low-efficiency workers is increased. . . . The discharged workers will, at best, move to unregulated jobs where they will secure lower returns. Unless inefficient workers' productivity rises, therefore, the minimum wage reduces aggregate output, perhaps raises the earnings of those previously a trifle below the minimum, and reduces the earnings of those substantially below the minimum. These are undoubtedly the main allocational effects of a minimum wage in a competitive industry.

The effects on aggregate employment seem equally certain.

The higher the minimum wage, the greater will be the number of covered workers who are discharged. . . . Whatever the number [which no one knows], the direct unemployment is substantial and certain; and it fairly establishes the presumption that the net effects of the minimum wage on aggregate employment are adverse.

¹¹ "The Economics of Minimum Wage Legislation," *American Economic Review*, Vol. XXXVI, pp. 358-365.

And finally: "One cannot expect a close relationship between the level of hourly wage rates and the amount of family income. Yet family income and needs are the fundamental factors in the problem of poverty." Stigler then catalogues the significant discrepancies: (1) Hourly rates are effective only if received, and minimum-wage laws force the least productive into unemployment. (2) Hourly and annual earnings are not closely related, and it is the annual total which must be improved. (3) Family earnings are a group total, with many households having one or more supplementary workers contributing to the joint income. (4) Individual wage rates are still further disjoined from family needs, for which family composition is the best criterion.

Warning that low incomes cannot be increased without impairing incentives, Stigler recommends a program of "assistance to the poor with regard to their need [measured by family composition] but without regard to their occupation." As between grants of money and grants in kind, he suggests that the former is much simpler administratively but will probably fall short of its goal, while the latter, though complicated, might conceivably do away with malnutrition, bad housing, and illiteracy, at a much lower money cost. Employer domination of the labor market he ascribes to labor immobility, which "would be reduced substantially by public provision of comprehensive information on employment conditions in various areas and industries" and by vocational training and loans to cover moving costs.

Stigler's presentation is a classic example of the classic argument against interference with free exchange, based on the assumption of competition in the factor markets. It is a vigorous and imaginative restatement of the same arguments that Professor John B. Clark used in objecting to the first American minimum-wage law, enacted in Massachusetts in 1912.¹² Since that time, Clark, Taussig, Stigler, and others of like view have been steadily and progressively and consistently overruled by the force of public opinion acting through Congress and state legislatures. Why have such cogent arguments been disregarded? Why have such certain evils been visited on the wage-earning public?

Perhaps one explanation is that there have been two schools of thought on minimum wages. An apostle of the favorable approach was Sidney Webb, who wrote the following, more than a generation ago, in defense of the Massachusetts law:¹³

¹² "The Minimum Wage," *Atlantic Monthly*, 1913, pp. 289-294, cited in Paul H. Douglas, C. N. Hitchcock, and W. E. Atkins, *The Worker in Modern Economic Society*, p. 842 (Chicago: University of Chicago Press, 1923).

¹³ "The Economic Theory of a Legal Minimum Wage," *Journal of Political Economy*, December, 1912, pp. 977-978, 984-990, cited in Douglas, Hitchcock, and Atkins, *op. cit.*, pp. 842-843.

If the employer cannot go below a common minimum rate, and is unable to grade the other conditions of employment down to the level of the lowest and most necessitous wage earner in his establishment, he is economically impelled to do his utmost to raise the level of efficiency of his workers, so as to get the best possible return for the fixed conditions.

The minimum wage tends steadily to drive business into those establishments which are most favorably situated, best equipped, and managed with the greatest ability, and to eliminate the incompetent or old-fashioned employer. It perpetually stimulates the selection of the most efficient workmen, the best equipped employers, and the most advantageous forms of industry. And these results are permanent and cumulative.

Employers who do not pay a living wage, who drive their workers for long hours without rest under dangerous or unsanitary conditions so as to actually shorten their lives are parasites. They are obtaining a supply of labor for which they do not pay:

If workers thus used up were horses, the employers would have to provide, in addition to the daily modicum of food, shelter, and rest, the whole cost of breeding and training the successive relays necessary to keep up their establishments. In the case of free human beings . . . this capital value of the new generation of workers is placed gratuitously at his disposal, on payment merely of subsistence from day to day. In thus deteriorating the physique, intelligence, and character of their operatives, such trades are drawing on the capital stock of the nation.

Webb, it will be remembered, was an early exponent of the bargaining theory of wages. His argument rejects Stigler's preliminary statement on the effect of competition in the labor market:

The mere fact that employers are at present paying lower wages than the proposed minimum is no proof that the labor is not "worth" more to them and to the customers; for the wages of the lowest grade of labor are fixed, not by the "worth," in any sense, but largely by the urgent necessities of the "marginal" man, or, rather, the "marginal" woman. It may well be that, rather than go without the particular commodity produced, the community would willingly pay much more for it, and yet consume as much or nearly as much of it, as it now does. Nevertheless, so long as the wage earner can be squeezed down to a subsistence wage, or more correctly, a parasitic wage, the pressure of competition will compel the employer so to squeeze him, whether the consumer desires it or not.

Who is right, Stigler or Webb?

A conclusion on minimum-wage policy depends on the wage theory underlying it. Stigler is a marginal productivity theorist. He assumes competition on the part of employers and employes in the labor market, and if his assumption is correct, his conclusions follow logically from the premises. Webb, on the other hand, specifically denies the conclusions of the marginalists (notwithstanding his unorthodox use of the word "marginal") and argues that competition has quite different effects than those claimed

for it by the classicists, to wit, that "each worker receives the value of his marginal product under competition."

Like many before him, Stigler solves the problem by assuming it away. The labor market is *not* competitive, in the sense required by the marginal analysis, never has been, and probably never will be. The thing which is sold, the terms of sale, the institutions of exchange, the character of the parties to the transaction, dictate a high degree of individuality, except where the bargain is collective. In the latter case there may be a uniformity of price and service equal to that of a highly competitive exchange. Yet it is doubtful that it would satisfy Stigler, when embodied in a collective agreement negotiated by a powerful labor monopoly.

Labor, which must be delivered in person and is sold in the form of long-term contracts of indefinite tenure, cannot be reduced in a free society to the impersonality demanded by the classical free-market analysis. Mobility and full knowledge alone would not satisfy the requirements of competition, even if Stigler's rather naïve suggestions for increasing them were successful. The basic fact with respect to both employers and employees is that they do not compete: They refuse to underbid their rivals.

Also, it may be convenient, but it is hardly realistic to disregard the 20 million trade unionists, civil servants, and members of professional associations like the American Association of University Professors and the American Medical Association, who are blockading the channels and lying across the tracks to reduce mobility from less profitable occupations to their own better paying jobs. Does marginalism explain wage rates and earnings in a situation where "a limited number of key bargains effectively influence the whole wage structure," as Dunlop puts it? Employee organization—whether union, civil service, or professional association—is here and gives good promise of staying for some time. A wage theory which does not take it into account is useless as a guide to policy.

If the labor market in industry is not competitive—and no one who has had any actual experience with it (placement officer, employment manager, or industrial worker) has ever claimed that it was—then what are the principal conclusions to be drawn? Some are as follows:

1. The employer will have a harder time finding out what the marginal product of the additional employee is, since he cannot rely upon competition to set the price (wage) for him.
2. The employer will not be forced by competition to pay the worker the full value of his marginal product.
3. The employer, uncertain about his marginal cost situation, will naturally attempt to protect himself against loss by a safe margin.
4. The figure arrived at will be strongly influenced by the bargaining positions of the two parties, which are very unequal in the case of the individual (unorganized) employee.

5. An employer-administered wage situation is an open invitation to exploitation and unfair advantage. It is the line of least resistance and discourages emphasis upon other avenues to business profits: operating efficiency, aggressive salesmanship, and improved equipment. A minimum wage, set well below the market average, may be a deterrent to some of the worst forms of "sweating" and may increase the earnings of the covered employees without any noticeable decrease in their numbers. The evidence with respect to the operation of the Fair Labor Standards Act is substantially of this nature.

At the same time, it would be well to keep in mind the warnings of the opposition. Employers will not pay more for workers than they are worth in terms of the market demand for what they produce. It follows that at some level a required minimum rate will result in considerable unemployment. It is also true that certain classes of employees and many individual workers have very low productivity and earning power, but that is no good reason for their exclusion from employment. These exceptions to the general rule are recognized in the usual statutory provisions for substandard wage permits for learners, apprentices, and handicapped workers. Unfortunately, there are many employees who are substandard in productivity who are not easily identified as belonging to these three groups. It is important to keep the guaranteed minimum wage low enough to be sure that it does not bar large groups of workers from the market.

Administration of the Fair Labor Standards Act

The enforcement of the Fair Labor Standards Act (hereafter referred to as the FLSA) is in the hands of a Wage and Hour Administrator who heads a division of the U.S. Department of Labor. His principal responsibilities are: (1) interpretation of the act, (2) inspection and compliance, and (3) policy recommendations to Congress concerning amendment or revision. This is no place for an exhaustive review of the technicalities which arise in the enforcement of a comprehensive public law. However, no student of labor problems should fail to comprehend some of the difficulties of applying wage and hour rules to half a million firms employing 20 million workers. In its day-to-day application, the FLSA is one of the most sweeping regulatory acts in the United States Code, being rivaled only by another labor law, the National Labor Relations Act. There are many who think that the United States is in the process of transition to a form of "managed economy." If that is the case, the most extensive experience of the early stages of the conversion will be found in the files of the National Labor Relations Board and the Wage and Hour Administrator. Both have responsibilities which are industry-wide and include detailed supervision of employer-employee relations from one end of the country to the other.

Policy Recommendations. Policy is a function of experience, and no one has more experience with a given type of regulation than the Administrator in charge. It is standard practice to request the agency responsible for the execution of a statute to advise Congress on needed changes. The major recommendation contained in the *1947 Annual Report of the Wage and Hour Administrator* is given in some detail below, by way of illustration:¹⁴

Raising the Minimum Wage under the Fair Labor Standards Act

1. *The Recommendation.* When the Wage and Hour Law was enacted, the cost of living was about the same as the average cost during the 5-year base period from 1935 to 1939, with the index figure standing at 100.9. . . . Beginning with the sharp acceleration of national-defense activity in 1941, and continuing during the war years and since, there have been substantial increases in prices at all levels. Therefore, workers at the minimum have lost a major part of the economic benefit intended when the FLSA was passed. The amount of loss may be indicated by noting that 40 cents in September 1947 would buy only as much as 25 cents bought in 1938. In order to assure even a modest gain in purchasing power over that which 40 cents had before the war, it is clear that a minimum of 75 cents an hour will be necessary.

2. *The Argument.* Average hourly earnings for all workers have approximately doubled since the FLSA was passed, farm income in 1946 was five times the 1938 level, corporate profits (both before and after taxes) were five times the prewar level (1937-1939), and the national income as a whole in 1946 was nearly three times the level of the income when the FLSA was passed. . . . In July 1947, about 10 percent of the covered factory workers received less than 75 cents an hour. . . . In all, about 1,800,000 workers subject to the act then were receiving less than 75 cents an hour. Although a substantial number of the workers covered by the act even now would benefit from a 75-cent minimum, the effect on the price level should be as negligible as it was in 1938, 1939, and 1940, when minimum wage rates of 25 to 40 cents an hour were first established. The direct effect of a 75-cent minimum on the total pay rolls for covered workers would be less than one percent, and the indirect effects would also be inconsiderable, with the direct effect on production costs in manufacturing being about one-half of one percent.

3. *The Theory.* More flexibility advisable and some arrangement for adjusting minimum rates suggested. It is strongly recommended that in a provision making such adjustments possible, clear and definite standards be included in the act. One of those standards should be a definite lower limit below which adjustments could not be made. That lower limit should be 65 cents an hour. A limit lower than 65 cents would be ineffective in adequately checking the vicious spiral of deflation leading to a cutting of wages on a drastic scale, followed by reduced consumption and production, with subsequent pressure for further wage reductions. Although some theoretical economists might argue that by permitting a

¹⁴ Washington: U.S. Government Printing Office, 1947, pp. 45-65.

further reduction in the price of labor the unemployment attending a depression would be absorbed, the painful experience of only a decade and a half ago should be sufficiently vivid in the national consciousness to dispel that illusion. That collapse culminated in minimum wages of only 5 and 10 cents an hour, with millions of persons out of work notwithstanding, and with the national income cut to less than 40 billion dollars, only one-fifth its present level.

There were also proposals for the improvement of the category of exemptions in the act, clarification of the meaning of "regular rate of pay," tightening of the child labor provisions, and modification of the overtime rules to encourage collective bargaining agreements providing for employment on an annual basis. The advisory responsibility is taken very seriously by government administrators, and their recommendations are carefully framed and argued for both legislative and public consumption. The views of the Administrator in charge are customarily influential with Congress, and his suggestions tend to be followed in time, although sometimes after considerable delay.

Enforcement. The primary responsibility of the Wage and Hour Administrator is to enforce the law. Notwithstanding his conviction that "the basic provisions of the Fair Labor Standards and Public Contracts Acts are now generally accepted as minimum labor standards," it was pointed out in the *1947 Annual Report* that:¹⁵

There is no substitute for a physical inspection as a means of relating the application of the acts to specific situations and insuring employers that they are operating in complete compliance and will not be liable for payment of back wages and liquidated damages as a result of employee suits. Inspections and adequate corrective actions in cases of serious violations . . . are the only ways of insuring compliance by the proportionately small but numerically large group of employers who do not accept the basic principles of the acts and will not comply with their provisions unless they are convinced that continued non-compliance may be costly.

What are the facts concerning violation?

At the time the 30-cent minimum of the FLSA went into effect in October, 1939, average straight-time hourly earnings in manufacturing, soft-coal mining, retail trade, and building construction were: 63, 89, 54, and 93 cents, respectively, giving an unweighted average of 75 cents, or two and a half times the legal minimum. The 30-cent basic rate stood for 5 years, being raised gradually by the combined action of industry committees and the Wage and Hour Administrator, until in 1944 all industries covered by the act were formally upped to the 40-cent minimum a year before the time set in the law. By 1947, the unweighted average of straight-time hourly

¹⁵ *Ibid.*, p. 3.

earnings in manufacturing, soft-coal mining, retail trade, and building construction was \$1.45 an hour,¹⁶ or more than three and one-half times the 40-cent minimum in effect.

Notwithstanding the seemingly wide margins between typical average earnings and the required minimum rates in 1939 and 1947, there is a rather surprising record of violations during the 8-year period. From 1939 through 1942, the only stretch for which there are data on enforcement of the FLSA alone, there were 28,469 firms found violating the minimum-wage provisions, and 65,959 in violation of either the minimum-wage or overtime regulations. Of these, 51,516 were ordered to make restitution to 1,032,276 underpaid employes in the amount of \$34,228,167. These were the years that the act was getting under way and a staff was being trained to administer it. The totals are therefore anything but representative. For example, violations "discovered" rose as follows:

1939	167
1940	2,836
1941	23,496
1942	39,910

From October, 1942, through June 30, 1947, the results of inspections under the FLSA were combined with those of inspections under the Walsh-Healey Public Contracts Law. The latter act set higher minimum-wage rates than the FLSA, ranging up to 70 cents in the cement industry in the state of Washington, 62.5 cents in most of the iron and steel industry, 67.5 cents in the men's hat and cap industry, etc., although a majority of its minimums were 40 cents too. The complete record of inspection results from 1939 through 1947 is as follows:¹⁷

Establishments with covered employes inspected.....	346,220
Total number in violation	274,792 (79%)
Number in violation of minimum-wage and/or overtime provisions	180,185 (52%)
Number in violation of minimum-wage provisions	53,481
Total number ordered to pay restitution	142,939
Number of employes underpaid	2,882,415
Amount of restitution	\$107,721,946

There is scant proof of any unemployment caused by the enforcement of the FLSA or the Public Contracts Act from 1941 through 1947, yet 98 per cent of the violations and 95 per cent of the wage restitutions came in those years. From the humanitarian standpoint, it is hardly to be doubted that the law has been a great assistance to many of the lowest paid employes in American industry. It should not be forgotten that the number of firms

¹⁶ Manufacturing, \$1.26, mining, \$1.80, retail trade, \$1.01, and building construction, \$1.72, *Monthly Labor Review*, August, 1948, pp. 203-214.

¹⁷ 1947 *Annual Report*, p. 69.

and employees and the amount of restitution recorded by the inspectors of the Wage and Hour Division are an inadequate measure of the effects of the legislation. It is probable that the great majority of employers affected complied immediately upon passage of the act, and many more were brought into line by the threat of inspection and punishment. Nor is there proof of hardship, bankruptcy, or flight of capital which can be laid to its effects, although these were possibilities which the industry committees were required to inquire into. In the absence of proof of unemployment or business hardship, the principal effect of the legislation was to add several hundred millions of dollars to the earnings of very low-paid wage earners at a time when the cost of living was rising rapidly. At a different time and under different conditions the results might not have been so happy. With a falling wage and price level, the law *might* have created unemployment and lowered total earnings. However, there are two schools of thought on this subject too, and the trend is against the classical view.

For a full picture of the enforcement problem, an examination of individual cases is enlightening. Some noncompliance has been due to misunderstanding and misinterpretation of the law and its provisions, but at the time of passage and since, there has been vigorous opposition to the regulations and many efforts at evasion. An employe of the Wage and Hour Division reported as follows in 1943:¹⁸

One of the more surprising features of the four years of enforcement has been the extensive, wilful violations of the minimum-wage and overtime provisions in the various states and in the largest metropolitan centers above the Mason-Dixon line. Of a total of forty-eight criminal actions filed in the fiscal year ending June 30, 1941, thirty-four were filed in the Chicago, New York, Philadelphia, and Boston offices.

Enforcement was made difficult by a limited budget (during the first year of the act there were only 109 inspectors assigned to police 250,000 covered establishments) and official advice to disregard the law:

In an investigation made in March, 1939, about eight hundred sawmill and logging employees in Virginia, who were earning an average of fifteen cents an hour, were found to have been deprived of the benefits of the Act, partly as a result of advice given to the employers that they were not covered . . . given by a congressman who was then and is now one of the leading opponents of the law. In a Kentucky tobacco warehouse case a group of 100 strippers were found, in 1940, to have been earning an average of \$1.00 per day of ten to eleven hours. It was reported by the inspector that the congressman in the district . . . had advised the employer to operate as he had in the past.

¹⁸ Irving Richter, "Four Years of the Fair Labor Standards Act of 1938: Some Problems of Enforcement," *Journal of Political Economy*, Vol. LI (April, 1943), pp. 95-111.

A great backlog of cases developed. There were 56,675 complaints submitted from October 24, 1938, through June 30, 1940, and of these only 2,887, or about 5 per cent, were closed in the same period. . . . At least one trade association wrote to its members in 1939 assuring them that the enforcement officers, because of limited budget, would probably not reach their operations for some time. This . . . was an important factor in depriving about 75,000 to 100,000 workers in the South, in the lake states, and in New England of both the minimum wage and the overtime benefits of the Act for at least two years.

A major form of conscious evasion was the "independent contractor" device, which served other purposes as well: lessening of opportunity for union organization, elimination of employer liability suits, and freedom from taxes for unemployment compensation and old-age insurance:

In an early Chicago case a large employer of home workers had each of his workers sign a contract on the date the Act became effective, agreeing to "buy" the materials and process the merchandise according to specifications. No basic change was made in the employees' status—they earned the same as they had before they were made "contractors." The manufacturer continued to advertise for home-work labor at eight cents an hour for experienced workers and five cents an hour for inexperienced workers. A shoe manufacturer in Maine, pecan-shellers in San Antonio, a manufacturer of baseballs in Cincinnati employing three hundred home workers, a number of important knitwear manufacturers in the Northeast—one of whom alone employed three thousand home workers, the majority earning less than five cents an hour—have been among the many other employers of home workers who sought to evade the Act by the "independent contractor" device. The . . . device has not been confined to home workers. Oil field workers, life insurance agents, and chemical woodworkers are among those who recently were made "independent contractors" by their respective employers.

The manipulation of records and special wage deductions for the provision of "facilities" to employees were also encountered. A typical case of the latter sort was described as follows:

The Atlantic Coast Line Railway in 1938-39 paid its maintenance employees twenty cents an hour, with the remaining five cents ostensibly provided in housing, transportation, fuel, special police protection, etc. The court, in ordering restitution, found that many workers were charged rent for old boxcars and toolsheds in which they never lived; that all workers, including those who did not use them, were charged 1.2 cents for each working hour for using discarded railroad ties as fuel; that they were charged for water and sanitary facilities where none existed. The Division secured \$226,000 for 6,469 of the railroad's employees.

In 1947, a year of extremely high money earnings, restitution of \$18,575,-149 in back wages under the FLSA and the Public Contracts Act was

ordered paid to 311,236 employees. The fact that 2 years after the Second World War there were discovered to be 34,985 employers in violation of the FLSA in one 12-month period, with 20,415 failing to comply with one or more of its major provisions (overtime, minimum-wage, or child labor), indicates the continuing nature of the problem of enforcement.

Interpretation. The first step in the enforcement of any law is its interpretation. It must be decided who comes under the law, who is exempt, and what the provisions mean. This is not as simple as it may sound. Some of the questions of interpretation have been indicated above in the section on enforcement. For example, in the Atlantic Coast Line case, does 20 cents in cash, 1.2 cents in discarded railroad ties, and 3.8 cents in rent of old box-cars and toolsheds meet the law's requirement of a 25-cent minimum wage? Although the answer was "No" in this case, it was a question of interpretation, since the law permits an employer to include as wages, "board, lodging, or *other facilities*,"¹⁹ if they are customarily furnished by the employer to his workers. As early as 1941, the Administrator asked Congress to drop "other facilities" from the law to help prevent evasion.

There would still be problems of interpretation, nonetheless:²⁰

A negro lumber worker when asked how much he was earning replied: "Twenty-one fifty a week." Further questioning disclosed that he received twenty-one meals and fifty cents. In Maine a number of paper companies charged pulpwood workers eighty cents a day for board before the Act went into effect and raised it to eighty-five cents a day . . . on October 24, 1938. When the minimum changed on October 24, 1939, to thirty cents an hour, they raised the board to ninety cents. Similar practices were reported in Louisiana among a number of sugar plants.

The interpretation, in cases of this sort, consisted of a ruling that actual cost to the employer would be considered reasonable.

Another prime question of interpretation, especially in the early days of the law, was its coverage. Two main problems were raised. First, the wage and hour provisions of the act were made applicable to employees "engaged in [interstate] commerce or in the production of goods for commerce." Was "commerce" to be broadly or narrowly defined? Second, were all the employees of an employer "engaged in commerce" to be considered covered by the act or only those directly so employed? In other words, were all employees of one employer to be classified alike or were they to be segregated into two groups: those engaged in commerce and those not? Generally speaking, the answers have been: (1) a broad definition of "commerce," and (2) segregation. The appropriate passages from the Wage and

¹⁹ Sec. 3*m* of the act, italics supplied.

²⁰ Richter, *op. cit.*

Hour Division's "Interpretative Bulletin 5," of November, 1939, show the reasoning employed in reaching the decisions.

The intention of the employer was made the basis for a broadened interpretation of the commerce clause, as follows:

Employees are engaged in the production of goods "for commerce" where the employer intends or hopes or has reason to believe that the goods or any unsegregated part of them will move in interstate commerce. If, however, the employer does not intend or hope or have any reason to believe that the goods in production will move in interstate commerce, the fact that the goods ultimately do move in interstate commerce would not bring employees engaged in [their] production within the purview of the Act. . . . Of course, the fact that the goods do move in interstate commerce is strong evidence that the employer intended, hoped, or had reason to believe that the goods would move in interstate commerce.

The subsequent substantial adoption of this view by the courts has expanded the Federal jurisdiction far beyond anything conceived possible prior to 1935. How this principle would work out in practice was shown in a hypothetical illustration: "Thus, if a manufacturer of buttons sells his product within the State to a manufacturer of shirts, the shirts being shipped in interstate commerce, the employees of the button manufacturer are engaged in the production of goods for commerce." Although strongly approved by "liberal" supporters of minimum-wage legislation at the time, this line of thought has its dangers too. Commerce clause interpretation is a general rule and cannot be made extensive for one type of legislation and limited for another. If Congressional policy should change (as it did in 1947, with the portal-to-portal pay amendments and the Taft-Hartley Act), the restrictions would then have a much broader application than before the rulings on the FLSA.

The segregation issue was dealt with in paragraph 10:

Employees engaged in the production of goods for local consumption would seem to be excluded from the scope of the Act. . . . Other employees in the same plant, however, such as employees purchasing the raw materials from other States or handling or unpacking them upon receipt from other States, may be "engaged in commerce" and therefore entitled to the benefits of the Act.

As might be imagined, this doctrine has produced its share of complications and litigation to settle the individual employer's problem as to where the line should be drawn between covered and uncovered employees.

The overtime pay provisions of the law have been a fertile source of evasion and argument since the day the act went into effect, and one of the interpretations concerning working hours eventually became a public issue of national proportions. This was the celebrated portal-to-portal pay dispute, originating with the Supreme Court's decision in *Anderson v. Mt.*

*Clemens Pottery Company*²¹ and culminating in the far-reaching amendments of 1947.

The Portal-to-Portal Pay Controversy

The principle of portal-to-portal pay is that the employee is working from the time he reaches the employer's premises until he leaves, except for the usual meal periods, and the total hours thus spent should be included in computing his work week and pay. In many mining and lumbering operations, the long-time practice has been to exclude the time spent in riding to and from the actual job location—in mines, from the "portal" to the pit face and return—although the trip was by company transportation and on the company's property. In ordinary terminology, the employee rode back and forth "on his own time." In mining and logging, these trips were often rather long, sometimes requiring an hour or more each way.

The Wage and Hour Division early took the position that these were working hours and should be paid for as such. The significance of the issue was that employees might sue for back pay, and since much of the travel time overran the legal maximum work week, it would have to be paid for at time and a half, *plus* an equal amount in liquidated damages stipulated in the law. Thus, in many cases, the unpaid travel time represented an employer liability of three times the regular rate of pay. Since there were many such employees and the practice had been going on for years, the amounts in dispute were very large. In 1944 and 1945, the United States Supreme Court upheld the interpretation of the Wage and Hour Division in the cases of *Tennessee Coal, Iron & Railroad Co. v. Muscoda Local 123*²² and *Jewell Ridge Coal Corp. v. Local 6167, United Mine Workers of America*.²³

Although they upset practices which were almost universal in the mining and lumber industries, the Tennessee and Jewell Ridge decisions were not unanticipated and few impartial observers were disposed to question their fairness. There was no particular reason why extensive unoccupied travel time required by the job in mines and lumber camps should be the employee's responsibility any more than it was in, say, railroading. The courts rested their decisions on three principles, any one of which would be sufficient. Travel time was to be considered time worked, if (1) physical or mental effort was required of the employees, (2) the exertion (trip) was required or controlled by the employer, or (3) the exertion was for the benefit of the employer. The shock came when the Court applied this doctrine to factory workers of the Mt. Clemens (Mich.) Pottery Company,

²¹ 328 U.S. 680 (1946).

²² 321 U.S. 590 (1944).

²³ 325 U.S. 161 (1945).

where the "exertion" outside working hours consisted of "punching in" on the time clock, cleaning up, walking to and from work locations in the factory, turning on and off lights, sharpening tools, etc.

Although the wage claims in the Mt. Clemens case itself were lost, due to the application of the *de minimis* doctrine ("the law does not concern itself with trifles") and the fact that time spent per day by individuals was less than 12 minutes, the principle itself was established. This left the way open for filing of wage claims against other employers, which proceeded so rapidly that total claims pending were estimated at *between 5 and 6 billion dollars* by the spring of 1947. In many cases, a judgment in favor of the employees at the penalty rates required by the FLSA—three times the regular hourly rate, as explained above—and accumulated over several years, would have meant immediate bankruptcy for the employer. To remedy the situation, Congress passed the Portal-to-Portal Act of 1947,²⁴ amending the Wage and Hour Law (as well as the Public Contracts Act and the Bacon-Davis prevailing wage law) and disposing of claims already filed as a result of the Mt. Clemens decision.

The Portal-to-Portal Act of 1947. To dispose of the claims already on file, the great majority of which were regarded as unfair, Congress chose the date of May 14, 1947, and relieved employers of all liability for either back pay or damages for work performed prior to that date, except where there was an express provision of a "written or nonwritten contract" or a "custom or practice" in effect which would justify the claim. Where there were valid claims and a dispute over the amount due, compromise settlements were approved. Future claims (those for work done after May 14, 1947) were also made subject to the "contract" and "custom" limitations, and a 2-year statute of limitations was set up. Employee claims not filed within 2 years after their accrual were forever barred. Prior to this amendment, employee actions had been governed by the statutes of limitations of the various states, which permitted recovery over periods ranging from 1 to 8 years.

A major administrative problem was posed for the Wage and Hour Division in the "good faith" defense provisions of the new law:²⁵

This provision provides that no employer shall be subject to liability or punishment under the FLSA for failure to pay minimum wages or overtime compensation, if he "pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval or interpretation" of the Administrator or of "any administrative practice or enforcement policy" of the Administrator "with respect to the class of employers to which he (the defendant) belonged."

²⁴ Public 49, 80th Cong., 1st Sess.

²⁵ 1947 *Annual Report*, p. 36.

Courts are also permitted to cut down the amount of extra damages in wage-claim awards or eliminate them entirely, if convinced that the employer was acting in good faith and had reasonable grounds for believing he was not violating the act.

The portal-to-portal controversy is an extreme example of the uncertainties arising from the interpretation of laws which regulate business activity. In this respect it illustrates the problem of extending general rules formulated in one sector of the economy (mines and lumber camps) to another and in this case much larger sector: manufacturing. It proves once again that the hours provisions of the law are its truly restraining features, being set much closer to the "best" practice in industry than is customary in regulatory legislation. It is also a sample of the "boomerang" effect which results from a good thing being pushed too far. It has been contended, especially by spokesmen for organized labor, that the 1947 amendments emasculate the Wage and Hour Law. Yet the entire drive for portal-to-portal pay in manufacturing establishments was planned, financed, and directed by union groups. It is not unlikely that the portal-to-portal suits of 1946 and 1947 were an important factor in producing the wave of anti-union legislation which appeared on both the state and Federal levels during the 1947 legislative sessions.

There is no doubt about the restrictiveness of the portal-to-portal provisions. The manner in which claims prior to May 14, 1947, were canceled was inclusive enough to knock out some employe actions which would have been valid under the Tennessee and Jewell Ridge decisions. These were left subject to "compromise," but the employes' leverage was greatly reduced. The 2-year statute of limitations, unless compensated for by an increase in the inspection staff of the Wage and Hour Division, will mean the avoidance of penalty by many violators, since the existing staff has been physically unable to inspect all the covered firms more than once in two or three years. The "good faith" defense clauses reduce the probability of convictions and, upon conviction, lessen the chances of penalty damages by leaving them to the discretion of the court rather than attaching them irrevocably to back-pay awards.

On the other hand, the number and size of the portal-to-portal claims following the Mt. Clemens ruling were a shock to the courts and the general public, as well as to businessmen. The standing complaints of employers that interpretation of the act by the courts was contrary to "long-established customs, practices, and contracts between employers and employees," that rulings by the Wage and Hour Division were unpredictable, and that it was impossible to know in advance whether policies were legal or not—these complaints were underscored by the actual threat to solvency represented by many of the lawsuits. As a result, there was little opposition to

the legislation, which was given early passage by Congress and approval by the President during a session which was otherwise marked by almost continual disagreement between the two, especially on labor matters.

It will be several years before the full effects of the new law are on the record and available for judgment. This points to another problem of regulation, especially when it is on the Federal level and nationwide in coverage. The entire portal-to-portal pay issue covered a period of more than five years, from the first administrative ruling to the amending legislation of 1947. The new law was passed to correct an interpretation which had never been anticipated by the original legislators. Yet the Portal-to-Portal Act in turn will have to be interpreted by employers, employees, the Wage and Hour Division, and the courts. It would be a hardy prophet who would predict with assurance the direction those interpretations will take, as the regulations are worked out in the form of employment practices.

Employment, in a national labor market as large as ours, is a fluid thing, varying widely according to industry, occupation, and business conditions. Inflexible statutory provisions are certain to prove binding at some points, while flexible, discretionary authority has a hard time providing the certainty that both employers and employees desire. Only an attitude of mutual cooperation among employers, employees, and the government can be relied on to provide a happy medium of good standards and a minimum of interference with production.

Readings

The development of the legal code set up to protect the wage earner is outlined and explained in Chap. VI, "Individual Bargaining," of J. R. Commons and J. B. Andrews' classic *Principles of Labor Legislation*,²⁶ the best single background source on labor law up to 1936, when the last edition was published. For a concise summary of the growth of national sentiment in favor of minimum wages, maximum working hours, and limitation of child labor, see O. W. Phelps, *The Legislative Background of the Fair Labor Standards Act*.²⁷ The general problems of public regulation of wages, hours, and child labor are discussed thoroughly in H. A. Millis and R. E. Montgomery, *Labor's Progress and Some Basic Labor Problems*,²⁸ Chaps. VI-IX, while an example of the unreconstructed classical viewpoint against regulation, encountered infrequently nowadays, is Stigler's "The Economics of Minimum Wage Legislation," in the *American Economic Review* of June, 1946.²⁹ Texts of the laws and up-to-date details of court interpretations will be found in the current *Prentice-Hall Labor Course*.³⁰

²⁶ New York: Harper & Brothers, 1936, 4th rev. edition, pp. 315-371.

²⁷ Chicago: University of Chicago Press, 1939.

²⁸ New York: McGraw-Hill Book Company, Inc., 1938.

²⁹ Vol. XXXVI (June, 1946), pp. 358-365.

³⁰ New York: Prentice-Hall, Inc.

Exercises

Governmental protection of the wage earner was well under way by the end of the nineteenth century and has boomed during the first half of the twentieth. The legal safeguards thrown around wages which have been discussed in this chapter are not the whole story, by any means. They have been supplemented by workmen's compensation, old-age pensions, unemployment insurance, and guarantees of the right to a job, which will be taken up in the next section of this book. The following exercises indicate some of the questions which are raised by public protection of wages, hours, and child labor.

1. What does "inequality of bargaining power" or "economic inequality of employer and employe" mean? Make a list of the concrete advantages the employer enjoys over the individual employe in the usual employment situation.
2. Join the issue and summarize the arguments for and against minimum-wage legislation as an economic policy.
3. Describe briefly but clearly: (*a*) two problems of interpretation of the Fair Labor Standards Act, (*b*) two problems of enforcement. What is the Administrator's function of policy recommendation and why is it so important? Illustrate with an example.
4. Read the full decision in one of the following cases and prepare a brief of the facts, issues, arguments, and conclusions presented therein:
United States v. Darby Lumber Company, 312 U.S. 100 (1941)
Anderson v. Mt. Clemens Pottery Company, 328 U.S. 680 (1946)
Adkins v. Children's Hospital, 261 U.S. 525 (1923)
Hammer v. Dagenhart, 247 U.S. 251, (1918)
Muller v. Oregon, 208 U.S. 412 (1908)

PART THREE. Security

THE PROBLEMS OF UNEMPLOYMENT, DISABILITY,
AND DISCRIMINATION

7. UNEMPLOYMENT: THE PROBLEM AND THE NORMAL LOAD

Unemployment is the greatest risk of the wage earner and perhaps the most serious domestic problem of the twentieth century. Libraries have been written about it, governments have been overthrown because of it, billions of dollars have been spent combating it, and after a decade (the 1940's) practically free from it, it is still a major fear in the minds of employes, employers, and the public generally. Unemployment is extremely complex, in type and effects, as well as in theories of causation. It is uniquely the labor problem of modern times, the major cause of destitution among working people. Prior to 1900, that distinction went to low wages.

Little need be said about the effects of unemployment, since they have had the widest possible publicity in newspapers, motion pictures, novels, official reports, political platforms, and personal experience. The man out of a job is typically a man without property who is cut off from income and status. For him and his family the successive steps of a protracted layoff are: (1) loss of job, (2) loss of savings, (3) loss of home, car, and other property carrying indebtedness, (4) application for relief, (5) loss of skills, (6) loss of friends, and (7) loss of self-respect. The utterly demoralizing effect upon family after family of lack of work has been documented many times and is beyond dispute.

Widespread unemployment is a depression phenomenon with equally serious effects upon business, both public and private. It is accompanied by abandonment of plans, contraction of operations, forced sales, liquidation, bankruptcy, and failure of tax collections. Confidence vanishes, credit weakens, and values decline. The whole structure of economic life, so much of it based on optimistic anticipations, tends to sag under the weight of prolonged deflation.

The Definition and Measurement of Unemployment

Definition. Unemployment is hardly the exact thing which the precise reports in the newspapers seem to imply. Back of the figures which are released once a month by the U.S. Bureau of the Census lies many a difficult question of definition as to just what an unemployed person is. The basic definition was formulated a number of years ago as: "anyone over 14 years of age not working but looking for a job." However, before this description can be put to use, it must be refined considerably. The way the Census Bureau does this is as follows. First, persons are excluded as "employed" if they are:¹

1. "At work"—those who did any work for pay or profit, or worked without pay for 15 hours or more on a family farm or business;

2. "With a job but not at work"—those who did not work and were not looking for work but had a job or business from which they were temporarily absent because of vacation, illness, industrial dispute, bad weather, or layoff with definite instructions to return to work within 30 days of layoff. Also included are persons who had new jobs to which they were scheduled to report within 30 days. The remainder are unemployed if they are looking for work. Also included as unemployed are persons who would have been looking for work except that:

1. They were temporarily ill.

2. They expected to return to a job from which they had been laid off for an indefinite period.

3. They believed no work was available in their line of work or in the community.

There is one important gap in the above definitions. They still leave the meaning of "looking for work" up in the air. And it is the size of this group which sets the limits to the labor force.

What does a person have to do to be "looking for work"? Does reading the want ads suffice? Or must he make some formal applications to possible employers or register with an employment agency? And if so, how often and how regularly should he maintain his contacts? Still more to the point, what kind of work must he be looking for? If he is offered one kind of work (say, as a filling station attendant) and turns it down because he wants another kind (say, as a clerk in an office), is he still unemployed? The essence of the definition of unemployment is that it is *involuntary*. At what point of insistence upon definite terms and conditions of work does the searcher's unemployment become self-chosen and therefore voluntary?

These are all questions which state unemployment compensation offices are called upon to answer daily as they pass upon the validity of claims for

¹ U.S. Department of Commerce, Bureau of the Census, *Monthly Report on the Labor Force*, July, 1948, pp. 4-5.

unemployment insurance. Like so many other legal and social questions, they turn upon the matter of *intent*. Is a man who is offered a job at \$1 an hour but refuses, in order to look further for one at \$1.25 an hour, still involuntarily unemployed? What about the problem of location? Probably no one would insist that a workman should accept a job that was two or three hours away from his home by the most convenient form of transportation. Is a refusal justified if an hour's trip is involved, and is the refuser still involuntarily unemployed? But suppose it is a 50-minute, a 40-minute, a 30-minute trip? Where is the line to be drawn? Is a member of a trade union involuntarily unemployed if he refuses a job in an open-shop plant? And vice versa, is a nonunion man justified in refusing to take a job which calls for compulsory union membership? There are always a number of people on the fringes of the labor market who are looking for a job that exactly suits their tastes. Are they "unemployed" until they find it?

A definition of involuntary unemployment based on acceptance of "any job, anywhere, at any rate of pay, under any conditions of work" would reduce the *figures* on unemployment considerably and would greatly reduce the payments of job insurance which were still running over three-quarters of a billion dollars a year in 1947. Less than a quarter of a century ago it was the actual definition which society used to distinguish workingmen from those not in the market. However, it would be considered harsh and unrealistic under present-day conditions of specialization and flux in the labor market. It represents simply one extreme on the scale of unemployment definition. The question for the statisticians is how far to go in the opposite direction and still present a meaningful picture.

The Amount of Unemployment. The problems of definition described above do not invalidate current estimates of unemployment, but they justify some skepticism of their precision, for example, to the nearest thousand for the country as a whole, as regularly reported by the Bureau of the Census in their *Monthly Report on the Labor Force* and in the *Monthly Labor Review*. The margin of error is very likely greater than 0.05 of 1 per cent, which is the marginal increment implied in a figure of 2,184,000 unemployed for June, 1948.² Comparisons of past and present quantities of unemployment are open to still more question. Rough as the present measurements are, it is well to remember that statistical techniques, methods of definition and measurement, and the availability of data on unemployment have all improved very markedly during the last two decades. Any estimates of unemployment in the United States prior to 1930 are largely guesses, no matter how much care is taken in their compilation. The raw data are not available for accurate analysis, and very wide margins of tolerance must be allowed for the results. It is only since 1929 that the major statistical agencies

² *Monthly Labor Review*, August, 1948, p. 184.

**Table 28. Unemployment as a Percentage of the Labor Force
for Selected Years, 1900-1948***
(In thousands)

Year	Unemployment	Per cent of labor force out of work
1900	1,647	6
1910	553	1
1920	558	1
1921	4,754	11
1922	2,917	7
1923	749	2
1924	2,034	5
1925	817	2
1926	464	1
1927	1,620	4
1928	1,857	4
1929	1,499	3
1930	4,248	9
1931	7,911	16
1932	11,901	24
1933	12,634	25
1934	10,968	22
1935	10,208	20
1936	8,598	17
1937	7,273	14
1938	9,910	19
1939	8,842	17
1940	7,476	14
1941	5,010	9
1942	2,380	4
1943	1,070	2
1944	840	2
1945	1,050	2
1946	2,270	4
1947	2,142	3
1948 (first 6 mos.)	2,214	4

* SOURCE: Figures from 1900 to 1928 taken from *Economic Almanac for 1946-47*, p. 269, New York: National Industrial Conference Board, Inc.; data from 1929 to 1940 from BLS reports, U.S. Department of Labor; from 1941 to 1948, the figures are taken from releases of the U.S. Department of Commerce, Bureau of the Census.

of the United States government have made serious attempts to estimate regularly the amount of unemployment in the country.

Absolute amounts of unemployment do not reveal the problem. It is the percentage of the labor force affected by lack of work that is important.

Table 28 shows the proportion of the labor supply without jobs in 1900, 1910, and for each year since 1920. The right-hand column reveals clearly the depression year of 1921, followed by the prosperity of the later twenties; the discouraging decade of the thirties; and the reduction of unemployment brought about by the war boom beginning in 1941.

Two observations are called for in connection with this table which presents the basic data of the problem of unemployment. The first is that the figures it contains, which have been repeated in one form or another in dozens of studies, reports, textbooks, professional and popular magazines, and newspapers, *exaggerate* the problem. Although it may anticipate the analysis to come, it is important to point out here that *some* unemployment is normal and inevitable at the best of times in any large labor market, simply as a measure of the mobility of workers in their readjustment to a constantly changing industrial pattern. This "normal" unemployment has been variously estimated at 3 per cent (Beveridge) to 5 per cent (Committee for Economic Development, in the United States) of the labor force, and its absence would indicate a static condition which would be thoroughly undesirable. In order to get the best allocation of human resources, it is necessary for people to move about, from job to job and from region to region, and in the process they are necessarily recorded as unemployed. The reasons may be described as personal difficulties, technological progress, or structural change in industry or job patterns, but the unemployment which they cause is natural and unavoidable in a modern, commercial society.

In addition, there is a considerable amount of part-time or "seasonal" unemployment in a labor market as large and varied as that in the United States, much of which is predictable, healthy, and no significant addition to the problem of unemployment, for reasons which will be outlined later. However, people seasonally out of a job are frequently put down as unemployed, which they of course are. These two groups together would bring the amount of "normal" unemployment to at least 5 per cent of the labor force and probably more. If the thoroughly conservative correction of a 5 per cent deduction is made in the right-hand column of Table 28, we find that there is *overemployment* in 14 of the 29 years from 1920 to 1948, and the totals for the depressed years become much less drastic. Table 29 shows what happens when this is done.

Table 29 also illustrates the second point referred to above. This is the powerful hold of the unemployment psychosis on the American consciousness, compared with the actual duration of the period of serious deflation. In the generation from 1920 to 1948, there were only 10 years when unemployment was of really serious proportions (taking 6 per cent as the boundary line) as compared with 18 years when it was no menace at all. During 14 years, or about half the time, there was actually overemployment, which

Table 29 probably understates. (For example, the National Industrial Conference Board measured wartime overemployment as ranging from 925,000 in 1942 to 7,141,000 in 1944.) Yet after a considerable interval of continuous

Table 29. Percentages of Labor Force Out of Work, Corrected for Normal Unemployment, 1920-1948

Year	Per cent of unemployment	Per cent of overemployment
1920	None	4
1921	6	
1922	2	
1923	None	3
1924	None	
1925	None	3
1926	None	4
1927	None	1
1928	None	1
1929	None	2
1930	4	
1931	11	
1932	19	
1933	20	
1934	17	
1935	15	
1936	12	
1937	9	
1938	14	
1939	12	
1940	9	
1941	4	
1942	None	1
1943	None	3
1944	None	3
1945	None	3
1946	None	1
1947	None	2
1948	None	1

overemployment, including several postwar peacetime years, by 1949 there ~~was~~ still a persistent fear of the recurrence of widespread mass layoffs and ~~loss~~ of jobs such as occurred in 1931.

The Great Depression of the thirties created a literature, a theory, and a frame of mind which hung like an incubus over the greatest nation in the world in the midst of unrivaled prosperity, and for years prevented any serious action to cope with the alternative and perhaps greater risks of uncontrolled inflation. Public agencies, private groups, economists, employers,

and employes competed with each other in anticipating the ending of the "boom" and the beginning of the "bust" which was to follow as a matter of course.

There is no denying the calamitous effects of the depression of the 1930's on public morale, economic organization, and especially upon the relationship between government and business. No effort should be spared to avoid a recurrence of 10 straight years with from one-tenth to one-fifth of the working population unoccupied, frustrated, and discouraged. Nevertheless, the widespread feeling of the inevitability of future and greater unemployment is certainly not justified by the record, though its hold on public opinion continues to shape policies and influence official decisions. With respect to employment, the American economy of the *past* fifty years can be more accurately described as one showing tendencies toward overexpansion than one tending toward deflation.

Normal Unemployment

The purpose of a study of unemployment is to do something about it. However, policies of relief or prevention should be related to causes, and not everyone is out of work for the same reason. The nature of an industrial society makes some kinds of unemployment inevitable at all times. The major questions are what kinds and how much. There may be no precise, quantitative answers to such an inquiry, but the issues will be clarified by a glance at the principal sources of layoff and a consideration of their relative importance to the problem as a whole. There is no absolutely standardized classification of "kinds" of unemployment, but the four groupings which are used below have received wide recognition as primary causes of workers being out of jobs. They are (1) technological, (2) seasonal, (3) frictional, and (4) cyclical unemployment.

The first three are thoroughly normal accompaniments of a progressive, high-speed, industrial economy, and policies are already in effect which will keep them (or their effects) within manageable limits. The fourth—cyclical, or "depression" unemployment—is one of the great social problems of modern times.

Technological Unemployment. A news dispatch to *The New York Times* of Oct. 21, 1944, carried the following report:

Machines producing cotton entirely from plowing to picking and then to the manufactured product, and sugar cane from the time of planting until it is turned out as the finished product for the table, promise a revolutionary change in the agricultural way of life in the South. . . . This week, in Louisiana, sugar planters commenced cutting their cane entirely by machinery.

A slim allotment of steel allowed three Louisiana concerns to manufacture 358 cane-harvesting machines. These new inventions are doing the work normally performed by 21,240 field hands. At Clarksdale, Miss., on a mechanized cotton farm, one operator with new cotton machinery does the work of forty field hands, and can produce cotton in the bale for less than 10 cents a pound. Economic necessity may yet convert the cotton South and sugar and cotton Louisiana into a region of large farms wholly mechanized and using only a twentieth part of the normal force of labor.

Technological unemployment is the displacement of men by machines, or by new processes or methods of organization. That it is a fact cannot be denied. Machines have been replacing men as far back as history goes, but the process has been speeded up dramatically in the last 100 years. In modern times, it has reached the point where there has been organized opposition to the introduction of laborsaving devices. 'The displacement of manpower by technology is an essential element of industrial progress. The question is: How much unemployment does it create?'

At one time or another in the past 200 years, technology has been blamed for about everything—examples are crime (cars and weapons), ir-religion (material attractions), war (munitions manufacture), and the imminent end of the world (atomic fission)—so that the inclusion of unemployment among the charges should not be too startling. In the latter case, also, the cause-and-effect connection is beyond doubt. It is the direct and immediate purpose of technological progress to make it possible to produce the same amount of goods with less men or more goods with the same number of men. If it is the former (equal output with less men), and there are grounds for thinking that this is the usual first step, then how much unemployment is created and how long does it last? The problem divides into two parts, long-run effects and short-run effects.

Taking the long period first, it may be observed that there has been a good deal of technological progress in the world's history: in transportation, from pack animals to jet propulsion; in prime movers, from manpower to electricity; in communication, from smoke signals to radio; and in tools, from stone axes to automatic screw machines. If technological unemployment actually does accumulate over the long run, it would seem inevitable that everyone should be unemployed today. On the contrary, the world's population has increased most noticeably during the period of greatest technological advance and with the exception of a few depression years has been busily employed in mines, mills, factories, fields, and stores. Long-run technological unemployment is a myth; there is no such thing.

Nevertheless, the "fear of the limited market" continues to exist. When the late Fiorello H. LaGuardia suggested at the end of the Second World War that the \$13 billion worth of war surplus products in the United States

should be taken 15 miles out to sea and dumped in order to avoid severe unemployment in the industries manufacturing those items, he was using the same reasoning that trade unionists employ when they refuse to install or work on machines that eliminate jobs. The economic fallacy involved is the so-called "lump of labor" theory, according to which there is at any time a fixed number of jobs available, and with the labor market in balance, a reduction of the demand for men must necessarily produce unemployment. This is the short-run problem. It has two dimensions: mobility of labor and the demand for the products of the industry in which technological progress is going on.

Technological progress brought about by improved mechanical or other kinds of equipment, like mechanical cotton pickers and sugar-cane harvesters or linotypes or glass-bottle machines, produces offsetting employment to counterbalance the work lost by field hands, typesetters, and glass blowers. Someone has to make the machines which are put into operation, the tools which are used to make them, and the factories which house the tools. In periods of depression, the factories and equipment may be at hand ready for use, but there will be new employment of workers in the factories, and the net effect will be to call into use considerable resources previously lying idle. If there is full employment, the construction of additional factories and tools will greatly increase the amount of additional human resources needed. In either case, there is a transfer problem, the solution of which depends on the occupational mobility of the laborers involved.

Job mobility varies with different groups of workmen and with the times. Probably few of the field hands who previously harvested sugar cane were used in the manufacture and servicing of the machines which replaced them; on the other hand, linotypes were taken over almost without exception by typesetters in accordance with an agreement negotiated by the International Typographical Union. Most important, however, is the general condition of the labor market. There has been no further report of serious unemployment in the mechanized cotton and sugar-cane fields of Louisiana or elsewhere in the South since 1944, mainly because the general demand for employes of all kinds since then has been so high as to make absorption of the displaced men into other (and often better) jobs easy and frictionless. The process (of absorption) was stimulated by the general postwar expansion of demand for all kinds of goods and services, which was the main reason for the high level of demand for labor.

In more normal times, there would be a question of costs, prices, and competition in the industry experiencing technological progress. The analysis runs something as follows. A firm substitutes machines for men, or otherwise reduces its personnel needs by reorganization, presumably in order to reduce costs. If costs are reduced, what happens then? The answer depends

on the state of competition, which is just another way of saying that it depends on the elasticity of demand for the company's products. If demand is elastic, it will pay the company to pass on the cost reduction in the form of reduced prices to the tune of greater sales and larger net revenue. If the proportionate increase in physical volume of sales is equal to the proportionate decrease in the number of employes required in production, there will be no unemployment. The gain in physical volume may be greater, in which case there will be a net gain in employment.³

On the other hand, the proportionate increase in sales may be less than the percentage reduction of working force. Cost reduction may not show up in lower prices, and the output may be held at the same or only slightly higher levels, in which cases there will be reduced employment. If the company managers act rationally and the elasticity of demand for their product is less than unity, this will be the case. It is particularly likely to occur in depressed times, with low purchasing power, limited demand, and many internal problems of company financing. Savings from cost reduction may go to pay off debts, reinforce company reserves, or support salary and dividend policies which are out of line with conditions.

The unemployment thus produced will be aggravated in depression periods by lowered mobility of labor, both regionally and jobwise. It is at such times that demands are heard for the "planned" introduction of labor-saving inventions (like the Rust cotton picker which was developed before the Second World War); there are attempts to divert young people into "live" industries, as measured by expanding employment; and there is an increased volume of requests for vocational retraining, resettlement of stranded labor groups, and improvement of placement facilities, at public expense. Trade unionists have been particularly aware of the short-run hardships of technological unemployment. The policies of organized labor have included: (1) opposition to reorganization (as on the railways) and mechanical improvements which would throw its members out of work, (2) featherbedding and make-work policies which require the employment of union men as "stand-bys" (musicians) and to do work made unnecessary by improvements in processing (typographers), and (3) the payment of dismissal wages based on length of service of the employe. •

Seasonal Unemployment. Seasonal unemployment is unemployment which comes around with the seasons. It has two main sources: weather and style. Weather is the more invariable of the two. The work load rises and falls in different months of the year in agriculture, fishing, forestry, some

³ There is little doubt that this was the experience of the Ford Motor Company, which scrapped plants right and left, introduced laborsaving equipment by the carload, raised wages, lowered the price of cars, and expanded both sales and employment year after year, prior to and following the First World War.

kinds of food processing (fruit, seafood, etc.), building construction, sports, travel, resort operation, etc. Crops must be harvested when they are ripe, bad weather interferes with outdoor work, some sports flourish in summer and some in winter, vacation travel is concentrated in the "short season" between July 4 and Labor Day, and so it goes. Much of this is taken care of by part-time additions to the labor force. The summer bulge in labor force and employment in June, 1948, for example, was 4 million workers above the January figures. However, much of it also shows up in the form of irregular work for full-time employes.

Fashion and trade customs are the second principal cause of seasonal lay-off, as new models are brought out in clothing, millinery, automobiles, radios, jewelry, personal accessories, etc. The irregularities in production and distribution which model change-overs produce are aggravated by the Christmas and Easter rushes, which concentrate a large proportion of certain kinds of buying in a few weeks of the year.

There is no way of knowing just how much unemployment comes about as a result of seasonal change, but it has been estimated at an annual average of 6 per cent in manufacturing, mining, and building construction.⁴ This figure would be reduced by the relative stability of trade, public utilities, government, finance, and domestic service, for the country as a whole. On an over-all basis, a reasonable guess would be 3 or 4 per cent, which would work out to around 2 million persons for a labor force of 58 to 60 million. This is still a significant quantity, but the nature of seasonal unemployment makes it a less serious threat to national stability than other forms of layoff.

For one thing, where the employe retains his job connection, as he often does even though laid off part of the year, the psychological burden of being out of a job is at a minimum. He may be cut off from income, but his status as a member of the community is less impaired. Another peculiarity of seasonal unemployment is that it is recurring and therefore predictable. The *risk* is thus greatly reduced, being subject to a number of devices which may result in the burden being eliminated or moderated. Where reduction or elimination is impossible, there is still a minimum of uncertainty and what would otherwise be considered a risk becomes a cost instead. A predictable occurrence is especially subject to planning, analysis, and correction, and this is just what has taken place with respect to seasonal fluctuations in employment.

The principal planners have been employes themselves, who arrange for fill-in jobs, and private employers who have been interested in avoiding the costs of irregularity: overhead on idle plant and equipment, loss of trained

⁴ Paul H. Douglas and Aaron Director, *The Problem of Unemployment*, p. 84 (New York: The Macmillan Company, 1931).

employees, expenses of shutdown and reopening, etc. Sample business methods have been: new marketing policies (like the shifting of new model automobile change-overs from spring to fall), regularized production and storage of the product during slack selling periods (Procter and Gamble soap manufacturers), and extension of the company's line of products to raise off-season sales (Dennison Manufacturing Company).

Like technological unemployment, seasonal layoffs are least troublesome at a time of high and steady demand for labor. The short-period transfer to other kinds of work is speeded up and simplified by the existence of job openings in the same or nearby markets. An efficient placement system helps, of course, especially where counterseasonal industries operate in the same area. With effective placement and good demand, seasonal unemployment is a minor factor in the general problem of employee security.

Frictional Unemployment. Frictional unemployment is the irreducible minimum of people who are out of work because of the necessity of transferring from one job to another in a broad, dynamic, changing labor market. In ordinary times, such job shifts are to be encouraged, since they result in better allocation of human resources. "Frictional" unemployment, in turn, can be broken down into a number of subclasses.

One is "structural," which means unemployment caused by a change in the "structure" of industry. Even in good times, some industries decline in importance and perhaps in absolute volume of production. The reason may be a shift of taste on the part of consumers, who begin to spend their money elsewhere, or it may arise from exhaustion of resources, as in mining. Whatever the reason, the demand for labor falls off, either relatively or absolutely or perhaps both, and the inflow of workers into firms in the industry must be diverted to other firms in different industries. This takes time, and the lesson is often learned only after prolonged unemployment among the workmen in the declining industry, many of whom may prefer to wait for a chance to go back to work with their old company rather than try to learn a new trade in a new kind of business, even though it seems to be prospering.

The immobility of working people in moving from "sick" industries is notorious. Both Great Britain and the United States have had experience with attempts at resettlement of stranded populations after it was clear that there was no future for them in the work of their choice. At a distance, the resistance to change—and it is often very strong on the part of young people just entering the labor market—seems so illogical as to be silly, but closer up the alternatives are not so sharply defined. Employers resent and resist their industry being labeled as either sick or declining, and since the question is one of future trends, no one is in a good position to say with certainty which industries are going up and which going down, until after the fact. And that may be after long and grievous unemployment.

* Another factor contributing to immobility is the cost of relocation. Between the First World War and the Second World War, the railroad industry lost ground to the automobile industry, but only a few of the displaced railroaders found themselves in automotive manufacturing centers. It is frequently the case that new opportunities are many miles away, in strange communities, with different climates, laws, mores, and population backgrounds. In addition to these factors—and they tend to be even more forbidding to the unemployed man whose assurance is below par anyway—there is the expense of travel and the uncertainty of improvement of his position once he has arrived. Here again, there is usually no one who can guarantee him either a job or steady employment after he finds one. As a matter of economics, the entire cost of the move (and it may be heavy if it involves the forced sale of a home or the transportation of a family and household belongings) must be covered by the *marginal* gain in the new location over the old. This can only be guessed at in advance, and there are plenty of cases of workers returning promptly from long distances to take their old jobs in industries which revived unexpectedly.

Structural unemployment has two dimensions. The second is “occupational.” There may be ~~structural~~ unemployment if the members of the labor force are highly specialized (and they are, in the United States) either by preference or training, and the job skills offered in the market do not match the openings in industry. At the close of the Second World War, for instance, there was a heavy influx into the market of skilled and semi-skilled workers in mechanical trades who had been released from war plants, especially those manufacturing munitions and airplanes. At the same time, there was a heavy demand for employes in reopening service industries, with emphasis upon ushers, porters, waiters, bus boys, cooks, countermen, bellhops, etc. This raised a problem for the state job insurance offices across the country, since there were requests for out-of-work benefits from the unemployed mechanical workers at the same time that employers in the service trades were sending in requisitions for large numbers of people.

Most state employment offices adopted a liberal policy to permit the unemployed war workers time to search for an occupation of their choice. As a result, for a while there was a good deal of structural unemployment, while the displaced operatives refused to accept strange jobs, with lower pay rates and unfamiliar working conditions. The problem was mild and corrected itself easily, since the skills involved were simple and represented at most a few months' training. It is different if too many lawyers, engineers, scientists, ministers, professors, dentists, or doctors are graduated by the universities.

Professional education or the training of a highly skilled mechanic is a matter of work and thousands of dollars of investment. Indoctrination is

equally strong. Ministers do not transfer easily into industrial or commercial work, after taking the vows of ordination, which is one of the reasons why ministers as a class are economically underprivileged. Professional people, skilled mechanics, and many other occupational groups (for example, office-workers, salespeople, and farmers) find it hard to give up an occupation which through familiarity, specialization, and indoctrination, has become a "way of life" for them. If the occupation is specialized to an industry (as in the case of farming, teaching, medical and legal service, etc.) and the industry becomes depressed, there is very likely to be structural unemployment.

Another kind of frictional unemployment is that known as "personal." It arises from the necessity of close cooperation between people in the great majority of jobs and the importance of "personality" in the social environment thus created. The dislocations caused by social incompatibility on the job have become the subject of extensive investigations into "human relations in industry." There is little doubt that personality difficulties produce considerable unemployment in the form of job shifting, but within limits the results are good. The man who is "unemployable" by one firm, or who finds a given job unbearable because of a boss with whom he does not get along or associates whom he dislikes, may turn out to be a valuable and contented member of another organization.

As industrial firms become larger, more highly integrated, and more interdependent, the necessity for close coordination becomes greater. Operations must be planned, timed, and executed with precision in order to maintain efficiency. Employee self-discipline and cooperation are big factors in the success of modern industry, and their importance will not decline unless the trend is reversed. This implies a continuing need for mobility in the labor market to correct for personal difficulties which would hinder the smooth functioning of a highly technical industrial economy.

Taking Care of Normal Unemployment

Technological, seasonal, and frictional unemployment may be normal, in the sense of being unavoidable in a commercial civilization, but they are also indistinguishable in the individual case from the true menace, cyclical layoff, so that a number of preventive steps have been taken as matters of public policy to keep these sources from starting a downward "spiral" of deflation. The two most important policies put into effect in recent years have been improvement of the labor market and job insurance.

Mobility and readjustment in the labor market means some normal unemployment at the best of times, but does it mean as much as we have or have had? Several very able students of the problem have said "No,"

emphatically. One of the origins of the term "frictional" unemployment was a series of studies showing that the existing labor market in the United States was highly inefficient in its placement of workers. One of the first of these, by Lescoghier,⁵ was published shortly after The First World War and emphasized: (1) the decentralization of the market, due to private employer reserves and the lack of job information, and (2) the incompetence and inadequacy of private employment agencies. Lescoghier's conclusions were strengthened ten years later by Douglas and Director in their study of the problem of unemployment and were subsequently echoed by many other private and public investigators. The recommendations were also in agreement:

1. Abolition or regulation of private employment agencies
2. Creation of a system of public, cost-free employment agencies

The Private Job Brokers. The classified telephone directory of every large city in the United States has a long list of "employment agencies." (It covers several pages in the Chicago *Red Book* and is still longer in the New York classified directory.) These are private businesses which bring together employers looking for help and employees looking for work. They make contacts with employers, find out how many and what kinds of people they need, build up a file of job candidates, send qualified persons out to apply for positions, and charge a fee for their services if a job is landed. In good times, their candidate lists run short, and there are openings everywhere. In depression it is the reverse; then the problem is to find places for the crowds of job hunters.

The private employment agency had one strike on it already in the eyes of two groups of people, both of whom proposed its abolition or regulation. One faction objected on grounds that no one should make money out of another person's distress (unemployment), although they did not follow their reasoning to its logical conclusion and insist that doctors and undertakers perform their services gratis or turn their functions over to the government. Another school of thought held that the labor market should be a responsibility of the state, as the latter was the only agency in a position to give efficient, centralized service at a nominal cost per referral. This was the position taken by the early critics of the labor market, Lescoghier, Douglas, Beveridge, *et al.*, and reflected the attempt to reform the labor market along classical lines (mobility, homogeneity, full knowledge, etc.). The outcome of their urging in this country was regulation of the private agencies and creation of the U.S. Employment Service.

The first line of attack was to charge the private employment agencies with incompetence and fraud. Since the employment agency's customer was the man out of work, this was fairly easy. The unemployed man is in a

⁵ *The Labor Market* (New York: The Macmillan Company, 1919).

singularly weak position with respect to reserves, bargaining position, and knowledge of the market. Often he is ready to do anything to get a job. It should not be too surprising, then, to find that some placement agencies had taken advantage of their customers. After an extensive investigation in 1930, Douglas and Director listed seven abuses perpetrated by private employment offices:⁶

1. *High fees.* Sample rates, charged job hunters in Cincinnati, were:

<i>Monthly Salary</i>	<i>Fee, per cent of First Month's Salary</i>
Less than \$ 75	30
\$ 75-100	40
100-150	50
150-300	60

2. *Fee-splitting.* This meant payment of a part of a fee to the employer (or the foreman or personnel manager) who did the hiring and led to the practice of discharging workmen after short periods of employment in order to get a cut of the fees of the new men taken on.

3. *Failure to refund advance fees if the work is temporary or the applicant did not get the job.*

4. *Collection of fees without performing services promised.* This occurred when the agency promised to make special efforts such as sending out a circular letter for an applicant upon payment of a fee and then neglected to carry out its end of the bargain.

5. *Misrepresentation of working conditions.* The false information may have referred to wages, hours of work, strike breaking services, or the duration of the job. Some applicants were sent to companies which had no openings and had made no requests for referrals.

6. *Increasing fees during hard times when applicants were most in need of jobs.*

7. *Selling jobs to the highest bidder.* This, also a depression practice, was done by bargaining with the applicants and referring only those who agreed to pay an extra fee if placed.

The attempts at regulation which followed were held up for many years by the courts which as late as 1928 found (in *Ribnik v. McBride*, 277 U.S. 350) that the fixing of maximum fees that might be charged by a job broker was unconstitutional under the due process clause of the fourteenth Amendment to the Federal Constitution. However, in 1941, this decision was explicitly overruled (in *Olsen v. Nebraska*, 313 U.S. 236), and within two or three years more than two-thirds of the states had regulatory laws of varying strictness on their books.

⁶ Douglas and Director, *op. cit.*, pp. 266-273.

The issue of the private employment agency is one that has been decided in the negative in many of the textbooks. The agencies themselves have flourished, along with the many other types of service industry so prevalent in twentieth-century American society, finding positions for millions of job hunters, the great majority of whom, so far as anyone knows, were satisfied with the service and the price. Most of the critics of the private employment agency have never searched for a job in industry, never hired a man, and never attempted the delicate balancing of qualifications and requirements which results in a job placement. The evidence upon which the criticisms of the investigators is based is without exception spotty, scattered, and statistically inconclusive as to the over-all picture. It could just as well have supported a defense of the agencies as an attack upon them.

Referring to the primary objection of all the investigators—price, it is doubtful that anyone unacquainted with the business of job brokerage can say whether 50 per cent of a monthly salary of \$125 is a high charge or not. It may be too low. The middleman has always been a popular target for reformers, and more attention has been paid to the price he charges than the service he performs. The determining factor would be the cost of the service necessary to effect a placement.⁷ It would have been no favor to the millions of persons who used private agencies to find work during the past half century to have legislated them out of existence or (which was the same thing) to have set fees so low that they could not operate profitably.

Many who have *used* private employment agencies in different sections of the country and who are also familiar with the frustrations and difficulties of job placement⁸ have strong doubts of the validity of the case which has been made against the private job broker. In fact, the argument might well be turned back upon the critics, through an examination of the placement records of the public and institutional agencies. The questionable effectiveness of public employment agencies of all types and of most institutional (school and college) agencies may well be laid to the assumption that the service can be performed efficiently on a low-cost, mass basis. Placement is a difficult, exacting, time-consuming task. Experience thus far indicates that there is little more likelihood of eliminating the middleman costs than in the distribution of merchandise. Public and institutional agencies will probably continue to “go through the motions” instead of performing the service until more adequate budgetary allowances are authorized, which seems unlikely outside of exceptional circumstances (like war).

⁷ Unless, upon the theory of a competitive market, the correct price is considered to be that which equates quantities offered with those demanded. In this case, the rate might be higher still, especially in times of depression.

⁸ These include the author.

The U.S. Employment Service. The U.S. Employment Service has been the answer to the demand for a system of cost-free public labor exchanges which would centralize the function of placement in the principal markets of the country and (presumably) reduce the necessity of reliance upon the expensive private brokers. The present network of offices dates from the passage of the Wagner-Peyser Act of 1933, although a number of states and cities had public placement agencies before that time, and there was an earlier, short-lived U.S. Employment Service set up during the First World War.

The present Employment Service has operated under two distinct handicaps from the beginning. In the first place, the offices were originally set up as adjuncts to the payment of job insurance during the depression of the thirties, and the function of placement was subordinated to that of registration of applicants for out-of-work benefits. They were housed with unemployment compensation staffs, dominated by officials more concerned with the payment of claims than with finding jobs for applicants, and limited in funds and personnel to such innocuous activities as keeping records and interviewing. The second handicap was the form of organization, which was by states rather than nationally. Employment being considered a local matter, and the payment of unemployment compensation being made a state function by the complicated provisions of the Social Security Act, the placement offices were also under state direction and subject to state personnel and administrative practices. This made for very uneven performance from state to state, with the general level of efficiency "below average." It is common knowledge that in many states the employment service is a patronage province, with a high proportion of payrollers. The "U.S. Employment Service and Affiliated State Employment Services," as it is called, is really a federation of state employment offices, with a head office at Washington and a journal, *The Labor Market*.

The state employment services today are undeniably more efficient and have more self-respect than before the war. From 1942 to 1946, they were nationalized and put under central direction with adequate funds to implement the government's manpower policies. This raised salaries (staff members went on the Federal payroll, which has a scale considerably above the state average), enhanced prestige, improved the quality of personnel, and what was most important, changed the point of view to emphasis upon recruitment and placement. A vigorous program of employer visits, counseling, testing, and publication of job information was put into effect, and the number of referrals (sending applicants out to apply for jobs) and placements multiplied several times over. These functions continued to be emphasized after the return of the services to the states at the end of 1946.

Time alone will tell whether the relatively improved performance of war-time is to become the norm, or the influence of state administrative practices, local politics, and restricted budgets once more will sap the energy of the bureaus as it did following the First World War.

Two years after the change-over, the statistical record of activities was still quite impressive. It is given in Table 30 for 1 year.

It is difficult to evaluate this performance without information of a qualitative character, but some conclusions of a tentative nature may be advanced. The important totals are new applications, referrals, and place-

Table 30. Employment Service Activities, June, 1947, to
May, 1948, Inclusive*

Activity	Total for year	Monthly average
Reception contacts.....	83,103,000	6,925,000
New applications.....	6,594,000	549,000
Counseling interviews.....	1,381,000	115,000
Referrals, total.....	11,943,000	995,000
Agricultural.....	1,865,000	155,000
Nonagricultural.....	10,078,000	840,000
Placements, total.....	7,068,000	589,000
Agricultural.....	1,684,000	140,000
Nonagricultural.....	5,384,000	449,000
Employer visits.....	2,499,000	208,000

* SOURCE: Monthly reports in *The Labor Market*.

ments, particularly the latter. These are of satisfactory size, ranging from 13 to 24 per cent of the employed labor force. The high ratio of placements to referrals—roughly, 7 out of 12—sounds suspicious, until it is remembered that the time is 1947-48, one of the easiest years in history to find jobs. Nonetheless, 7 million placements is a good record. This means that each month the public employment exchanges located jobs for about one-quarter of the unemployed persons in the country, or their equivalent, without direct cost to either employer or employee.

The occupational range of the placements made is less encouraging. Before the Second World War, a criticism often leveled at the Service was that it attracted only mediocre and unskilled applicants and was therefore of little use to employers who were looking for well-trained people. There is still a heavy preponderance of placements in the unskilled and lower class service trades (as revealed in Table 31).

If one month's sample is representative, the public employment exchanges are still a poor man's agency, which is perhaps as it should be. However, the fact prompts the conclusion that private agencies should be left unhindered to perform the more exacting task of filling the need

for professional, managerial, and other specialized personnel, at least until it is proved that the public bureaus are prepared to service these important groups in the labor market.

At the same time, the public agencies should be maintained and strengthened. They have improved the functioning of the employment mechanism, given placement service at no cost to those most in need of it, and gathered important statistical data. The informational service alone is worth the cost to the taxpayer. There is little doubt that they have materially reduced the amount and burden of frictional unemployment in the labor market.

Table 31. Nonagricultural Placements by Major Occupational Group, May, 1948*

Occupational group	Placements	Per cent
1. Professional and clerical.....	53,127	11
2. Skilled and semiskilled.....	97,464	20
3. Service (73,000 in private domestic service).....	123,587	26
4. Unskilled and other.....	208,139	43
Total for the month.....	482,317	100

* SOURCE: *The Labor Market*, July, 1948, p. 46.

Job Insurance. Unemployment compensation is intended mainly for those irregularly out of work, like the victims of technological and frictional unemployment, and less for the seasonally unemployed, especially the large number of part-time labor force members who help out in stores during the Christmas rush or work on farms during school vacations. However, people do not come to state unemployment compensation offices wearing tags which classify them as seasonally or technologically unemployed, and many times it would be impossible to identify the cause. So the laws governing the payment of insurance do not formally exclude those out of work for the former reason. Instead, they set up requirements of a given number of weeks of employment during some previous work period (usually the preceding year) which make it hard for those regularly unemployed for a good portion of each year to qualify.

This creates problems of interpretation which have been hinted at already in the section on definition of unemployment. The requirements and procedure are described briefly in a recent article in the U.S. Labor Department's *Labor Information Bulletin* as follows:⁹

A worker in covered [insured] employment does not automatically draw benefits when he becomes unemployed. He must have earned a certain amount in wages or worked a certain number of weeks in a "covered" job during a certain

⁹ August, 1948, p. 6.

period of time before becoming unemployed. He must also be able to work, available for work, and willing to accept a suitable job. He must register for work at a public employment office and file a claim for benefits. He may be disqualified for benefits if he left his job without good cause, was discharged for misconduct in connection with his work, or if he was directly engaged in a labor dispute resulting in a stoppage of work. Both employers and workers have the right to appeal if they are not satisfied with the decision of the State employment security agency.

A worker may not be disqualified for benefits if [he refuses to take a job which] is vacant because of a lock-out or labor dispute; if the wages, hours, and conditions of work are substantially less favorable than those available for similar work in the locality; or if he would be required to join a company union or to resign from or refrain from joining, a bona fide labor organization.

Job insurance became a national policy in the United States with the passage of the Social Security Act in 1935, although one state (Wisconsin) had set up a job insurance system a few years earlier. The Social Security Act, coming before the "reorganization" of the Supreme Court in 1937, was influenced by the uncertainty of Congress as to the limits of Federal jurisdiction. Employment being considered a local matter, a Federal-state system was devised and the states were "persuaded" to cooperate.¹⁰

The Social Security Act furnished the incentive to . . . States to establish their own unemployment insurance systems by levying a uniform payroll tax of 3 per cent on employers of eight or more workers in at least 20 weeks during a calendar year. In those States which established their own . . . system . . . employers were allowed a 90-percent credit against the Federal tax for the contributions paid to their State provided the State law met certain specified Federal standards. In addition to offering reduction in Federal tax to employers, the act provided that the entire cost of administering the State laws would be paid out of Federal funds.

The "incentive" was state control of funds and personnel, it being expected that most states would prefer to run the show at home rather than have it administered from Washington. The incentive worked, and by 1938, when payments began, there were unemployment compensation laws in each of the 48 states, as well as in the District of Columbia, Alaska, and Hawaii.

Job insurance is financed by the payroll tax paid by employers. Agricultural workers, domestic servants, government employees, and employees of nonprofit institutions are not "covered" in the Social Security Act or in most state laws. Nevertheless, it is a big business. By 1947, there were over 45 million workers with "wage credits" (which means that some of their past wages were covered by the payroll tax and they had been issued a social security card and number), and there were currently around 37 million with insured status under the state laws. This was more than three-quarters of all employees and over four-fifths of all nonagricultural employees in the

¹⁰ *Ibid.*, p. 5.

country. In 1947, over \$1 billion was paid into the Federal unemployment trust fund by more than 1 million employers. In the same year, \$776 million was paid in benefits to 3,980,000 claimants. The balance in the trust fund at the end of the year was over \$7 billion.

Unemployment compensation, as such, is hardly an issue any more. In an industrial society, people are constantly thrown out of work through no fault of their own and ordinarily they have little savings to fall back on. Paying out-of-work benefits helps to tide them and their families over while readjustment takes place. It reduces apprehension over the possible loss of a job, contributes to the maintenance of purchasing power, and when not regarded as charity, produces no loss of self-respect. A modern nation must have some kind of provision for short-term unemployment. If job insurance is not available, many of the unemployed will become public or private charges through other channels. The question is primarily one of method, where to put the responsibility. On the other hand, unemployment compensation as it is practiced in the United States raises several important issues of method.

The issues stem primarily from the *insurance theory* which is the basis of the present system. To begin with, unemployment does not meet the test of an insurable risk. It is true that there is the probability of large loss for a few people and small or no loss for many, which are the necessary prerequisites for a system of insurance. However, there are three other criteria by which an insurable risk is measured: (1) There must be sufficient statistical data on hand to provide an actuarial basis for prediction of incidence and volume. (2) The moral risk should be negligible. (3) The risks should be independent. Unemployment is weak on all three counts.

The statistical problem is insuperable unless all kinds of unemployment are to be insured against, since it is practically impossible to segregate individual cases by cause. And no one contends that job insurance can handle all kinds of unemployment, particularly the most serious type, which is cyclical. Hence, no valid actuarial estimate can be made of the probable size of the future benefit load. A minor but important problem is the difficulty of defining the statistical unit, the unemployed person. The moral risk, which refers to self-inflicted damage for purposes of collection of insurance, is great, and both employers and employees are responsible for inaccurate information which has resulted in the payment of invalid claims. It is probable that a considerable proportion of the \$776 million that was paid to nearly 4 million claimants in 1947, a year of very high employment, falls into this category. Finally, no conclusion is more secure in modern economics than that unemployment breeds more unemployment and vice versa. The risks are highly interdependent, and the danger of "conflagra-

tion" (the fire insurance equivalent of interdependence of risk), in the form of widespread unemployment, is always present.

None of these propositions are arguments against the payment of out-of-work benefits. They are simply arguments against pretending that it is an insurance proposition, with all the complexity and expense of administration that such a setup entails, especially when the outcome is less satisfactory than it would be if the plan were regarded as a relief program, which it is. For example, an employee's "wage credits" are based on his earnings which were part of a taxed payroll during some prior work period. When he becomes unemployed, his benefit checks reflect the amount of his previous earnings, on the insurance principle of relating the size of the policy to the size of the premium. This procedure is tremendously expensive, as it requires continuous and detailed records of the earnings of every one of the 37 million insured workers, and an involved analysis of each claim to determine the amount of benefit payment which is due.

To make matters worse, the outcome is often completely unrelated to need. A well-paid employee who has worked steadily throughout the qualifying period will receive the maximum in benefits, while a more poorly paid worker with irregular employment may get the minimum. Nevertheless, the latter is at least as likely to be in need of substantial assistance as the former. And out-of-work benefits, no matter what they are called, are a relief problem, which should be solved on the basis of need. The answer, of course, is flat-rate benefits, supplemented by family allowances, which is the method employed in Great Britain. It is strongly opposed in this country, however, especially by employers, as a "dole."

It should be emphasized that an administration on the basis of need, with flat-rate benefits and family allowances, could be called "insurance" just as accurately as the present plan, since employees do not contribute directly to the unemployment trust fund, except in two states, and there the amount of contribution is negligible when compared with benefits. All the expensive, time-consuming records maintenance and benefit computation is without any basis of justification other than to keep up the pretence of a "business-like" insurance system. Actually, it is unbusinesslike in the extreme and highly illogical in results.

The "results" are quite variable from one jurisdiction to another, depending, as they do, on the state and Federal laws which are in effect. There are minimum and maximum weekly amounts which a qualified claimant may receive and a maximum time limit for the payment of benefits. In 1948, minimums ranged from \$3 (Louisiana and Mississippi) to \$10 (California, Idaho, Illinois, New York, Oregon, Rhode Island, and Washington), and maximums from \$15 (Florida) to \$26 (New York), except for Texas, where \$36

a week was paid for 2-week intervals. Four states and the District of Columbia paid dependents' allowances. The maximum duration of benefits was from 20 to 26 weeks in 40 states or territories and less than 20 weeks in 11 jurisdictions.¹¹

A man out of work in 1948, then, could receive as much as \$676 (\$26 a week for 26 weeks) in New York, one of the most liberal states. This would be at the rate of \$113 a month, with no adjustment for size of family and with a benefit formula which favored the higher paid, more regularly employed workman. Three years after the end of the Second World War, the consequences of inflation had still further reduced the likelihood of benefits meeting needs, a probability which was already small as a result of inadequacy of legislative design.

Cyclical Unemployment

Frictional, seasonal, and technological unemployment are indispensable elements of an industrial economy. The rapid changes which make possible adjustments to consumer tastes, new inventions, discovery and depletion of resources, and the requirements of national security (defense) are impossible without a mobile and versatile labor force. It is certainly desirable to keep the sum total of such unemployment at a minimum and still more desirable to see that its burden does not fall heavily on the employees themselves and their families, since the causes are often beyond their control. Nonetheless, some normal minimum out-of-work load there must be, and the demands of modern industry (self-discipline, coordination, literacy, and technical understanding) may well be increasing the number permanently excluded from the labor market.

It remains to examine the kind of unemployment that is not indispensable and which is regarded by many as the foremost economic problem of modern times. This is "cyclical," or "depression" unemployment. Cyclical unemployment not only is a vicious and frustrating cause of layoff itself, but it also aggravates the minor causes of lack of work, increasing the frictional impediments in the labor market, extending the period of seasonal unemployment and raising fears of its permanence, and complicating the readjustment of those thrown out of work by technological progress. It was the depression unemployment of the 1930's which left such an imprint on the public consciousness that a decade after its disappearance, deflation was still regarded as a national peril. Cyclical unemployment is the true problem; its solution would leave an easily manageable residue of labor market adjustments which few would doubt the capacity of a free enterprise society to handle. It will be the subject of the following chapter.

¹¹ *Ibid.*, p. 6.

Readings

The classic analysis of unemployment in the United States, both as an example of method and in its treatment of causes and recommendations, is Paul H. Douglas and Aaron Director, *The Problem of Unemployment*.¹³ Its British counterpart is William H. Beveridge's *Unemployment: A Problem of Industry*.¹³ Although published 2 decades ago, and therefore coming before the Keynesian revolution in economic thought, both are of more than mere historical interest. For example, the report by Douglas and Director both proposed and was influential in bringing about the adoption of important present-day policies for dealing with the problem: public employment exchanges, job insurance, and public works. A more recent note on the difficulty of definition and measurement is the Census Bureau's Labor Force Memorandum 3, of June 25, 1948, on "Census Bureau Measurement of Unemployment." Up-to-date information on the administration of job insurance may be found in a number of labor-problems texts. See, for example, Chap. 25, on "Unemployment Insurance," of Florence Peterson's *Survey of Labor Economics*.¹⁴ The activities of the U.S. Employment Service are best followed in its monthly journal, *The Labor Market*.

Exercises

Try answering these questions:

1. What does "looking for work" mean?
2. The older Census Bureau definition of unemployment was: "involuntary idleness on the part of those who have lost their latest jobs, are able to work, and are looking for work." How does it differ from "anyone over 14 years of age not working but looking for a job"?
3. Why is the definition of unemployment important?
4. What unemployment is considered normal and why is it so described?
5. Does the record for the past 30 years indicate that the American economy is inflationary or deflationary in tendency, with respect to employment? Defend your answer.
6. Why is a given amount of seasonal employment rated as less serious than the same amount from other causes?
7. What are the short-run factors which determine the amount of unemployment caused by technological progress?

¹³ New York: The Macmillan Company, 1931.

¹³ New York: Longmans, Green & Co., Inc., 1930.

¹⁴ New York: Harper & Brothers, 1947.

8. DEPRESSION UNEMPLOYMENT: KEYNES VERSUS LAISSEZ FAIRE

Cyclical unemployment is unemployment which occurs during the depression phase of the business cycle. The immediate cause is obvious to everyone: a general lack of demand for labor. Since the demand for labor is a "derived" demand, meaning that it is dependent upon the demand for something else, this implies a lack of demand for the goods and services which labor is hired to produce. The conclusion is strictly accurate. The marks of depression are: (1) reduced demand for goods and services, (2) a falling price level, (3) restriction of output of consumers' goods, (4) stagnation of the heavy (producers' goods) industries, (5) credit contraction, and (6) widespread unemployment.

Depression unemployment is irregular in occurrence, hard to predict, and extremely variable as to duration and intensity. It ranges in depth from the 6 per cent of 1921 to the 20 per cent of the labor force out of work in 1933 (Table 29, Chap. 7), and in length from the 1 year of 1921-22 to the 10 years, 1931 to 1940. It is obvious that to eliminate depression unemployment it will be necessary to defeat ("smooth out") the business cycle.

As the most important single peacetime source of misery and destitution, depression layoff is one of the major social problems of modern times. It is also the focal point of the most violent controversy over economic policy to arise during the twentieth century. The dispute is over control of the business cycle and the contestants are, on the one hand, the great body of orthodox economists and businessmen who believe that a free-market society is inherently stable and who therefore propose that the government keep its hands off business, and on the other, the followers of the late John Maynard Keynes, whose theoretical conclusions appear to lead inevitably to some form of "managed economy."

The Keynesian Revolution

The "Keynesian revolution" in economic thinking dates from the publication of *The General Theory of Employment Interest and Money* in 1936.¹ Keynes intended the book to be a denial of existing orthodox theory and in order to avoid misunderstanding he made the repudiation clear in his opening chapter, which also set some sort of record for brevity. Chapter 1, entitled "The General Theory," is given below *in toto*:

I have called this book the *General Theory of Employment, Interest and Money*, placing the emphasis on the prefix *general*. The object of such a title is to contrast the character of my arguments and conclusions with those of the *classical*² theory of the subject, upon which I was brought up and which dominates the economic thought, both practical and theoretical, of the governing and academic classes of this generation, as it has for a hundred years past. I shall argue that the postulates of the classical theory are applicable to a special case only and not to the general case, the situation which it assumes being a limiting point of the possible positions of equilibrium. Moreover, the characteristics of the special case assumed by the classical theory happen not to be those of the economic society in which we actually live, with the result that its teaching is misleading and disastrous if we attempt to apply it to the facts of experience.

The General Theory is probably the greatest contribution to economic thinking since the "Austrian School" developed subjective value and the marginal analysis 75 years ago. The book's prestige was considerably enhanced by the standing of the author as the world's most distinguished economist and by the timeliness of publication, after 5 years of unparalleled depression. Mr. Keynes's subject was "depression and how to avoid it." Notwithstanding his insistence that emphasis be placed on the word "general" in the title, most readers will agree that the actual emphasis is upon "employment" and how to maintain it. The answer, in a nutshell, is the "managed economy," with over-all government planning. Keynes's great contribution was to identify the significant factors and set measurable standards by which the "management" should be conducted.

The Opposition. It was hardly to be expected that "the governing and academic classes," who also were brought up on the (orthodox) classical, laissez-faire economics, would unanimously embrace the new point of view. There is much in *The General Theory* that is hard to swallow, even if it

¹ New York: Harcourt, Brace and Company, Inc., 1936.

² "The 'classical economists' was a name invented by Marx to cover Ricardo and James Mill and their predecessors, that is to say for the founders of the theory which culminated in the Ricardian economics. I have become accustomed, perhaps perpetrating a solecism, to include in 'the classical school' the followers of Ricardo, those, that is to say, who adopted and perfected the theory of the Ricardian economics, including (for example) J. S. Mill, Marshall, Edgeworth and Prof. Pigou."

is so. As is always the case after a shift in basic premises, many of the policy implications seem radical and foreign. Even if it is true that the characteristics assumed by the classical theory "happen not to be those of the economic society in which we actually live," much of the social, economic, and legal framework of that society is founded upon the belief that they present an accurate picture. There are many able defenders who will insist that by the pragmatic test the present system "has worked" with far more efficiency than any other yet tried.

The Keynesian doctrine has therefore been denounced as socialistic, collectivistic, and unsound, and the intensity of the reaction has been proportional to the degree of prosperity of the times. It is highly probable that there would be even stronger disagreement if the "new economics" were less a monopoly of academic theorists and were more widely understood in the business community.

Part of the opposition to Keynesism is certainly psychological. Keynesian economics is depression economics. *The General Theory* was conceived during depression, published during depression, deals with depression (deflation and unemployment), argues that orthodox economic policy will inevitably lead to more frequent and more serious depressions and presents a theoretical defense of a highly unpopular method of combating depression: government spending. It is natural for businessmen, with optimistic and expansionist viewpoints, and economists who have grown up in the great tradition of Ricardo, Mill, and Marshall, to look with suspicion upon a theory which flatly denies their most fundamental convictions, to wit: that free markets, free enterprise, and competition will produce full employment and a steadily rising standard of living.

Nor are the suspicions of the orthodox group without foundation. There is much of a noneconomic nature which underlies the classical economic theory, and some fundamental and long-cherished values are bound to suffer encroachment if economic policy is oriented to the new approach. An example is freedom—the right of the individual to do as he wishes with his own private property, whether it be capital or labor services. No orthodox economist would deny that such freedom has been greatly (and necessarily) abridged, in this country as well as others, during the last century, but the idea of free choice remains as a postulate of our economic system. That idea would be very hard to retain if reliance upon free enterprise as the central motivating and equilibrating force in the economy were abandoned. In the minds of many, free choice is a value for which there are few substitutes.

On the economic and administrative side, it has been pointed out that the Keynesian "managed economy" might well raise as many problems as it solves. Chief among these would be the quality of the "management" in a managed economy. It would be politically chosen, of course, and the

manner of selection would influence both the character and the objectives of the administration. The direction of public enterprises, either here or abroad, has not yet been proved so clearly superior to private management as to dispel all doubts about the results. At the same time, the scope and complexity of the problems to be solved would be far beyond anything yet attempted in time of peace. Finally, the detailed models of the Keynesian fully employed society, as drawn by some of the chief disciples—Beveridge,³ Wootton,⁴ and Hansen,⁵ among others—have done little to reassure the skeptics.

Full Employment. The central issue between the Keynesians and orthodox economists is how to get and keep “continuous full employment,” but one of the consequences of the Keynesian revolution has been to change the meaning of the words. In orthodox terminology, “full employment” meant the full employment of *resources*—all kinds of resources, including capital and raw materials as well as labor. It was reached when there was maximum output of goods and services, regardless of whether all persons wanting to work had jobs or not. The Keynesian meaning is the more popular one of full employment of the labor force. It has been variously defined, but probably the most widely accepted version is that of Beveridge:⁶

Full employment... means always having more vacant jobs than unemployed men... It means that the jobs are at fair wages, of such a kind, and so located that the unemployed men can reasonably be expected to take them; it means, by consequence, that the normal lag between losing one job and finding another will be very short. The proposition... means that the labour market should always be a seller's market rather than a buyer's market.

It might be argued that the definitions are interchangeable, that full employment of resources would inevitably mean the employment of all qualified workers in the market, and vice versa. Nonetheless, there is a difference in emphasis. The full employment of *people* implies a broader distribution of income than might occur in a more productive but less equalitarian society, placing the emphasis upon the allocation of income instead of its amount. The stress is upon security rather than productivity, an accent which is maintained throughout the Keynesian analysis. Adoption of the Keynesian program would mean accepting “continuous full employment” of the labor force as the major economic objective of modern society.

³ W. H. Beveridge, *Full Employment in a Free Society* (New York: W. W. Norton & Company, 1945).

⁴ Barbara Wootton, *Full Employment* (London: Victor Gollancz, Ltd., 1943), and *Freedom under Planning* (Chapel Hill: University of North Carolina Press, 1945).

⁵ Alvin H. Hansen, *Economic Policy and Full Employment* (New York: Whittlesey House, McGraw-Hill Book Company, Inc., 1947).

⁶ Beveridge, *op. cit.*, p. 18.

However, there would still be two quite different beliefs as to the proper road to travel to get there and stay there.

Whether or not Keynesism and orthodox economics are fundamentally irreconcilable is a matter of dispute, along with many of the meanings and applications of the new doctrine. At times, the two views seem not to clash, but rather to reflect emphasis upon different aspects of the economic system, as in the "supply-and-demand" analysis, compared to the "national income" approach. At other times, they rest on conflicting premises and are therefore in direct opposition. An example of the latter is the disagreement over wages.

In the orthodox view, one of the main causes of unemployment is the rigidity of prices, especially the prices of factors of production which enter into costs. Where such prices are kept above their "natural" level, either by monopoly, combination, or government support, the result is a distortion of cost-price relationships which will restrict output and employment, reduce incomes, and which may start a "downward spiral" of deflation, leading to depression. Among prices which are the most inflexible, especially on the downward side, are wages. For the economy as a whole, they also constitute the largest single item of production costs. Flexible wage rates are therefore a prime objective of businessmen and orthodox economists, along with flexible prices for raw materials, capital, and consumers' goods. If these prices adjust rapidly and easily to changes in demand, so the analysis goes, no resources will be held off the market, unemployment will be at a minimum, and a high level of output of goods and services will be maintained.

This opinion was flatly rejected by Keynes in his memorable dictum that "there is...no ground for the belief that a flexible wage policy is capable of maintaining a state of continuous full employment.... The economic system cannot be made self-adjusting along these lines." His reasons for thinking so have been outlined above (Chap. 5), and with them, his proposal of a national wage policy based on a stable money wage level in the short run and a slowly rising money wage level in the long run. To both Keynesians and non-Keynesians, however, it is apparent that the solution he offers has a price. The problems of administering a national wage program with a rigidly controlled general pay level were completely disregarded in his analysis, but they could not be overlooked if his theories were made the basis of public policy. On this subject the critics of the "new economics" are likely to have as much of a field day as Keynes did in dissecting the operations of a free labor market.

The Keynesian revolution, however, is concerned with more than wages. It is a full-scale, positive program to keep national income at a full-employ-

ment level. If the solution of depression unemployment is to eliminate depressions, then Keynes has presented a plan which he and his followers are certain will do the trick.

The Keynesian Theory of Employment

The Keynesian theory of employment is simple, definite, and easy to understand. It rests upon a single, well-defined, measurable standard: national income. As long as national income is high, employment will be high; when national income drops, employment falls with it. To maintain "full employment," select the level of national income which will require the employment of the entire labor force and see to it that that level of national income is maintained. National income measures spending, and there are two kinds of spending: private and public. Private spending may not be controllable, but public spending is. If private spending falls off, increase public expenditures by an amount equal to the deficit in private outlay to keep the total at the agreed figure. Q.E.D.

As a supplement to a "compensatory fiscal policy" like the one described above, it is also both desirable and within the power of the government to encourage private spending. It is desirable because of the large proportion of the national income now accounted for by private consumption and business activities, and the relatively heavy burden that the government would have to assume in compensating for a reduction therein. It is possible because of differences in the propensity to consume and the government's power to bring about transfers of income.

The "propensity to consume" is Keynes's name for the proportion of consumer income which is spent in a given period, say, a year. For example, if consumers in the United States receive \$100 billion in income during a 12-month period and spend \$70 billion on consumers' goods and services, the propensity to consume is 0.7. The balance, \$30 billion, is saved (literally, not spent or "consumed"). If an amount equal to this \$30 billion is "invested," then the whole \$100 billion is "spent" and the national income total will remain unchanged. However, it was one of Keynes's great contributions to point out that the decisions to save and invest are made by different people and for different reasons, so that there is no certainty that the totals will be identical in any given year.

The \$30 billion mentioned above as "saved" may not be matched by investment. If \$10 billion is spent for investment purposes while \$30 billion remains unspent by consumers, then the national income total will fall at least \$20 billion unless made up from other sources. Such inequality of saving and investment is not only possible, it is highly probable. Decisions

to save are made primarily by consumers, decisions to invest by businessmen and public officials. It is only by chance that the totals come out even approximately the same. *This is the major source of fluctuations in national income and employment, the fundamental cause of business cycles*, according to Keynes.

It is of course obvious that a drop in investment spending might be made up by a rise in consumer spending, or, in technical language, by an increase in the propensity to consume. In the illustration given above, if investment fell to \$10 billion, but consumption rose to \$90 billion (an increase in the propensity to consume from 0.7 to 0.9), the national income total would stand unchanged at \$100 billion. And it is the total which counts. The government's capacity to increase the propensity to consume rests on its power to transfer income from one group in the country to another through taxation and subsidy. The propensity to consume of lower income groups is very high. Policies which increase their incomes at the expense of upper income classes will raise the average propensity to consume.

There is little doubt that the propensity to consume of lower income groups is high, since this is only another way of saying that they spend most of what they make. The conclusion is obvious, since it takes just about everything that lower paid workers earn to provide for themselves and their families. If the incomes of lower paid employees are increased relatively to those of the better paid workers and owners of property, the over-all rate of consumption will rise and the economy will become more stable, since consumption is a more stable factor than investment. There will be a drop in the proportion of national income that is saved (unspent) and hence less of a tendency toward *oversaving* relative to investment, which is the most powerful deflationary element in the economic system.

The tendency for saving to exceed investment and bring on deflation, especially in prosperous times, is due to two influences. One is the increasing proportion of national income which goes to higher income groups, and the consequent rise in both the absolute and relative amounts of saving. The other is the tendency for the marginal efficiency of capital to fall, which reduces the stimulus to invest. The "marginal efficiency of capital" is Keynes's name for the profitability of new investment. If it is high, there will be a rush to take advantage of the opportunities for profit; if it is low, investors will be wary, cautious, and hesitant about risking their money. In the short run, prosperity itself brings about conditions that reduce the probability of profit; high prices and restricted markets, increased costs, inefficiencies of organization, etc. If these factors slow down the expansion of investment at the same time that savings are increasing, there is very likely to be more saving than investment, a reduction in total spending (national income), and deflation leading to depression.

However, if the increased savings can be directed into genuine investment channels (expansion of business plant or operations), their deflationary effect will be overcome. This can be encouraged by keeping the interest rate consistently below the marginal efficiency of capital, so that the *rentier*, Keynes's "functionless investor," will seek an active outlet for his funds rather than the relatively riskless return from government bonds or seasoned industrial securities.

The decline in the marginal efficiency of capital has both short-run and long-run implications. For the long run, Keynes implied a steadily declining rate of return on invested capital. This might be due to reduction in the rate of population growth, exhaustion of known resources, slowing down of the rate of discovery of new resources, the difficulty of capital transfers from old to new industries, the institutionalization of business procedures, or public policies reducing both risks and opportunities with respect to investment.⁷ The result of such a downtrend in the marginal efficiency of capital could only be to slow down business expansion and with it the opportunities for investment. The conclusion seemed obvious: a reduction in the proportion of national income which is saved (not spent) in order to avoid a chronic case of underinvestment and deflation.

In strict Keynesian terminology, national income (Y) is a function of consumption (C) and investment (I). Consumption is private spending on final products—goods or services. Investment is of two kinds: private and public. Private investment is business expenditure for purposes of expansion of plant or operations. Public investment is governmental spending. The amount of consumption is determined by consumer income and the propensity to consume. Private investment is determined by the marginal efficiency of capital. It may exceed or fall short of savings (S), which result from the "liquidity preferences" (desire for cash resources) of individuals and businesses. Public investment is determined by governmental policy and may be expanded or contracted at will.

Consumption plus investment (private and public) equals national income. (C plus I equals Y) The propensity to consume, and therefore consumption, is very stable. Hence, if investment is equal to saving, national income will not vary a great deal. The unstable part of investment is the private branch, which is influenced by the marginal efficiency of capital. If public spending can be modified to keep *total* investment equal to savings at a level of national income which brings forth full employment, then stability and full employment will be achieved. This is the Keynesian answer to depression and unemployment.

⁷ This is the "mature economy" or "stagnation" thesis, meaning that there is a limit to economic expansion and every country must someday cope with the problems of a contracting economy.

In contrast to his predecessors, Keynes disregarded internal price adjustments almost entirely and focused his attention on national income. His concern was with "aggregates," the totals of spending, saving, investment, and consumption. In the Keynesian analysis, the important thing for any economy is to keep the general state of business, employment, and income at a prosperous level, and either to disregard or develop other means of correcting for internal maladjustments. This is the "macrocosmic" (over-all, universal) view as opposed to the "microcosmic" (unitary, atomistic) view of the orthodox economists, in which a study of the cost and revenue situations of individual business enterprises predominated.

The Keynesian program is simple, definite, and (on paper, at least) administratively feasible. That is to say, the factors dealt with are measurable quantities, amenable to administrative controls. They are economic magnitudes within the business and governmental system. National income, consumption, private investment, savings, and government outlays are all items which are capable of statistical definition, and the rates at which they occur are now being reported regularly by the Federal government in *The Survey of Current Business*, published by the United States Department of Commerce.

The portion of national income to be most directly manipulated—public spending—is a customary public policy function. What may prove to be even more compelling in the eyes of the public, however, are the social implications of the Keynesian doctrine of equalitarianism.⁸

Thus our argument leads towards the conclusion that in contemporary conditions the growth of wealth so far from being dependent on the abstinence (savings) of the rich as is commonly supposed, is more likely to be impeded by it. One of the chief social justifications of great inequality of wealth is therefore removed.

Those opposed to Keynesism, on the other hand, must either: (1) deny the necessity of smoothing out the cycle, or (2) show that there is a better way to accomplish the same end, by proving that the Keynesian program is not workable or that its cost in liberties surrendered or in administrative red tape is greater than the gains it might produce. There is some of both in the orthodox view of business cycles, but conservative opposition to the new economics is greatly handicapped by the lack of a positive program of its own. It is also embarrassed by the fact that the only real policy for combating depression unemployment that a free enterprise system has been able to devise—government spending on public works—is the one for which Keynes provided a firm theoretical justification along with the analytical tools necessary to do the job.

⁸ Keynes, *op. cit.*, p. 373.

The Orthodox View of Business Cycles and Employment

The Social and Economic Functions of Unemployment. In the Keynesian analysis, a high level of national income and full employment mean prosperity. Perhaps the memories of the Great Depression of the 1930's are responsible, but there has been little tendency to question openly the Keynesian standard of "continuous full employment" and its accompanying affluence. Nevertheless, the businessmen, who are responsible for efficient operation of the economic system, and the theologians, educators, and social scientists, who draw up the balance sheet of moral and material well-being, could and probably should raise some questions concerning the desirability of permanent, guaranteed prosperity. The topic might not be popular, but that would not make it any less important. It might even be found that a significant proportion of the population has doubts concerning the economic and social effects of long-run prosperity on both people and institutions.

For example, what will be the effect on the industry and efficiency of employes as individuals if they are made secure in the belief that the loss of one job means little more than an easy and effortless transfer to another job of similar standing and pay? Will the individual apply himself more industriously and submit to the necessities of industrial discipline more cooperatively? There are few indications that the disciplinary requirements of modern employment are decreasing. Rather the contrary. It is a common observation that employe efficiency at all levels, up to and including the executive staff, declines during prosperity and rises in hard times. Will the permanent guarantee of full employment modify this tendency? And if it does not, and if self-discipline fails, what expedient will take its place? Force?

The same question applies, and perhaps even more emphatically, to economic organizations. Will sustained and guaranteed prosperity increase the efficiency of commercial and industrial firms and of the economic system as a whole? In the past it has been assumed that the downswings of business cycles had a genuine economic function in that they forced economy and effort upon producers at the cost of bankruptcy if they failed to meet competitive standards. Will the need disappear with the guarantee of stable, prosperous times? Will there be the same stimulus to cost reduction, technological progress, increases of man-hour productivity? How does competition work itself out in a permanently prosperous society? Will it find other channels, perhaps political ones, for the protection of revenue and profit margins? These are important questions, and the answers are not clearly apparent to everyone.

To a degree, the Keynesian managed economy seems to visualize a different kind of social and economic personality from that assumed by economists up to now, with decreased emphasis upon rivalry and competi-

assumptions of the orthodox economics, which took its philosophy mainly from the Utilitarians, was a skeptical view of human nature and reliance upon individual selfishness as the mainspring of action. Perhaps the classical economists were wrong and most people are not lazy and selfish. The times have changed and perhaps the people with them. However, if it should turn out that Ricardo, Mill, and Marshall were right, even today, what will be the substitute for free enterprise rivalry in the new society? Political rivalry? Force? Both have been prominent in the principal collectivisms of the twentieth century so far.

Turning briefly to the noneconomic side of the picture, is it perfectly clear that a society enjoying a sustained high level of material prosperity is better off than its opposite, or one somewhere in between? It might seem strange for an economist to raise such a question, but if it is axiomatic that social and moral standards rise and decline directly with economic conditions, then the materialist position is much stronger than has been hinted by some religious and educational critics. Certain elements of the situation might even be subject to measurement. For example, crime rates (personal and property), public health (accidents, epidemics, infant mortality, social disease, etc.), rates of divorce and desertion, organized vice, school and church attendance in good and bad times, might be compared. The burden of depression is very heavy, but it is primarily economic and is borne by a relatively small proportion of the population. A thoroughgoing over-all study of social conditions in depressed and prosperous times might reduce the deficit chargeable to the downswing of deflation.

In a competitive, free enterprise economy, both unemployment and bankruptcy (its organizational equivalent) have a definite function. They are the penalties for failure in the competitive game. Fear of them and their consequences is one of the two major stimuli to the performance of unpleasant but necessary duties which may not be sufficiently rewarding in themselves to guarantee their being carried out. Few observers will deny the salutary effect of these forms of insecurity upon the application, industry, attention to detail, and imagination of workers and businessmen alike. The game itself will be changed in more than degree if one of the penalties is removed and the other lightened. Attention might well be centered on what may be required in the way of substitutes.

Orthodox Business Cycle Theory. One attraction of Keynesian cycle theory is its simplicity and positiveness. According to Keynes, the principal cause of fluctuations in national income is the inequality of saving and investment, and their equalization will go a long way toward producing stability. If there is a better way of eliminating depressions than the program that Keynes outlined, it should rest upon an alternative theory of cycles. But which one? The two outstanding characteristics of orthodox cycle

theory have been their infinite variety and their uselessness as a basis for policy. Cycle theory *v.k.* (before Keynes) was a strange and wonderful conglomeration of sunspots, weather cycles, optimism and pessimism, interest rates, the structure of industry, fiscal policy, and market imperfections. The possibility of a single, streamlined, integrated substitute for the jerry-built accumulation of odds and ends which passed for business cycle theory prior to 1936 was in itself a persuasive factor in favor of the "new economics."

Orthodox cycle theory has produced literature by the ton and theories by the score,⁹ but it has been responsible for very few practicable, quantitative proposals which were eligible for adoption as public policy for purposes of control. The reasons are not hard to find. The essence of orthodox theory has been that cyclical fluctuations were the result of "interferences" with a system tending always toward equilibrium and full employment. The interferences might be from "outside" the economic system, in which case they were labeled as "exogenous," or they could come from "inside" the system and be called "endogenous." They were still "obstructions," which upset the functioning of the best of all possible economic worlds, which, if permitted to operate under the hypothetical (and impossible) conditions of "perfect" competition, would bring forth the maximum output at lowest prices for the general benefit of all.

In this respect, orthodox cycle theory has been the victim of the orthodox (classical) economic analysis, which spent most of its time on the economics of the "stationary state," *i.e.*, the internal cost-price adjustments necessary to keep production and consumption in balance in the short run. Progressive or cumulative changes *through time* were expressly excluded from such analysis. Dislocations like those which appear in a depression were regarded as departures from normal which would disappear as soon as certain "hindrances" to free-market adjustment were removed.¹⁰

Cycle theory was therefore regarded as an adjunct to price (value) and distribution theory. It consisted mainly of analysis of factors both inside and outside the economic system which might upset or impede the operation of competitive markets. The adequacy of free, competitive markets to readjust promptly to a condition of full employment without any outside (governmental) assistance was never doubted.

The subordination of cycle theory to equilibrium analysis had import-

⁹ A classification of theories by types in a widely used textbook, Bratt's *Business Cycles and Forecasting*, p. 161 (Chicago: Richard D. Irwin, Inc., 1948), lists 13 subdivisions under the two major headings, as follows: (1) exogenous theories: weather, sunspot, war, innovation, population, episodic; (2) endogenous theories: profit motive, overcapitalization of profits, psychological, monetary and credit, nonmonetary overinvestment, underconsumption.

¹⁰ It mattered little that the hindrances—monopoly, price rigidity, government interference, etc.—were not removed, but rather grew in number and importance. That was "institutional" and did not invalidate the theory.

ant results. First, it diverted attention to a number of disturbing factors which were not amenable to control, no matter how upsetting their effects might be, thus unconsciously emphasizing the "inevitability" of economic processes under natural law. Among the uncontrollable stimuli isolated for study have been such exogenous elements as sunspots, weather and crop cycles, and "acts of God": wars, famines, earthquakes, and plagues. Even among the endogenous factor theories, there were a number which ended in nothing but question marks so far as policy recommendations were concerned. The possible influence of "errors of optimism" and "errors of pessimism" on the part of businessmen during good and bad times respectively is one example. Another is the fortuitous appearance of "leader initiative" in business affairs.

Theories based on the structure of industry, or the "production process," were also in this category. For example, one aspect of the former was analyzed in J. M. Clark's description of the "accelerator principle," according to which very small fluctuations in consumer demand are immediately translated into much greater changes in volume of demand in the producers' goods industries. Although logical and closely reasoned, the analysis led to no policy recommendations, since shifts of consumer demand are in line with free choice and no one entertained the notion of revising the complicated structure of interrelated producers' goods and consumers' goods industries.

A second effect of the subordination of cycle theory to equilibrium analysis was that it stymied the development and application of policies of control where they might have done some good, since controls themselves were under suspicion as "interferences" with freedom of markets and competition. This was particularly noticeable in the area of fiscal and monetary policy, where assumption of responsibility by the political authorities and the adoption of definite rules were a slow, painful, and long-drawn-out process, bought at the price of a succession of credit panics and monetary crises.

In both the factor and final-product markets, there was only tardy and halfhearted appreciation of the need for regulations to overcome the tendency toward combination and market control. Nor has there ever been more than token support for antitrust laws or fair-trade rules which had as their aim free markets and flexible prices. Controls were controls, and controls were bad. Businessmen, consumers, and public officials had all been taught that left to itself, the market—any market—would adjust naturally to the effective demand, find its "natural" price, and bring into employment all the available resources.

With the exception, then, of a few credit and monetary controls of doubtful value, the fair-trade and antitrust laws, and the public employment exchanges, orthodox cycle theory has contributed practically nothing to the alleviation of the problem of depression unemployment. The two major policies of some effectiveness to date—job insurance and deficit spending

for public works—are foreign in purpose and conception to the principles of orthodoxy. They relate to purchasing power, spending, “pump priming,” and relief; they represent new and extensive “interferences” with free enterprise; they impede normal price adjustments in the labor market as in other parts of the economy; and they violate sound budgetary principles in calling for deficit spending. Yet job insurance is already an accepted institution in the United States, and public spending to reduce unemployment seems very likely to be revived upon the slightest hint of severe recession.

Why?

Prospects for the Future

There are a number of influences which are likely to contribute to the overthrow of the orthodox view and the adoption of the “new economics” in the future. Some of the more powerful inducements are as follows:

First, the Probability of Another Depression. The Keynesian program *could* be adopted during prosperity, but it seems wholly unlikely, as the counterinflationary aspects of stabilization—tax increases, reduction of government spending, wage and price ceilings—are economically and politically unpalatable. It seems much more logical to assume that the future of Keynesism—at least, the adoption of Keynesism—is bound up with the downswing of the cycle. That, however, does not reduce the inevitability very much. With “business as usual,” there will probably be another depression. When, where, and how much, few people will be inclined to say, but the likelihood of an eventual slide-off approaches certainty. A thoroughgoing recession, with large numbers of unemployed, widespread bankruptcy, and general business stagnation, would predispose the community to controls, planning, and cooperation which would seem intolerable in prosperous times. It would bring to mind the advantages of stabilization, which would receive a ready hearing from public officials, many businessmen, and the public generally.

Second, the Short-run Pressure for Relief. Severe recession means unemployment in greater numbers and for longer periods than can be cared for through job insurance. The relief load in crowded industrial centers may be expected to exceed the financial capacity of states and cities, as it did in the 1930's. That it will then become the responsibility of the Federal government, no one doubts. Relief means spending—public spending—in large amounts, at a time when the public revenues are low. It means deficit spending. However, it is an emergency item in the budget and cannot be omitted. It would be reassuring to know that it was also the “sound” thing to do, economically.

Third, the Advantages of Work Relief over Direct Relief. There is a widespread preference in this country for employment rather than a “dole.” Work relief supports the self-respect of recipients, gets the government some-

thing for its money, and provides a form of relief for private contractors and other kinds of businessmen. The extra expense, if any, seems well compensated for on these grounds. The standard form of work relief is public construction projects, since this is the expansible and contractible portion of the public budget. To many, then, with no interest in or grasp of economic policy, relief means spending for public works, the natural thing to do in depressed times.

Fourth, the Practical Usefulness and Theoretical Elegance of the Cyclical Budget. There is much less fear today of deficit spending, after 15 straight years of unbalanced Federal budgets with no apparent catastrophic after-effects. The "we owe it to ourselves" argument is common property now, relatively to two decades ago. On a higher level of analysis, the advantage of reducing public pressure on the factor markets during prosperous times and concentrating government spending at times when private demand for labor, materials, and money is subnormal is too apparent to be gainsaid. It certainly makes sense, and the argument that it is hard to carry out in practice will have little weight in a depression, when all that is needed is appropriations, which few will feel like opposing.

Fifth, the Employment Act of 1946. There is already legislation on the books which takes a considerable step in the direction of employment security. The Employment Act of 1946¹¹ is the amended version of the Murray Full Employment Bill of 1945, which contained the interesting guarantee of "such volume of Federal investment and expenditure as may be needed, in addition to the investment and expenditure by private enterprises, consumers, and state and local governments, to assure continuing full employment."¹² The act which was passed, dropped the "Full," admitted the government's responsibility for maintaining a high level of employment, but stopped short of committing itself in advance to providing the jobs which might be needed. It provided the President with a Council of Economic Advisers, one of whose principal functions was to forecast the state of business activity, with stabilization of employment in mind. There was strong support for the original legislation from organized labor (AFL, CIO, and independent) and various political, professional, racial, church, and educational groups. Since the end of the Second World War, an important segment of organized labor, led by the CIO, has consistently supported a full-employment policy along Keynesian lines.

Sixth, the Influence of the "New Economics." The Keynesian doctrines have been spreading gradually through academic circles and among professional economists, both inside and outside the government. National income analysis is found in more college curriculums each year. Many of

¹¹ Public 304, 79th Cong.

¹² Sen. 380, 79th Cong., 1st Sess.

the "advisory class" of upper level civil servants in government, who have considerable influence in the preparation of policy recommendations, are familiar with its outlines and in sympathy with it. So also are advisers to trade unions and even corporations. This "gradual encroachment of ideas" is slow, for, as Keynes pointed out in his concluding remarks in *The General Theory*, "in the field of economic and political philosophy there are not many who are influenced by new theories after they are twenty-five or thirty years of age."¹³ It is nonetheless pervasive, as the younger generation of scholars and teachers takes a more active part in teaching, research, and administration. "Soon or late, it is ideas, not vested interests, which are dangerous for good or evil."

Seventh, the Available Alternatives. As a final point, where else is there to go, if positive action is to be taken? And what is likely to be the position of a government which does not take action in the face of widespread unemployment? It is too late to employ laissez-faire policies, no matter how correct they may be, if a depression is under way.

Should public spending to offset depression become established policy, it would be surprising if the analytical tools provided by Keynes were disregarded. It seems more likely that the Keynesian analysis would begin to appear "common sense" and logical. It would be a mistake, however, to think that such a decision would solve all problems. It is possible—in fact, probable—that the real problems would just be opening up. As befitted the theorist, Keynes gave only passing attention to the managerial problems which would arise if the policies he proposed were adopted. The blueprints of his followers, however, provide excellent targets for the criticisms of public and private administrators who look with skepticism upon the centralization of direction of economic affairs.

The Beveridge Model of the Keynesian "Managed" Economy

There have been several rather detailed "models" of the fully employed community drawn up by followers of Keynes, of which few are better known than that of Sir William Beveridge, which was described in 1945 under the title of *Full Employment in a Free Society*. The Beveridge model got wide attention for several reasons. One was the standing of the author as an institutional economist of high repute, the foremost authority on unemployment in Great Britain, and author of the "Beveridge plan" for social security. Another was again the timeliness of the release, during the final year of war when "postwar planning" was a game everyone was playing. Another was the bitter criticisms of anti-Keynesians like Henry C. Simons, who referred to it as being taken whole from "a hyper-Keynesian scheme of tightly

¹³ Keynes, *op. cit.*, pp. 383–384.

regimented economy and extreme economic nationalism.”¹⁴ Still another reason, however, was the intrinsic merit of the presentation itself: clear, simple, frank, and persuasive. Beveridge did not try to dodge the issues. The Keynesian managed economy which he described is a society controlled from top to bottom and from one boundary to the other, and the author did not hesitate to rule out both freedom of enterprise and collective bargaining in their present forms, if the program were to succeed.

The three basic “conditions” for the achievement of full employment, according to Beveridge, are: (1) adequate total outlay, (2) controlled location of industry, and (3) organized mobility of labor.

Adequate Total Outlay. This means simply the maintenance of national income at a sufficiently high level to ensure jobs for all, with some left over. “Outlay” is divided into the Keynesian trilogy of: (1) consumption outlay, (2) business investment, and (3) communal outlay (euphemism for government spending on “defence, order, public health, free education, roads, drains, and other public works”).¹⁵ It is a public, not a private responsibility: “The ultimate responsibility for seeing that outlay as a whole, taking public and private outlay together, is sufficient to set up a demand for all the labour seeking employment, must be taken by the State, because no other authority or person has the requisite powers.”¹⁶

Adequate total outlay is to be achieved through a new kind of budget, which starts from the basic datum of “manpower.” Manpower (M) equals “the output capacity of the community, that is to say the estimated value of its output when all its man-power is fully employed.”¹⁷ Outlay (O) must be equal to M , and it consists of private consumption (C), private investment (I), the balance of payments abroad (B), public spending covered by current revenue (R), and public spending based on borrowed money (L). If C plus I plus B plus R plus L is equal to O and O is in turn equal to M , there will be full employment.

Beveridge suggests three main “routes” by which M and O may be kept equal:

1. Deficit spending: Increase of public outlay through borrowing, leaving rates of taxation unchanged
2. Orthodox finance: Increase of public outlay, with all-round increase of taxation sufficient to balance public income and expenditure
3. Tax remission: All-round reduction of rates of taxation, leaving public outlay unchanged.

Of the three, he prefers the first. Route 2 is neither a practical nor a political

¹⁴ In “The Beveridge Program: An Unsympathetic Interpretation,” *Journal of Political Economy*, Vol. LIII (September, 1945), pp. 212–233.

¹⁵ Beveridge, *op. cit.*, p. 132.

¹⁶ *Ibid.*, p. 135.

¹⁷ *Ibid.*, p. 137.

possibility, he observes, since it would involve a tremendous expansion of public spending and a crushing increase in taxation at a time when the business community and private individual were least able to stand it. Route 3, which would also mean governmental deficits (like route 1), is too uncertain, depending, as it does, on an increase in private outlay stimulated by tax reductions. Since consumers might save the additional income or use it to pay debts, the net effect might be not to cure unemployment at all. Hence, the standard remedy, route 1: an increase in public spending based on borrowed money.

The guarantee of adequate total outlay (a high and stable level of national income) is the main instrument of a full-employment policy. The two other basic "conditions" are essentially controls to make the full-employment program work, but they are nonetheless important.

Controlled Location of Industry. Beveridge deserves great credit for acknowledging the unpalatable probability that freedom of enterprise could not be permitted in an economy guaranteed to be stable and prosperous. The opportunity to do business in a fully employed economy would be regarded as a privilege, not as a right.¹⁸ Control would be exercised by a minister of national development, who would license all new enterprises. Small businesses would be favored, monopolies restrained. However, the manifold problems of this official allocator of resources are but lightly touched upon. A secondary purpose of controlling the location of industry would be to take employment to the workers rather than require workers to move to the site of employment.

Organized Mobility of Labor. Few people know more about the problems of labor immobility than Beveridge, who has spent a lifetime analyzing the causes of unemployment in Great Britain. He is therefore very explicit in his recommendations for improving the labor market. To bring about the movement of people from job to job and place to place where necessary, he recommends two policies: (1) compulsory placement through public employment exchanges for young people (under 18) who are entering the labor market, and (2) forcible transfers of the unemployed through denial of job insurance benefits if they refuse to move. The first is to ensure that beginners do not unwittingly take dead-end jobs in "sick" or declining industries, but rather are directed to industries with a growing labor demand. The second is to overcome the reluctance of many unemployed to change either their residence or their type of work, even though future prospects in the employment to which they are accustomed are discouraging.

The possibility that these regulations will not be strong enough by themselves is seriously considered.¹⁹

¹⁸ "The list of essential liberties . . . does not include the liberty of a private citizen to own means of production and to employ other citizens in operating them at a wage" (*Ibid.*, p. 23).

¹⁹ *Ibid.*, p. 172, italics supplied.

Whether or not a general requirement on employers to use either the national employment exchanges or an approved alternative system, such as a trade union exchange, for engagements of workpeople should be imposed in peace, is a question which it is perhaps unnecessary to decide now. . . . *Compulsion may prove to be unnecessary*: at least it may seem reasonable to wait to see whether full systematic use of an organized labour market can be brought about without it.

Beveridge is also familiar with trade-union policies and practices. He denounces "negative" restrictions on entry into particular trades and views with suspicion the practice of collective bargaining as presently conducted. Along with practically every other writer on the subject, he finds that the improved bargaining position of organized labor is the greatest threat to stability under conditions of full employment.²⁰

So long as freedom of collective bargaining is maintained, the primary responsibility of preventing a full employment policy from coming to grief . . . will rest on those who conduct the bargaining on behalf of labour. . . . There is no inherent mechanism in our present system, which can with certainty prevent competitive sectional bargaining for wages from setting up a vicious spiral of rising prices under full employment.

What should be done? Beveridge suggests two things. One would be for organized labor to formulate a national wage policy of its own through its central labor organizations (in Britain, presumably the Trades Union Congress; in America, the AFL and the CIO), to ensure that the demands of individual unions will be judged with reference to the economic situation as a whole. The other would be a form of wage arbitration which Beveridge insists is not "compulsory," but which proves upon examination to be indistinguishable from it. It would consist of an understanding that trade agreements in each industry should include a clause for arbitration by an agreed umpire, in default of agreement between the parties. "The employers' association and the union would thus be pledged in advance to accept the arbitration and to give no support of any kind to lock-outs or strikes in defiance of arbitration."²¹

The outline given above contains the main elements of Beveridge's program for maintaining full employment.²² In its treatment of essentials, in its definition of problem areas, and even in control mechanisms, it has been seconded in every important respect by other Keynesian interpreters, some of whom go much further in their demands for regimentation, while others feel that a less inclusive solution is possible. On its face, the argument is cogent, realistic, and logical. However, a few questions appear justified.

²⁰ *Ibid.*, pp. 199-200.

²¹ *Ibid.*, p. 200.

²² The Beveridge plan of social security has been omitted, as not vital to the main objective, that of getting and keeping a fully employed labor force.

Will it actually work as described? Has anything been omitted? Do any serious problems lie beneath the surface? Skeptics can point to quite a few.

Some Problems of the Managed Economy

A full-scale critique of the "planned" economy which will apparently be necessary to ensure full employment along Keynesian lines is too ambitious a project to be undertaken here. There are already a number of books and articles on the subject, with more appearing as time goes on. However, some of the most noticeable difficulties will be described briefly, in order

Table 32. Gross National Expenditure of the United States, by Principal Classes of Outlay: 1929-1947*
(Millions of dollars)

Class	1929	1933	1939	1942	1945	1947
Gross national product.....	103,828	55,760	90,426	159,628	213,429	231,636
Personal consumption.....	78,761	46,346	67,466	90,835	122,830	164,755
Private domestic investment..	15,824	1,306	9,004	9,330	9,244	30,031
Net foreign investment.....	771	150	888	-207	-1,438	8,898
Government purchases.....	8,472	7,958	13,068	59,670	82,793	27,952

* SOURCE: *Survey of Current Business*, July, 1948, p. 16.

to dispel the belief that the fully employed millennium is to be had for the asking, without cost. Two areas of potential trouble will be explored: (1) the manpower budget, and (2) collective bargaining under full employment. The first will relate to the problems of getting and keeping full employment, the second to living with it after it is here.

Making the Manpower Budget Work. The manpower budget consists of outlay (O) equal to production at full employment (M), with O made up of consumption (C), private business investment (I), the balance of payments abroad (B), government spending from current revenue (R), and government spending from the "loan account" (L). Of the five sources of spending, I is the most unstable and L the most easily controlled. A "compensatory fiscal policy" for the maintenance of continuous full employment means the variation of public spending to keep total outlay constant. If Keynes is right, the main thing to do is to make up for the rise and fall of private business investment (I). However, there are a number of steps (and several chances to fall down) between the decision and the result.

In the first place, take a look at the economic magnitudes involved. Table 32 shows the variations in total national outlay in the United States, by main classes of spending, for a 19-year stretch, from 1929 to 1947. The swings are pretty wide.

It took only 4 years, from 1929 to 1933, for the spending total in the country to drop from \$104 billion to \$56 billion. Five years later, it was back up to \$90 billion, after which it jumped to \$160 billion and \$213 billion in successive 3-year periods, and rose to \$232 billion in the second year after the end of the war. It was an unstable period, containing a major depression and a major war, but no one knows that the future is going to be less so and the economic magnitudes involved have been increasing steadily in size. One thing is certain. Stabilization in the future, by whatever method it is accomplished, is going to call for measures which will seem pretty heroic after the pioneer "pump-priming" efforts of the middle 1930's.

For example, private investment (domestic and foreign) rose from \$8 billion in 1945 to \$39 billion in 1947, with an accompanying rise of only \$19 billion in gross national expenditure, mainly because government purchases were falling from \$83 billion to \$28 billion annually. If it should be considered desirable to hold the gross national product at \$230 billion, would it be as easy to raise public outlay back up if private investment fell \$15 to \$20 billion? Especially, when it *might* require a more than equal hike in public spending to compensate for a \$20 billion loss in private investment.²³

However, the mere getting used to the spending of large sums is probably one of the minor obstacles on the road to a fully employed economy. Two much bigger questions are when and how to spend the money. The "when" side of the problem is partly a matter of prediction and partly one of policy. In other words, how does one know that a recession is under way? And if that part of it is settled, what theory of spending is to be applied? Then, with the time and volume and rate of outlay decided, what vehicle will be used to get the cash into circulation? These are questions on which there is likely to be considerable disagreement, even among professional economists, but all have to be decided before any stabilizing action can be taken.

One phase of the problem is the fact that there appear to be major fluctuations in total national outlay from season to season (and perhaps even from month to month) in a single year. For example, the gross national product in September, 1947, was at the rate of \$228 billion a year. By December, 1947, it had risen to a rate of \$244 billion. Supposing that a

²³ There are differences of opinion on this point, depending upon whether one is pessimistic about the effects of government spending on business confidence, or relies upon the "multiplier" effect of the marginal propensity to consume. The changes in gross national product during war-time seem to support the view that a more than equal ratio of public spending to private business investment will be required to keep total outlay unchanged. But if only dollar-for-dollar "compensation" is assumed, deficit spending in amounts of \$15 to \$20 billion a year—and these are conservative figures in some full-employment analysis—may seem pretty sizable to many people in a peacetime United States.

policy of stabilization had been in effect, how much, if at all, should public spending have been reduced? Or, if there were a decline of \$16 billion in the rate of outlay between spring and summer, should it be the signal for raising the total of public spending?

The question is really one of what is to be considered a normal fluctuation about the mean decided upon as a full-employment rate of outlay. If the amplitude of permissible fluctuation were, say, \$20 billion, then there might easily be a \$40 or \$60 billion deficit to be made up before any action could be taken at all. These amounts are not exactly chicken feed; they are 50 to 100 per cent of the *annual total* of national spending from all sources, public and private, a decade or so ago. Public spending, on the scale that we are talking about, will require more than just the pulling of a switch, as will be pointed out below.

The rate of spending may be as hard for the professionals to agree upon as the time. Assuming that all the mechanics of the process for increasing public outlay are set up and ready to go, is it better policy to start with the first sign of slackening business activity and gradually increase public spending as private demand drops, or wait until there is some recession from peak expenditure to allow for readjustment of the price level and overstimulation of the factor markets? For the reasons mentioned just above, the second method seems more practicable, and then the *quantity* of public money to be thrown into the market will have to be decided.

For the sake of illustration, assume that gross national product has been running at the rate of \$250 billion a year (it was \$248 billion in June, 1948) and it is decided to hold it there. In two successive 3-month periods it drops \$25 billion, to a level of \$200 billion, and stabilization measures are considered imperative. Private business investment (the real villain) has meanwhile fallen from \$40 billion a year (it was \$41 billion in June, 1948) to \$20 billion. How should government spending be increased, and in what volume, to arrest the decline and return the over-all total to a rate of \$250 billion? For the sake of curiosity, it is suggested that the students ask five different economists, bankers, or fiscal policy experts for their opinions independently, and then compare them.

There will have to be decisions, whether they are by common consensus (unlikely) or majority vote in some policy body, like a legislature, or the responsibility of the elected Chief Executive. One slight problem is the amount of time which may be taken up in simply arriving at the successive verdicts: (1) that a recession is here, (2) that now is the time to spend, and (3) that this is the right amount. It would be much faster, and probably more efficient, to have the decisions made in advance, with certain policies to be carried out by strictly administrative personnel as successive statistical indicators were reached. This, however, implies agreement, certainty, and

advance planning of a high order for a country as large as the United States, and with popular political institutions.

Should the problem arise in the United States, it remains to be seen whether Congress would decide in advance, or leave the establishment of a spending schedule in the hands of an administrative agency with power to act. The sums of money will be very large, there may be powerful opposition to the program from some quarters, and the *channels* of expenditure will have important repercussions for particular groups of both producers and consumers. These factors seem more likely to retard than speed up the process of reaching agreement so that action can be taken.

The essence of a compensatory spending program is *timing*. Even if all policy decisions were made in advance, there might be a problem of getting the mechanics of spending under way in time to do some good.

If, as was indicated previously, there is a possibility of declines of the range of \$25 to \$50 billion within less than a year, how does one spend enough money quickly in peacetime to offset their effects? The answer thus far has been "public works," but public works have a serious weakness: their clumsiness as a means of spending money. They are hard to decide upon, require detailed advance planning and preparation (surveying, site acquisition, blueprinting, and contract letting), are slow to get under way and practically impossible to stop short of completion.

If reliance is placed upon public works to counteract rapid changes in gross national expenditure, it would be reasonable to expect "too little, too late," in the early stages of recession, and a huge program of partially completed construction projects on hand when recovery got under way. Since a compensatory spending policy visualizes reductions in public outlay as private investment and consumption are restored to the full-employment level, there would then be the problem of disengaging the public Treasury on something of the scale seen in 1945 to 1947, when public spending dropped \$55 billion in 2 years. Then all that was required was the termination of munitions contracts, most of which had cancellation clauses in them at the start. Would it be possible to include such clauses in construction agreements running into the tens of billions? And would the communities and the politicians who represented them permit the abandonment of half-completed post offices, highways, bridges, docks, parks, school buildings, etc.? Public works are a very clumsy method of getting money rapidly into the community on a large scale, and even clumsier when it comes to shutting off the flow.

There are other arguments against public works, too. The *need* for them is greater in good times than bad, so they tend to rise with the cycle rather than against it. It may be clearly contrary to the public interest to "postpone" the construction of highways, public buildings, and defense

projects until depression. Reliance upon public works would also benefit one industry (construction) and one class of workers (building-trades craftsmen and laborers) far more than it would anyone else in the economy. And they are an industry and a class of workmen who are famed for inefficiency, monopolistic practices, featherbedding and high prices. To use the relatively small construction industry as the funnel by which tens of billions of dollars were poured into the community would be to invite fraud, waste, and obstruction almost at the source of spending. Demands would probably soon be heard for the subsidization of other, more competitive industries: agriculture, manufacturing, the service trades, and the nonprofit activities of medical attention, social service, and education.

But if public works are not the answer, what is? Logically, it is Beveridge's route 3, the remission of taxes. If anyone is to be subsidized, why not the consumer directly? Tax remission can be carried as far as desired, up to and including "negative taxation," which means mailing checks to taxpayers rather than collecting payments from them. It is deficit spending, just like borrowing for public works; in the case of tax remission, however, public outlay is held constant and revenues are cut. All the spending machinery that is needed is set up and operating, and can be put in motion within a short time, with no delay for planning, preparation, or accumulation of men and equipment. And the spending would be on the basis of consumer choices, rather than bureaucratic decisions concerning public needs.

True, there would still have to be policy decisions with respect to prediction and the time and amount of spending. And there would be the necessity of varying the scale of income-tax progression for remission purposes in order to ensure a high marginal propensity to consume (by raising the share of the lower income groups). It would be direct relief, not work relief, without a means test, which would be Keynesian and "collectivist" and a "dole." But it would be infinitely fairer to consumers and would avoid the necessity of industrial favoritism, which would accompany any other form of subsidy. If a compensatory fiscal policy is to be adopted, tax remission is probably the most efficient method of putting it into operation. Some arrangement would have to be made for those not on the tax lists, and the jobs of "selling" the program to Congress and the country might be a big one. However, it would work, and fast.

There will be plenty of problems to be ironed out in making the manpower budget work, and it might seem unnecessary to go beyond them in the present stage of full-employment analysis. However, depressing as it may sound, the *operation* of a guaranteed, stable, fully employed economy seems very likely to produce difficulties of the same order of magnitude as those met with in carrying out a compensatory fiscal policy. This is where the

need for "planning" and "management" comes in. We shall examine the probable impact of the managed economy on one phase of the current economy: collective bargaining.²⁴

Collective Bargaining under Full Employment. A clue to the future of collective bargaining under full employment is found in the Keynesian proposals of a fixed general level of wages in the short run and a gradually rising wage level in the long run, the latter related to increases in man-hour productivity which have averaged around 3 per cent a year in the past.

Where does this leave unions and their members?

With full employment, their bargaining positions will be excellent, their treasuries full, their needs at least as great as before, and their officials confident and aggressive. Will wage demands be restricted to the relatively tiny percentages represented by increases in productivity? If they are, it will be contrary to anything discoverable so far in union history or policy. No union leader has ever set a finite limit to the long-run wage expectations of his membership, and the answer of Samuel Gompers to that question has stood through the years. "More," said Gompers, "more and ever more of the product of our labor."

In fact, would it be fair to ask workers to restrict themselves to the measurable increases in labor productivity without at the same time setting limits to prices and profits? It is not hard to imagine labor's stand on the proposition. On prices, Beveridge agrees that they must be controlled. In return for rational wage bargaining, the unions must be guaranteed a stable price level, at least of the necessities of life. It may be presumed that profits would be scanned at least as closely as prices by union officials and that their disposition would have to be justified by management representatives.

There is no doubt at all in the minds of most Keynesians that guaranteed full employment and free collective bargaining in its present form are incompatible. The result would be, as Beveridge predicted, an irresistible upward pressure on wage rates and "a vicious spiral of rising prices." But what is to take the place of collective bargaining as now practiced? There are two alternatives, either: (1) union self-regulation, or (2) compulsion by means of forced arbitration, wage prescription, or wage legislation. Whichever is the case, the conduct of organized labor will be quite different from what it is today.

Union self-regulation can mean but one thing: general union acceptance of the national wage policy, whatever it may be, and adjustment of competing union demands within the framework of a general labor organization so that the average wage level is advanced no more than is permitted by

²⁴ See O. W. Phelps, "Collective Bargaining, Keynesian Model," *American Economic Review*, Vol. XXXVIII (September, 1948), pp. 518-597, for a more complete review of the problems connected with a national wage policy and organized labor.

public decision. It means the end of competition for the largest wage increases between union leader and union leader, between union and union, and between union group and union group. Under union self-regulation, any violation of the general understanding by individual unions would be punishable by the other unions. It should hardly be necessary to point out that such a picture violates the most fundamental conceptions of union autonomy and assumes a unified and disciplined labor movement which is less true of organized labor today than at any other time in the last 75 years.

The alternative is compulsory arbitration, which is uniformly rejected at present by both labor leaders and businessmen. The main problem here, as in self-regulation, is that of compulsion. There are always dissenters, who honestly and sincerely believe that they have been dealt with unjustly or that policies are wrong. Union dissent is customarily expressed in the form of a strike. What will happen to the "right to strike" in a managed economy, with a national wage policy? Will it still be demanded as almost the equivalent of a constitutional liberty by trade unionists, and will it still be protected as zealously by courts, legislatures, and public opinion?

The answer, of course, is "No." A national wage policy would be a national policy, just like any other, and it would have to be protected from those who refuse to accept the majority decision. However, enforcement, by other unions or by the government, might prove to be a ticklish problem. The right to quit work *is* a constitutional liberty of the individual, and strikes are basically the collective exercise of such liberties. This country has had almost no experience of the suppression of strikes by other unionists and very little of outright suppression by the government. And where the latter has occurred, even on clear grounds of the public welfare, it has seldom proved popular.

There are other angles to collective bargaining than wages. Job control, by means of seniority procedures, union shops, and hiring halls, is another major objective of organized labor. It, too, is protected in the last analysis by the right to strike. Will strikes for these ends, or to extend organization, be permitted, even though strikes for higher wages are banned? If so, there will be some delicate questions of definition for someone. It is possible, in fact common, for strikes and slowdowns to be actually for one purpose while the ostensible reason is something quite different. But any strike, slowdown, or lockout is an interference with full employment. How far and under what circumstances will "direct action" be permitted in a "managed" industrial society? The answer is not immediately clear, but it may be guessed that it will be less than at present.

In view of these observations, it is of interest to note that both the AFL and the CIO, as well as a number of individual unions, have gone on record as favoring a full-employment program, based on Keynesian principles,

for the United States. This was done at a conference in Washington, D.C., Sept. 12, 1945, which produced the following resolution:²⁵

Legislation which will commit the power of the Federal Government to assure sustained full employment is the first step needed. Such legislation must contain these vital and indivisible principles:

1. All Americans willing and able to work have the right to useful, remunerative, suitable, regular, and full-time employment.

2. It is the responsibility and the duty of the Federal Government to assure, by whatever means are needed, that sufficient employment opportunities exist for all Americans to exercise this right at all times.

3. It is the responsibility and the duty of the Federal Government...to foster the highest possible sustained level of employment through private enterprise *and to provide useful Federal investment and expenditure adequate to maintain full production and full employment:*

The conference also endorsed the Murray Full Employment Bill of 1945, which contained very similar language, and both the AFL and the CIO subsequently registered vigorous opposition to its emasculation in the Employment Act of 1946.

It remains to be seen whether the trade-union position relative to full employment will remain the same with the passage of time. In the short run, of course, there is strong argument for union support of a full-employment program. It means, in effect, a demand that the bargaining environment be kept at all times favorable to organized labor. For the longer period, it might be that union leaders doubt the probability of any really serious attempts to hamper the right to strike, to bargain collectively, or to maintain job controls which interfere with labor mobility. Such doubts apparently are in the minds of most Keynesian writers, who find it difficult to reconcile free collective bargaining with the needs of a fully employed society, but find it even more difficult to describe the kind of controls to which organized labor must submit.

Keynes versus Laissez Faire

If the demand for employment security continues to be as strong in the future as it has been during the last two decades, Keynes is a good bet to win out over *laissez faire*. The self-adjusting economy is inherently unstable, especially when it is shot through with monopoly, combination, protectionism, and rigid prices, and especially when it is government policy to offset the special advantages of one class of producers (such as the price

²⁵ *Congressional Record*, Vol. 91, Part 7, pp. 8583-8584, italics supplied. Additional signers were: Amalgamated Clothing Workers of America, Brotherhood of Maintenance of Way Employees, Brotherhood of Railroad Trainmen, National Women's Trade Union League of America, Railway Labor Executives Association, United Steelworkers of America, and assorted church,

and output controls of manufacturers) by organizing and strengthening competing special interest groups (such as farmers and unions). Nor will the instability become less as wealth piles up, per capita income rises, and more of the national income goes into postponable luxury spending. If American social and economic institutions cannot stand the ups and downs of the business cycle, then the self-adjusting, laissez-faire economy, which relies upon competition to regulate itself, is probably due for an overhaul.²⁶

The introduction of controls need not come all at once. They can be introduced step by step, as need arises. However, it is a feature of public regulation that few controls are abandoned once they are perfected and made a part of the government machinery. It is another feature of controls that their introduction and use make it more difficult to do without them. A normally self-adjusting economy, unstable though it may be, becomes less capable of adjusting itself as reliance shifts from market competition, enterprise, and incentive to given forms of government regulation and subsidy. This, in turn, becomes a further argument for more controls, "supports," or regulation, and so on *ad infinitum*.

It might not be a bad thing for those who are fearful of the short-run effects of instability (recession, bankruptcy, and unemployment) to go beyond the immediate advantages of smoothing out the cycle and look into the costs. They are many and heavy. In fact, they may very easily add up to a change in the shape of American institutions of as permanent and significant a character as would be anything produced by depression. A long-run compromise with a moderate amount of instability but with continued reliance upon free choice and competition might prove to be highly desirable.

Readings

In view of the possibility that public decisions in any future period of depression may be strongly influenced by policies based on the Keynesian analysis, it is imperative that students of labor problems have some idea of the administrative regulations and controls which are likely to be proposed for adoption. These are well described, and many of the problems which they pose are argued in the following suggested readings:

Beveridge, W. H.: *Full Employment in a Free Society*,²⁷ Part I, "Introduction and Summary," Part IV, "A Full Employment Policy for Peace," and Part V, "Internal Implications of Full Employment."

²⁶ It must be remembered that the American economy up to now has been of the "self-adjusting" variety in the most essential of its economic activities, and it has been fully employed in the Keynesian sense only for very short intervals. If full employment were to be regarded as a permanent way of life, it might be necessary to set up controls which would be regarded as unthinkable under present conditions. Some of these controls have been listed, and others implied, by Beveridge and other writers. They would affect prices, production, allocation of resources, the right to do business, freedom of collective bargaining, individual choice of an occupation, and the forms and tenure of the government itself.

²⁷ New York: W. W. Norton & Company, 1945.

Wootton, Barbara: *Freedom under Planning*.²⁸

Hansen, Alvin H.: *Economic Policy and Full Employment*.²⁹ Chap. II, "Social and Economic Planning." Part Three, "Government Declarations and Programs," especially Chaps. IX and X on the United States, Chap. XIII, on "Wage Policy," and Part Six, "Managing a Full-employment Economy."

Some chapters of *The General Theory* are also appropriate for undergraduate students, as being relatively uncomplicated in their analysis and giving some contact with the original source of the new doctrine. They are: Chap. 2, "The Postulates of the Classical Economics," Chap. 19, "Changes in Money-wages," and Chap. 24, "Concluding Notes on the Social Philosophy towards Which the General Theory Might Lead." For a detailed presentation of the Keynesian analysis at the intermediate economic level, read Lorie Tarshis, *The Elements of Economics*, Part Four, "The National Income and Employment."³⁰

There have been a number of vigorous counterattacks upon the general idea of the managed economy, of which none is better known than Friedrich A. Hayek's *The Road to Serfdom*.³¹ A note on the problems of trade unionism under full employment will be found in O. W. Phelps, "Collective Bargaining, Keynesian Model."³²

Exercises

The issues are: Do we need it? Is it coming? Will it work?

1. Select some significant noneconomic index of social well-being such as crime, divorce, public health, or church attendance, for which statistics are available and see if there are any important differences in per capita rates of occurrence during good and bad times.
2. Outline in a couple of pages the Keynesian theory of employment, then criticize it. Does it seem valid? Precisely where and how does it differ from orthodox, laissez-faire theory?
3. Compare the Employment Act of 1946 with the proposed Murray Full Employment Bill of 1945 and point out the essential differences and the theories involved.
4. Review one of the reports of the President's Council of Economic Advisers and summarize its aim and its conclusions.
5. Read one of the three authors recommended above—Beveridge, Wootton, or Hansen—and make a list of the special administrative controls which are recommended for the management of prices, wages, profits, enterprise, and employment, in a fully employed economy.

²⁸ Chapel Hill: University of North Carolina Press, 1945.

²⁹ New York: Whittlesey House (McGraw-Hill Book Company, Inc.), 1947.

³⁰ Boston: Houghton Mifflin Company, 1947.

³¹ Chicago: University of Chicago Press, 1944.

³² *American Economic Review*, Vol. XXXVIII (September, 1948), pp. 581-597.

9. UNEMPLOYMENT DUE TO DISABILITY AND DISCRIMINATION

Most unemployment, and therefore the most important unemployment, is brought on by economic causes; depression, technological change, seasonal influences on buying and production, structural changes in industry and employment caused by shifting demand, etc. However, there are important noneconomic sources of layoff, with effects that are more vicious, man for man, than unemployment of the strictly economic type. Two of the most prominent of these are disability and discrimination.

Disability in Modern Economic Society

Unemployment may be caused by inability to work, just as much as by inability to get a job. This is the technical meaning of job "disability." Disability is a function of accident, illness, or age. At the bottom end of the scale, age is a legal barrier. Children are physically able to work from very early ages (6-, 7-, and 8-year-olds in factories are not unknown), but in this country are usually barred from employment by law until they are 14 or 16, unless working for parents or guardians. In actual fact, there is a considerable amount of child labor on farms and in shops and stores, but unemployment is the fate of most minors until the legal school-leaving age is reached.

On the other end of the age scale, there are few legal limitations. Compulsory retirement affects relatively few jobs in this country as yet, and still fewer pensioners are barred from taking other jobs. Nevertheless, most of the steadily increasing number of older people in the country are excluded from work on grounds of physical or mental incapacity. At the same time, there are no indications of any tendency to relax the restrictions upon child labor, rather the emphasis is toward increasing them. Two forces, there-

fore—law and medical science—are steadily increasing the permanent load of unemployment in the economy which is due to age alone.

Accidents and sickness, however, are more serious sources of disability than is age. Since the age level of the population is predictable, unemployment due to age is in the nature of a cost rather than a risk, and the cause of at least part of it (child labor) is capable of rapid modification if the need should arise. On the other hand, the workman who becomes ill or is disabled by accident is the victim of misfortune which may put him out of action as completely as the retired grandfather of 75, but he is more likely to have family and community obligations of a continuing nature than the older man.

Disability is costly on its own account also. It is not unusual for the cost of medical attention and treatment to double a household's expenses overnight. This is why accidents and illness, especially those arising out of the job itself, have been the subject of public and private concern for many years. Generally speaking, the private (employer's) approach has been accident prevention, while the government has stressed income maintenance through workmen's compensation laws. These have been supplemented recently in some states by general accident and sickness insurance.

Old Age. In 1946, there were 10,373,000 persons 65 years old and over, and 6,222,000 who were 70 or above, in a United States population of 140 million. Fifty years from now (A.D. 2000), it is estimated that there will be 21,500,000 men and women over 65 and 14,350,000 past 70 in a population of 163 million. It is important to note, however, that *the increased life expectancy of the average American has not carried with it anything like an equivalent extension of his term of employment. Old age is a form of employment disability which more and more people must face as time goes on.*

The problem of disability due to age is mainly one of cost. While age limitations are rapidly increasing the number of unemployables in the country, they hold only a small portion of any potential labor force off the market. At the upper age levels the chances of rehabilitation are remote. Most old people are simply outside the labor force in an industrial society. They must be cared for, either by relatives or the government, and if the present trend continues, their support will be a steadily increasing burden on the economy during the lifetime of anyone who reads this book. But the only issues presented are the source and character of the support, whether it should be through private savings and retirement plans, contributory public pension systems, or old-age benefits paid for by direct taxation, and whether it should be in money or in "kind" and how much.

There will, of course, be plenty of arguments over how much old people should get and how it should be collected and paid. The Townsend Plan, which in original form called for pensions of \$200 a month for everyone 65 years of age and over, to be financed by a general "transactions tax," is

one of the more liberal examples. It was persuasive enough so that at one time there were more than 50 congressmen pledged to its support. At the other end of the scale in terms of generosity, there are the public charity and pension plans in actual operation. They vary in kind from minimum subsistence in county poorhouses, through county and state pensions, to the old-age and survivors' insurance programs of the Federal government under the Social Security Act. These are supplemented by a bewildering variety of public and private retirement programs for specific groups of employees; the armed services, police, firemen, corporation executives, union members, schoolteachers, and many others. Pension business is very big business in the United States today and it is getting bigger every year.

The size of the old-age section of the population in this country, its current rapid growth (according to census estimates, about one-half of the increase in population of the next 50 years will be in the age group of 65 and over), and the tremendous anticipated cost of its support seem to make it inevitable that the main reliance will be on the Federal government. By 1946, there were already 1.5 million people getting regular monthly pension checks totaling more than \$350 million a year from old-age benefit funds, with another 800,000 past age 65 who were fully insured and eligible to go on the list as soon as they stopped working. It has been estimated that 10 million persons will be drawing old-age and survivors' insurance benefits by 1980, and that the present outlay will be multiplied twenty times by the year 2000. That would mean an annual cost of \$7 billion for the support of the elderly from one Federal source alone, or more than the total Federal budget prior to 1935.

This large anticipated outlay is not due to any expectation of generosity with respect to individual payments. In 1945, the typical old-age pension check was less than \$24 a month, with the average for men \$24.50 and the average for women \$19.50. Widows were getting about \$20 a month, and widows with three or more children, \$50. There was little room for extravagant living in these allowances, or even in the maximum of \$85 monthly, where it was received. Barring a change in rates, the size of the old-age and survivors' insurance bill 50 years from now will be a function of the number of people getting checks from the Federal Treasury. If there are 21.5 million men and women over 65 in the population by then and two-thirds of them (14 million) are getting pension checks—probably a conservative figure—the average payment will be \$500 a year, or about \$42 a month. At 1948 prices, that would about cover the cost of food for one person with a frugal appetite.

Old-age and survivors' insurance is paid for by a 1 per cent tax on wages up to \$3,000 a year and a similar 1 per cent tax on the employer's payroll, making 2 per cent in all. The tax is supposed to increase to an eventual 3

per cent each, or 6 per cent in all, but up to 1948 Congress had postponed the rise by extending the 2 per cent rate year after year. A 6 per cent levy on payrolls would be a heavy tax, especially when added to unemployment compensation taxes on the same source, but it would still probably do no more than cover the costs of the program. The taxed payrolls would have to total \$120 billion a year to produce \$7 billion in pension payments plus administrative expenses.

This is the issue, then: How many old people can the country support, and at what level of subsistence, and how should the program be paid for and administered? By A.D. 2000, one person in eight in this country will be over 65 years of age, and very few of them will be self-supporting, even in part. There is less and less room for the elderly in a modern, high-speed, mechanized industrial society; in fact, the maximum age of employment may fall far below 65 in some industries.¹ Some remarkable increases in productivity will be necessary to support such a burden of disability without a reduction in the average standard of living.

National Health. Old age, of course, is merely one angle of the general problem of the national health, which has been declared by the Federal Security Agency to be capable of considerable improvement if proper measures are taken. A report of the FSA, summarizing the findings of a recent National Health Assembly, gives the arguments for a nationwide health program.²

1. The record of Selective Service in World War II: 5,000,000 men declared unfit physically or mentally for the armed services.

2. Each year 325,000 people die for lack of proper medical care, from preventable or curable illness.

3. Each year the nation loses 4,300,000 man years of work because of bad health.

4. Each year the country loses \$27 billion in national wealth through sickness and partial or total disability.

These conclusions are probably extreme. They may be checked against a recent survey conducted jointly by the Social Security Administration, the U.S. Public Health Service, and the Bureau of Labor Statistics, to determine the cause of plant absenteeism. It was found that more than half of all explained work absences reported during the first half of 1947 were due to illness or accidents occurring off the job. The survey covered 260 manufacturing plants with about 160,000 employees. The average annual rate of time loss per employe was around 10 days a year, of which approximately 6 days were the result of nonoccupational disability.³ If this rate of absenteeism

¹ "Industrial" old age at 45, or 40, or even less, is a problem all its own, as will be pointed out subsequently (see p. 233).

² Findings cited in the *United Mine Workers Journal*, Sept. 15, 1948.

³ *Labor Information Bulletin*, April, 1948.

held true for all 13 million production workers in manufacturing in 1947 (one-quarter of the employed labor force), it would mean more than 75 million man-days or approximately 300,000 man-years lost by this group alone as a result of off-the-job illness or accident. However, this would still be considerably short of the astronomical figure of 4.3 million man-years per annum, reported by the Federal Security Agency.

The Federal Security Agency was not backward with its recommendations. It had nine of them: (1) more doctors, and hence, more medical schools to produce them, (2) more hospitals, (3) compulsory health insurance, (4) facilities to improve mental health, (5) special attention to adult health (chronic diseases, etc.), (6) rehabilitation of the handicapped, (7) more maternal and child health services, (8) more research and community coordination of medical units, and (9) establishment of local health units. Cost? About \$4 billion a year by 1960, of which more than half would be borne by the Federal government, the rest by state and local units.

National health is certainly an important resource, and there are strong arguments for public assistance to improve it, especially among underprivileged groups of people. However, there are some opposing considerations, one being cost. Resources spent on public health by the Federal, state, and local governments must be taken from some source, and that source is the economic output of the society. The money would be spent to improve the condition of a nation which unquestionably ranks first among the large countries of the world in housing, nutrition, sanitation, and medical facilities. It might be asked: Just what is the standard which is aimed at? Perfect health for the entire population at all times is admittedly out of the question. Yet there is no apparent limit to the amount of medical attention which might be absorbed by 150 million people, especially if mental health, chronic diseases of old age, and medical research are included. These elements of the problem, among others, should be kept in mind when deciding on the amount and distribution of a public health program.

The real controversy in the series of proposals offered by the FSA—other than the general one of cost—is raised by number 3, compulsory health insurance, which is violently opposed by the American Medical Association. This is a social-security issue of some importance, but only marginally a labor problem. In coming out flatly for compulsory health insurance, the FSA found as follows: "All our analyses of the problems of health have brought us again and again up against a single stone wall barrier—the inability of millions of the people to meet the costs of health services." It gave the following answers to the customary objections:

1. That it is socialized or state medicine. *Answer:* The government will not own or operate the hospitals or employ the doctors. Facilities and personnel will be under private control.

2. That it is compulsory. *Answer:* Only in the same way that payment for old-age and survivor's insurance is compulsory, *i.e.*, by taxation.

3. That it is highly centralized. *Answer:* The program recommended would be one of state management, assisted by grants from the Federal government.

4. That there is not enough personnel to carry it out. *Answer:* Right. A period of preparation would be required, which is the reason that 1960 is the date set for full operation.

5. That it would cost too much. *Answer:* The country needs to spend more for health and would receive more than dollar-for-dollar return for its \$4 billion outlay.

6. That it would lower the quality of medical service. *Answer:* For the country as a whole it would mean a much higher average quality of medical attention.

Job Hazards

The problem of unemployment due to disability is both general and special. The general issue is that of the national health. The special problem is the handling of industrial accidents and illness, with particular attention to the risks of different industries. In spite of the fact that off-job sickness and injury are apparently responsible for more than half of all plant absenteeism, there are enough industrial accidents each year to justify all the insurance and safety programs which are under way.

In 1947, for the seventh consecutive year, there were more than 2 million disabling work injuries in American industry. A minimum "disabling work injury" is defined statistically as one which results in inability to work lasting at least 1 full day after the day of the accident. The maximum, of course, is death. In between come permanent total disability; permanent partial disability; and inability to work for any definite period longer than a day, but without permanent impairment, either total or partial. The 1947 picture gives an idea of the way the bad luck is distributed:

Killed	17,000	}	1%
Permanently totally disabled	1,800		
Permanently partially disabled	90,000		4
Temporarily disabled	1,950,000		95
Total	2,058,800		100%

If this is typical, it means that every year about 1 out of every 30 persons who are actually employed will suffer a "disabling work injury" of some kind or other. Of these, 1 out of every 3,000 will be killed or permanently totally disabled, 1 out of every 750 will be partially disabled for life, and 1 out of every 32 will be laid up for a day or more without permanent aftereffects.

The average loss in man-days was 22 per injury, or a total of 44.7 million for the country as a whole. This was equivalent to a year's full-time employment for 150,000 men. However, it represented only a part of the total production losses due to injuries. When allowance was made for the future effects of deaths and permanent disabilities in the 1947 total, the economic time loss chargeable to injuries was 233,700,000 man-days, or the equivalent of 780,000 man-years of employment.⁴

Of course, accidents are not spread evenly throughout all industries. Table 33 shows the industrial distribution of job injuries in 1947. It brings out clearly the relatively low incidence of job accidents in the large industries

Table 33. Per Capita Disabling Injuries by Industry Group, 1947*

Industry	Injuries	Workers, August, 1947	Injuries per 1,000 workers
Agriculture.....	298,000	8,975,000	33
Mining and quarrying.....	92,900	923,000	101
Construction.....	151,700	2,096,000	72
Manufacturing.....	539,000	15,962,000	34
Transportation and utilities.....	234,800	4,163,000	56
Trade (retail and wholesale).....	360,600	9,356,000	39
Finance, service, and government...	382,000	11,635,000	33

* SOURCE: "Work Injuries in 1947: Preliminary Estimates," *Monthly Labor Review*, pp. 301-302

of agriculture, manufacturing, trade, and services, and the greater hazards of transportation, building construction, and mining. In the typical case, the manufacturing employe is only one-third as likely to be disabled during the year as is the coal miner. He is also much less likely to be killed or permanently disabled. Accidents occur more often in mines and quarries, and their effects are far more serious to workmen there than in any other industry.

The coal miners' union has a dramatic way of bringing mining hazards to the attention of its members and the public. It publishes in the *United Mine Workers Journal* a box score of fatalities by months alongside of coal production figures. The scoreboard in the Sept. 15, 1948, issue of the *Journal* is reprinted below.

Coal-mine Fatalities in July, 1948

Coal mining accidents took a toll of 93 lives in July, 1948, the U.S. Bureau of Mines reports. Bituminous fatalities—80. Anthracite fatalities—13. July was stained by two major disasters. Thirteen were killed by a gas explosion at the Kings mine in Princeton, Ind. Eleven lost their lives in a gas explosion at the Edgewater mine near Birmingham, Ala. Ranking causes of fatalities were: roof and face falls, 39 fatalities; explosions, 24; haulage, 11.

⁴ "Work Injuries in 1947: Preliminary Estimates," *Monthly Labor Review*, March, 1948, pp. 301-302.

**Production of Coal and Number of Fatalities
for the First Seven Months of 1948**

Month	Bituminous		Pennsylvania Anthracite		Total	
	Production (short tons)	Killed	Production (short tons)	Killed	Production (short tons)	Killed
January.....	55,780,000	92	4,921,000	19	60,701,000	111
February.....	49,711,000	93	4,675,000	12	54,386,000	105
March.....	33,844,000	29	4,928,000	12	38,772,000	41
April.....	34,600,000	45	4,438,000	9	39,038,000	54
May.....	55,965,000	78	4,867,000	8	60,832,000	86
June.....	53,208,000	67	4,590,000	9	57,798,000	76
July.....	48,315,000	80	4,365,000	13	52,680,000	93
Total.....	331,423,000	484	32,784,000	82	364,207,000	566

The United Mine Workers of America has used this record as an argument for a health and welfare fund financed by royalty payments on each ton of coal mined by its members.

The standard remedies for work injuries in this country for a number of years have been prevention and insurance. Employers have stressed prevention in the form of safety programs to eliminate or reduce job hazards and to counteract employe carelessness. The governmental approach has been insurance to cover the costs of medical care and to compensate for a part of the income loss. Still a third avenue of redress has recently become popular; the union-sponsored health and welfare fund. These are, of course, merely the main lines of defense. They are supplemented by an infinite number of private and public employe benefit programs, group insurance plans, individual disability insurance policies, etc.

Some of these plans are extremely generous in their provisions and quite inclusive in coverage. An example is the Illinois State Employees' Retirement System, which first went into operation on Jan. 1, 1944. Under this program, which covers more than 17,000 state employes, the jobholder contributes 5 per cent of each salary check, which is credited to his individual retirement fund and is later reinforced by a more than equal amount from state sources to furnish a pension at age 65. In addition, however, and at absolutely no cost to him, each employe receives four separate insurance benefits: (1) an occupational death benefit of 50 per cent of salary which is paid to his widow or children or dependent parents, (2) an occupational disability benefit of 60 per cent of salary which he receives for life if totally disabled, (3) a nonoccupational lump-sum death benefit which is paid to his widow or dependents, and (4) a nonoccupational sickness or disability benefit of 40 per cent of salary which is paid to members of the system with 5 years of service. The costs of administering the system are also paid for

by the state, and employe contributions are returned to them in full if they leave their jobs for any reason. In the case of lower paid employes, the value of membership in the system was estimated to be equal to a 25 per cent salary increase, at open-market insurance rates.

The accident prevention programs of both public and private employers are a major topic by themselves and are studied along with other phases of *personnel management*. The principal research body and source of information on the subject is the National Safety Council in Chicago, a cooperative association organized for the purpose of promoting safety and reducing accidents in public places and in private homes as well as in industrial plants. The Council has received assistance from many sources, notably insurance companies which specialize in workmen's compensation for employers and industrial psychologists who have investigated the effects of fatigue, age, training, and other factors upon the incidence of accident occurrence. Accident prevention is an important function of industrial management, but it is generally omitted from an introductory discussion of labor problems such as this.

Union-Management Health and Welfare Funds. This is a rapidly growing field of activity for labor unions. Union-sponsored health, welfare, and retirement funds got a big boost during the Second World War when wages were frozen, but the National War Labor Board ruled that the addition of employe insurance and pension benefits was permissible under the Little Steel formula. The Board also focused attention on these forms of compensation when it brought certain benefit plans within the scope of collective bargaining. At the same time, favorable tax regulations (permitting employers to deduct fund contributions as legitimate operating expenses) and the obvious inadequacy of the current old-age and survivors' insurance made this form of deferred pay raise a favorite with negotiators on both sides of the bargaining table. Results? The Bureau of Labor Statistics has estimated that the number of employes covered by such plans rose from 600,000 in 1945 to 1,250,000 in 1947, and was at least 3,000,000 by the middle of 1948.

The most famous such plan, of course, is that of the United Mine Workers of America, which by 1948 was financed by a royalty payment of 20 cents on each ton of coal produced. This plan received wide publicity when its administration became a political issue in 1947 and it was made the target of some of the regulatory provisions of the Taft-Hartley Act of that year.⁵ On Sept. 9, 1948, the first pension check from the Bituminous Welfare and Retirement Fund was handed to a retired miner by President John L. Lewis of the UMWA. The pension provisions were simple: a flat rate of \$100 a month to all miners retired since May 29, 1946, who were

⁵ The main provisions relating to union-management welfare funds were: joint administration, regular audits, and segregation of funds for retirement purposes.

62 years of age or over and had a record of 20 years of service in the industry. The fund also provided unemployment, medical, and survivors' benefits in a variety of forms.

The Mine Workers' welfare and retirement fund is unique in the breadth of its coverage, the basis of its financing, and the generosity of its benefits. However, there are other very large groups of unionized employees covered by some type of plan secured through collective bargaining. About 850,000 clothing and textile workers, primarily in the International Ladies' Garment Workers Union and the Amalgamated Clothing Workers of America, were covered by benefit plans in 1948. And more than 150,000 street and electric railway workers and 140,000 steel workers were protected by contracts containing health, welfare, and insurance clauses. The customary benefits were one or more of the following: weekly accident and sickness payments, hospitalization, surgical, maternity, and medical care; also, accidental death and dismemberment benefits, life insurance, non-accidental death payments, welfare assistance, and pensions.⁹

Most plans are financed entirely by the employer, although not many unions are able, like the mine workers, to put the contribution on a royalty basis. (The musicians' union has managed this in connection with the making of phonograph records.) Usually the arrangement is a percentage of the employer's payroll. Where worked out through collective bargaining, the basic requirement for employee participation is usually nothing more than union membership in good standing. In one form or another, approximately 100 national or international unions have negotiated health and welfare funds, either on a local or union-wide basis. In view of the 1948 decision of the National Labor Relations Board that pension and welfare plans are proper subjects for collective bargaining, it may well be anticipated that both the number of plans and their coverage will increase in the future.

Workmen's Compensation

Workmen's compensation is still the basic remedy for industrial injury or illness. All 48 states and the Federal government have passed laws requiring private employers to insure their employees against accidents, and most of them (39 states in 1948) include occupational diseases among the insurable risks. In addition, most governmental units (Federal, state, and local) have separate workmen's compensation laws applying to their own (public) employees. Insurance protection against work injuries is the most widespread form of security that employees enjoy in the United States.

It is also the most generous form of protection, since practically all workmen's compensation covers medical care *in addition to* weekly subsist-

⁹ *Labor Information Bulletin*, August, 1948.

ence allowances which run substantially higher and for much longer periods than do unemployment benefits, for instance. Like job insurance (which was patterned after workmen's compensation) the weekly payments under workmen's compensation are a percentage of previous earnings up to a given maximum which is stated in the law. In 1948, these maximums ran as high as \$38.08 a week for life in cases of permanent total disability (in the state of Washington) and \$32.00 a week for 312 weeks to widows or other dependents in case of death (Connecticut). The lowest maximum

Table 34. Effects of the 1939-1948 Inflation on Job Insurance and Accident-insurance Benefits in the United States*

State	Maximum weekly benefit in 1948 dollars		Purchasing power of benefits in 1935-1939 value	
	Unemployment	Disability	Unemployment	Disability
Alabama.....	20.00	18.00	11.40	10.26
Colorado.....	17.50	17.50	9.98	9.98
Florida.....	15.00	22.00	8.55	12.54
Georgia.....	18.00	20.00	10.26	11.40
Nebraska.....	18.00	18.00	10.26	10.26
Oklahoma.....	18.00	21.00	10.26	11.97
California.....	25.00	30.00	14.25	17.10
Connecticut.....	24.00	32.00	13.68	18.24
New York.....	26.00	28.00	14.82	15.96
Texas.....	36.00	25.00	20.52	14.25
Washington.....	25.00	38.08	14.25	21.71
Wisconsin.....	24.00	28.00	13.68	15.96

* SOURCES: *Labor Information Bulletin*, May and August, 1948; *Monthly Labor Review*, October, 1948.

payments permitted were in Nevada and amounted to \$17.31 a week, but even these were continued for life in cases of permanent disability and for the duration of widowhood to women upon the death of their husbands.

Social Security and Inflation. One of the major problems of social-security systems is inflation. A change in the price level such as occurred between August, 1939, and August, 1948, from 98.6 to 174.5,⁷ meant catastrophe to many families dependent even temporarily upon either workmen's compensation or unemployment compensation benefit checks. Before the Second World War, the allowances under these laws were not overly liberal, but they were sufficient to save most recipients from actual want. By August, 1948, the purchasing power of the dollar was down to 57 cents in comparison with the base period of 1935 to 1939. Table 34 shows what this did to the maximum allowances under both unemployment and workmen's compensation in typical high-benefit and low-benefit states.

⁷ Bureau of Labor Statistics' "Consumers' Price Index for Moderate-income Families," *Monthly Labor Review*, each issue.

The effect was to cut the living standards of families of unemployed and disabled workmen some 43 per cent, to the weekly purchasing power figures in the right-hand columns of the table. In no instance was the full drop in dollar value recovered by an increase in the maximum allowances under the laws, although some states did raise top benefits to compensate in part for the increased cost of living. The history of public pension and assistance systems, however, discloses that legislative increases tend to lag behind price rises and practically never catch up with them entirely. Some of the neediest citizens of the country may thereby join the traditional *rentiers* and become the victims of public policies designed to support purchasing power and maintain full employment, unless a new approach to the method of computing benefits is developed.

It is perfectly obvious what form the new approach should take. It should be a base figure which varies with an index of the price level. This would have meant, for instance, that the \$17.50 weekly maximum payments for unemployment or disability in the state of Colorado would by 1948 have automatically become maximum benefits of \$30.54 a week and would still have supported a destitute family on a minimum-subsistence basis, which is more than can be said for the current maximums.

If the public authorities intend to assume responsibility for the support of families which are the victims of unemployment and work injury (and that is the clear purpose of workmen's compensation and unemployment insurance), they cannot disregard the relationship between dollar payments and the price level. A consistent and logical program of social security would throw out the whole insurance approach, with its complicated and expensive administration and schedule of payments unrelated to need, and substitute an integrated plan of flat-rate benefits with family allowances tied to a sliding scale which measured the change in the cost of living. The benefits would then have meaning in two fundamental ways which are now either disregarded or approached haphazardly: (1) the actual needs of the family group which is dependent on the payments, and (2) what the payments will buy in the form of food, clothing, and shelter.

Legality of Workmen's Compensation. The main problems of workmen's compensation today, other than inflation and its illogical and expensive insurance base, are primarily administrative. These, in turn, have been complicated by early judicial distortion of legislative forms. Like all pioneer social legislation, workmen's compensation laws had to run the gauntlet of court opposition, and some early decisions changed the whole character of accident insurance statutes in this country. The most important ruling was *Ives v. South Buffalo Railroad Co.*⁸ in 1911 in the state of New York. In this decision, a New York law which held employers responsible for injuries to

⁸201 N.Y. 271.

their employees was declared unconstitutional. The wording of the decision outlined the judicial problem and indicated the next avenue of approach for state legislatures. It runs as follows:

Cullen, C. J.: I concede that the legislature may abolish the rule of fellow servant as a defense to an action by employee against the employer. . . . I concede that the legislature may also abolish as a defense the rule of assumption of risk and that of contributory negligence unless the accident proceed from the wilful act of the employee. . . . I also concede the most plenary power in the legislature to prescribe all reasonable rules for the conduct of the work which may conduce to the safety and health of persons employed therein. But I do deny that a person employed in a lawful vocation, the effects of which are confined to his own premises, can be made to indemnify another for injury received in the work unless he has been in some respect at fault. I am not impressed with the argument that "the common law imposed upon the employee entire responsibility for injuries arising out of the necessary risks or dangers of the employment. The statute before us merely shifts such liability upon the employer." It is the physical law of nature, not of government, that imposes upon one meeting with an injury, the suffering occasioned thereby. Human law cannot change that. All it can do is to require pecuniary indemnity to the party injured, and I know of no principle on which one can be compelled to indemnify another for loss unless it is based upon contractual obligation or fault.

Ever since *Ives v. South Buffalo Railroad Co.*, the aim of advocates of workmen's compensation has been to establish "liability without fault." In other words, the purpose was to assess the cost of injuries to workmen upon industry in general as one of the normal expenses of doing business. This principle is now well established, but the road by which it was reached was circuitous and difficult. The first step was to pass *optional* laws which deprived employers of the common-law defenses of assumption of risk, contributory negligence, and the fellow-servant rule, unless they insured their employees against accidental injury. These defenses had been standard legal protection for years against damage suits by employees, and made recovery—in the infrequent cases where it was tried—almost impossible.

"Assumption of risk" meant simply that the employee assumed the risk of the occupation when he took the job. If he was injured in the course of duty, his only recourse was to show that his employer was more than ordinarily negligent in his provision of tools or workplace and that the accident resulted from the negligence. "Contributory negligence" meant that if the employee himself contributed to the occurrence of the accident by his own carelessness, then the employer was absolved of blame. The "fellow-servant rule" was the doctrine that the implication of another employee in the accident eliminated the employer's responsibility. Since any one of the three was a sufficient defense, and since the first was always in operation and the other

two were lying around handy in case of need, it is not surprising that the record of employe recoveries in common-law damage suits was about nil.

Add to the above the facts that the employe hesitated to jeopardize his job except in cases of very serious injury, that lawsuits cost money which few employes could afford to risk, that fellow employes were backward about testifying against their employer, and that the best lawyers were on the employer's side, and the need for some sort of public protection is made clear.

Some Administrative Problems of Workmen's Compensation. The optional laws gave employers a choice, and most of them selected the insurance option, taking out policies with private insurance companies which met state specifications. This is still the principal method of handling workmen's compensation. In 18 states, however, state insurance systems have been set up, and in 6 of them the employer is required to insure through the state fund. In addition, all but 6 states have an administrative agency which handles employe claims, even though the employer is insured privately. The board or commission which is responsible hears disputed cases, investigates and passes on the facts, and makes awards. In the 6 states where there is no such administrative body, employe claims must be taken to court if there is any dispute. This is, of course, very expensive and time-consuming, as well as being subject to the handicaps listed in the paragraph immediately preceding.

The administration of workmen's compensation is a very technical legal, political, medical, and managerial problem which is much too complicated for full treatment here. It has been covered thoroughly in an outstanding study entitled *Administration of Workmen's Compensation*,⁹ by Walter F. Dodd, and anyone especially interested should refer to that source. Nevertheless, students of labor problems should be aware of some of the principal issues which arise in the settlement of claims.

One is the question of service connection. Did the injury occur as a result of an accident "arising out of" or "in the course of" employment? In many cases, this is more difficult to determine than might be imagined. Is a man who is hurt in an automobile accident on his way to work injured "in the course of" his employment? Is a plant employe on company property who is injured during lunch-hour horseplay eligible for accident insurance? Should an employe who has disobeyed a safety rule be eligible for benefits if injured? There are many marginal cases and difficult decisions, and they become harder still to tie down when the injury is in the form of an occupational disease.

Inclusion of job-connected illness among the insurable risks of workmen's compensation made the problem of "origin" of the injury a major issue. In such dramatic cases as silicosis (from mine dust) and "the bends" (divers cramps), no issue is raised, since the occupational connection is ob-

⁹ New York: Commonwealth Fund, Division of Publication, 1936.

vious. For this reason, states whose laws contain a "schedule" of compensable diseases find their administrative problem considerably reduced. (A "schedule" is simply a list of diseases which the legislature has defined as eligible for compensation if traced to the occupation. Any disease not on the list, no matter how direct a result of the job, is the employee's own responsibility.) On the other hand, under a "schedule" law, the employee may be the victim of a non-listed sickness growing directly out of the job, but still be barred from receiving benefits.

There is no way around this dilemma. A state may schedule the diseases it considers insurable and save itself administrative trouble, or it may require the protection of employees against *any* service-connected injury (whether accident or illness) and prepare to receive a mass of claims for job-connected colds, indigestion, nervous upsets, mental problems, chronic and communicable diseases, which can be made to seem to come from the employment either directly or indirectly. The former is simpler and more efficient, but at times inequitable. The latter promotes equity and security, at the expense of economy.

The sheer volume of claims in an industrial society is a problem in itself. Table 35 gives some figures on injuries and compensation in the state of New York in 1940.

Table 35. Industrial Accidents and Compensation in New York, 1940*

Total accidental injuries reported (by 1942, up to 713,731).....	528,467	1 for every 9 persons in the employed labor force
Injuries compensated.....	79,280	1 in 7
Compensation paid.....	\$28,065,133	Average payment: \$355
Total deaths.....	1,354	1 for each 390 injuries
Deaths compensated.....	714	1 in 2
Compensation paid for deaths....	\$ 3,996,660	Average payment: \$5,597
Total compensation paid.....	\$32,061,793	\$2.50 per man, woman, and child in the state (without administrative costs)

* SOURCE: *World Almanac, 1944* (New York: New York World-Telegram).

The main reliance of administrators of state systems of workmen's compensation (usually the state industrial commission) is universal reporting of all accidental injuries, whether compensable or not. As the table shows, only a small proportion (14 per cent in New York in 1940) are eligible for benefit payments, primarily because most injuries result in lost time of only a day or two and all necessary medical care is provided on the spot by the employer. However, the reports must be processed, followed up, investigated (where claims are filed), and decisions made with respect to eligibility and type and amount of awards.

There are many opportunities for fraud and error in the innumerable details of handling the claims, and experience has shown that without close supervision the employee may receive only a small percentage of the benefit

due him. The rest may go to his lawyer (contingent fees of 50 per cent of total benefits are commonplace in some jurisdictions), be "kicked back" to the local political organization, be dissipated by adverse decisions of insurance company doctors, or lost in expensive lawsuits in states which have no administrative agency to handle claims. It is sufficient commentary on the possibilities of the situation to note that chairmanship of the state industrial commission is a top political plum in the "spoils-and-patronage" states.

The protection of workmen from the risks of accident and disease is far, far superior today to what it was 40 years ago, at the time of the Ives decision. However, there is still plenty of room for improvement of coverage, benefits, and administration, if this basic form of security is to be extended to all and the employee is to get 100 per cent of the benefit intended.

Unemployment Due to Disability

Good health is far more important in the economic sense to the "free" employe of today than to the slave, serf, or self-employed person of former times. The obligation of the employer (master) to support the worker is no longer upheld by law or custom, except in a few of the remaining paternalistic areas of the labor market. In particular, the employe of the large, specialized, highly integrated commercial or industrial firm is "on his own" when he is unable to work, except in so far as he is eligible for workmen's compensation or public benefits of some sort or other. Disability often means economic disaster. His place cannot be taken by his wife, children, or friends. There is a limit to the time that his job can be held open for his return. The income demands of a pecuniary society are greater. And informal community arrangements for assistance to distressed families are fewer and harder to organize.

The disability of wage earners through sickness and accident, however, is a much broader problem than job hazards alone. The problem breaks down into two parts: (1) job-connected disability, and (2) nonoccupational accident or illness, which is just as disabling, but until recently has been assumed to be the responsibility of the employe. The difference in effects is slight, if any. The employe who breaks his leg in a fall downstairs at home is out of work just as surely, and his place must be filled by a substitute just as definitely, as though the fracture had occurred during a fall from a scaffolding or in a factory. The momentary interference with production will be less in the former case, but the basic consequences are identical. However, the worker who is injured on the job in all probability will receive free medical treatment and a weekly insurance check, while the one who is disabled out of hours will get neither.

This disparity of treatment grew out of the legal attitude described above, of assessing the *costs* of a misfortune upon the person "at fault," as the fairest method of allocating the expense and as a deterrent to carelessness. It is the principle used in settling automobile accidents, in determining personal liability for nuisances, and in countless other legal controversies where damages have been incurred and someone must pay.

Workmen's compensation laws are based on the idea that the danger of injury is a fundamental hazard of the occupation. They took years to establish, and many lawsuits were lost and laws declared unconstitutional, while the courts examined each situation to find where the "fault" lay. The final success of workmen's compensation in the courts and with the legislatures was in the establishment of the principle of "liability without fault" on the part of the employer. This simply meant that it was not necessary to prove the employer negligent or careless to set up the employe's right of recovery; it meant that public opinion demanded this form of security against unemployment due to disability and required that its cost be assessed against the employer, as an expense of doing business. There are clear signs recently that the same view is being extended to nonoccupational disability.

General Disability Insurance. The basic fact is this: More than half of all the time lost from work as a result of sickness and accidents is a result of injuries or illness in no way connected with the job (see above, page 210).

By 1948, two state laws and one Federal law provided insurance benefits for workmen who were temporarily disabled, whether the disability was job-connected or not. Rhode Island in 1942 and California in 1946 were the pioneers, and in the latter year the Federal government made the same provision for railroad employes. All three laws were amendments to unemployment compensation (job insurance) legislation and set practically the same schedule of benefits. The effect therefore was simply to extend job insurance to a group of persons previously excluded: those "unable to work" for reasons of illness.

The circumstances which produced the new legislation were conservatism and prosperity. In both Rhode Island and California, unemployment compensation legislation as originally passed called for employe contributions—an unusual feature of state job insurance laws—as well as an employers' payroll tax. By 1942, the high level of Rhode Island's state job insurance fund made further contributions at the same rate unnecessary, so the tax on wages was assigned to a disability fund. It thus became possible to finance the new venture without increasing the immediate burden at all. The same principle was used in the California and Federal amendments. Since they are financed, at least in part, by employe contributions, the new laws could be considered a form of experiment with compulsory health insurance.

Anyone familiar with the administration of workmen's compensation is aware of the chance nature of injuries or sickness which "arise out of" or occur "in the course of" employment. As time goes on, it will probably be more and more difficult to make a distinction in the public mind between unemployment due to job-connected disability and that which occurs as a result of injury outside of working hours.

As a long-run objective, there is no particular reason why even workmen's compensation should be managed apart from other forms of job insurance. There are special problems of the costs of medical treatment, of course, but a reasoned program of unemployment compensation would also take into account family size and needs. The essential element is precisely the same, reimbursement for a period of unemployment for which the employee is not responsible. It is perfectly natural, in view of our political institutions, for this objective to be reached piecemeal, but once the end is accomplished in complete form, there are great gains to be realized from combining and simplifying the program and its management. The steps already taken in Rhode Island and California present a logical method of incorporating employment security into a single, integrated program.

Employment Discrimination

Probably the most distressing form which unemployment takes in this country is job discrimination; the refusal to hire people because they belong to some sort of "undesirable" minority group. It goes further than just hiring; it may mean limitation of career opportunities, like refusing to upgrade Negroes into supervisory positions. Technically, job discrimination is defined as the selection, placement, or compensation of employees on some basis other than their ability to perform. It is very hard to locate and identify. Men and women of employable age, sound in mind and limb, with good training and experience, and eager to work, have simply been unable to find anyone who would hire them. Although the excuse given by the employer may be that he does not need more help or that the applicant is not qualified, it is apparent in some instances that the explanation is inaccurate. Whether or not it goes on the record, another case of job discrimination has occurred.

Discrimination is primarily an abuse of minorities, although in exceptional cases (as with Negroes in some parts of the South) it may be used to keep a numerically larger group in subordination. Nonwhites (especially Negroes and Orientals), certain ethnic and religious groups (Jews and Catholics, for example) some unassimilated national groups (as Mexicans), women, and "old" people, are commonly subject to employment bias. So also are trade unionists and nonunion workers, each of which has been

protected by law from the discriminatory practices of the other when in the majority. Employees subject to discrimination are not hired at all, or they are hired for only the poorest and dirtiest work, or they are hired at substantially lower rates than is customarily paid for the jobs. The particular form that employment prejudice takes will usually depend on the state of the labor market and the employer's need for personnel, but it may be modified by local custom or law.

No labor problem is more subtle, has more deep-seated roots, or is harder to attack than discrimination. Employment must necessarily be a cooperative situation, and freedom of choice in arriving at a decision has long been considered fundamental for both employer and employee. No one would suggest forcing a workman to take a job he did not want (with the exception of conscription into the armed services), and his right to reject an offer of employment is embedded in the Constitution of the United States. However, here again the basic issue is the essential inequality of position of the employer and the employee. In some places, steps have already been taken to reduce the arbitrariness of decisions which may be marginal or incidental to the employer, but are vital to the employee.

Complexity of the Problem. A part of the problem of discrimination may be laid to outright confusion. All their lives people are taught to discriminate (in the Websterian sense of "nicely distinguishing") in their choice of friends, companions, occupations, literary and artistic tastes, amusements, and surroundings. Then, suddenly, they find that discrimination is invidious as well as desirable. They should be discriminating with respect to friends and companions, but not in their choice of employees or colleagues, or at least not on the same basis. This, of course, is one important element of the problem: *the shifting basis of proper or desirable discrimination*.

The difficulty is partly one of heterogeneity of social organization. The industrial employer or employee in a large city may be a member of half a dozen large social groups (political, religious, commercial, educational, recreational, charitable, etc.) without coming across any large number of any one group in his contacts with all the others. The faculty of "nicely distinguishing" among acquaintances on a religious basis which he learns at church may be less than useless to him in the selection of political colleagues or employment associates. Many a family has been split wide open when one of the junior members developed so strong a loyalty to his union and its members that fundamental disagreements could not be avoided.

It is not always possible to shed special group affiliations at the front door, any more than it is easy to renounce at the factory entrance social discriminations which are permissible (in fact, encouraged) in the home. Hence, the trade unionist may disagree and perhaps quarrel with father, brother, or sister. And the white man, Southern or Northern, may hesitate

to accept Negroes as working associates, since neither white nor colored would seek the company of the other out of working hours.

The heart of the problem of discrimination seems to lie in the fact that employment is a *social* as well as a functional activity. More and more, the essence of the work situation is found in the personal relationships of the working group, mainly: (1) cooperation between employees, and (2) submission to the authority of the boss. The elements of effective cooperation and subordination (the "acceptance" of leadership) are understanding, appreciation, and respect. If these are lacking, individual skills may be rendered useless.

For example, it may not be possible for two employees to work together if they have a basic antagonism which springs from deeply embedded social prejudices originating outside of the workplace. They may not even be able to talk to each other or stay in close physical proximity. With our current social mores, it may be impossible to require rank-and-file workers to accept supervision from a member of another racial group (a Negro, say) or from the opposite sex, if the workers are men. Adult employees often resent being asked to work alongside children, especially if the youngsters are precocious, as they often are, and prove to be faster and more efficient than their elders. Like members of different races and sexes, teenage children and adults are on different social levels, with a different language, different interests, and different points of view. The equality of employment may be irksome to grown persons who are accustomed to the respectful deference of children at home.

The "capacity to perform" on a job is in many cases largely the "capacity to obtain cooperation" from fellow workers or subordinates. If it is a requisite, no amount of individual skill, dexterity, strength, or know-how will compensate for its lack. This is recognized informally in every kind of organized activity, from the most thoroughly indoctrinated occupations (priesthood, politics, Army, and Navy) to the relatively impersonal pursuits of private enterprise and the civil service. Cooperation, in turn, is furthered by homogeneity of background, experience, training, and purpose. A great deal of job discrimination reduces the effectiveness of individual performance by substituting inferior for better workmen, but it may at the same time raise the level of group output by removing a source of personal friction which would lower efficiency all along the line.

Another little-publicized angle of the problem of discrimination is the responsibility of some minority groups for segregation policies. The notorious clannishness of certain religious groups, encouraged by withdrawal, marriage bans, and other practices and traditions; the stress upon the native tongue and old-world customs of some immigrant communities; the rigorous exclusion policies of certain trade unions; all these have as their purpose the mainte-

nance and emphasis of group difference and refusal to assimilate. And all of them tend to carry over to other areas of social participation. To a degree, the problem of discrimination may be expressed by the following equation:

1. Let *Min* equal a minority group
2. Let *Maj* equal a majority group
3. Let *A-Min* (antiminority) equal the practice of discrimination against a minority group
4. Let *A-Maj* (antimajority) equal the practice of discrimination against a majority group
5. If $\frac{A-Min/Maj}{A-Maj/Min}$ is greater than one, then the source of the trouble is probably the majority group
6. If it is less than one, then it might pay to investigate the attitudes of the minority group

If the latter result expresses the true situation, then policies directed solely at the members of the majority group will not solve the problem, although the latter should not necessarily be by-passed completely. Most discrimination issues will involve both sides, but the faults of minority groups are rarely mentioned openly and their accountability for segregation practices remains officially unrecognized.

Unfortunately, the problem is not always a simple one of aggressor and victim. Well-organized and combative minorities may and do produce discriminatory reactions from the larger groups within which they refuse to assimilate. This may not of itself be wrong, but it complicates tremendously the solution of the problem of job discrimination.

How It Is Done. Job discrimination is practiced by both employers and employes, sometimes together and sometimes separately. One important form that employe discrimination takes is the union member's refusal to tolerate the employment of nonunion men, expressed through closed and union shops, union preference, maintenance-of-membership agreements, and the like. Where the union man is the victim of discrimination, the active agent is usually the employer rather than the other employes, and for many years the black-list and yellow-dog contracts were employed to keep union sympathizers out of employment and union membership at a low point. Corrective legislation (the Norris-LaGuardia Anti-injunction Act of 1932 and the National Labor Relations Act of 1935) finally eliminated the black list and other forms of employer discrimination in interstate commerce, just as later legislation (the Taft-Hartley Act of 1947) prohibited the most serious form of union discrimination—the closed shop—permitting unions to bar applicants from jobs.

Employes and their representatives have generally been responsible for job discrimination applied to Negroes, Orientals, Mexicans, convicts, women,

and children. The forms that the discrimination take are to exclude the members of the minority groups from employment where possible, and where this cannot be done, to see to it that they get the most undesirable jobs, with the poorest working conditions and the lowest pay.

Trade unions campaigned for Oriental exclusion and Western unions have refused admission to Chinese and Japanese workers, as well as Mexicans. They have criticized the admission of Mexican field laborers into the United States, even at times of labor shortage during agricultural harvests. Trade unions also led in the campaign to exclude convict-made goods from local and interstate markets. Many unions, especially the Southern locals, refuse admission to Negroes or consign colored members to lower ranking jobs without the right to advance under seniority rules. The same policies may be applied to women and underage workers. The worst exclusion practices are the property of the older craft unions in the AFL; by and large, industrial unions (especially the CIO affiliates) are liberal in their admission policies and active in promoting the civil rights of minority groups.

The Effects of Discrimination. The results of discrimination practices are apparent in employment statistics. In 1940, nonwhites were concentrated in the competitive, poorly paid occupations of agriculture, domestic and personal service. Although only 10 per cent of the population, they were 20 per cent of the agricultural labor force and 35 per cent of the domestics. At the other end of the scale, native whites, although only 81 per cent of the population, occupied 89 per cent of the professional and salaried jobs in the country. Negroes and Orientals in the salaried professional and managerial classes were a rarity. Women had almost a monopoly of domestic service and predominated in the lower paid service trades, clerical work, and the semiprofessional classifications, such as teaching and nursing. They were a negligible minority in the skilled trades, sales, official, and managerial classifications. The lowest paid employment in the country was that of convicts, many of whom worked for as little as a few cents a day, primarily because the things they made were excluded by law from local or interstate markets. Members of discriminated minorities are the last to be hired, the first to be laid off, and the slowest up the promotion ladder. In the job market, as often elsewhere, they are second-class citizens.

On the face of it, the economic effects of discrimination are those of monopoly everywhere; poor allocation of human resources, monopoly gains for the fortunate majority groups, inferior earnings in overcrowded low-grade occupations open to minorities, a reduction in gross output, and a lowered standard of living. However, this is strictly an individualistic view. It looks at the situation job by job and worker by worker and dismisses the essential element of cooperation and group activity. *It may well be that what passes for job discrimination in many cases raises efficiency, due to its beneficial*

effect on the internal social systems of modern industrial enterprises. Social antagonism and noncooperation are facts. They do interfere with production. They unquestionably lower total output, as in the case of a strike by building-construction employes to force the dismissal of a nonunion man, or employe sabotage in resentment over Negro or female supervision.

This is most clearly demonstrated in the armed services where efficiency in wartime is the maximum objective. Both the Army and the Navy practice racial segregation, for example, in the most definite and cold-blooded manner. Yet there has been very little insistence that these policies be abandoned, notwithstanding the criticisms of civil-rights groups, and the absolute certainty that Negroes would prove in some instances to be more competent field combat officers than white men now holding those positions.

Why?

Because large numbers of white men would either refuse to serve under colored officers or if forced to take their orders would deliberately hinder their execution. This is an unpleasant fact, but a fact nevertheless. It must be taken into account by men charged with the responsibility of winning battles, who would probably be as quick as anyone else to substitute Negroes promiscuously for whites on an individual efficiency basis if they thought it would raise the morale and efficiency of the organization as a whole.

It should be pointed out that Army and Navy leaders are just as strongly opposed to another form of discrimination—trade unionism—as they are in favor of racial discrimination. Both clash with the principle of individual efficiency, but the former is not as deeply embedded in the social attitudes of the population as the latter and hence may be disregarded in setting up military organizations. There has been no strong public sentiment in favor of introducing the duality of organization, responsibility, and authority which goes with trade unionism into military activity, and there is little likelihood of its being proposed as long as national security, which is a function of the efficiency of the Army and Navy, is in question.

The Difficult Question of Public Policy. The argument outlined above does *not* lead to the conclusion that job discrimination is right, good, desirable, or should be encouraged. It simply makes the point that there is no clear evidence that discrimination reduces over-all efficiency and productivity or that it cuts down the level of total output of goods and services. However, although efficiency is a value and an important one, it is not the only value in our society, or in any other, for that matter. It is one of many virtues, and its relative importance will depend on the situation and the other values with which it conflicts.

The argument against job discrimination is an ethical one. Employment prejudice violates one of the clearest promises of the American system of government, spelled out in the Declaration of Independence, the Constitution

of the United States, and the constitutions of many of the states. That promise is "equality of opportunity." There is no provision in our organic law for second-class citizens, on either an economic or a political basis. The rights of individual choice permit social selection (intermarriage, friendship, etc.) on whatever basis the individual may find appealing. They do not, however, justify the wholesale exclusion of *groups* from economic opportunities or political activity. Job discrimination is a part of the former and it is therefore wrong.

The main question is "what to do about it," and the question is not easy to answer. Job discrimination results from the application of noneconomic social attitudes to employment situations, where the effects show up in economic inequality. The best way to solve a problem is to get at the source, but direct action toward changing social attitudes is both difficult and risky. It is difficult in that no one is sure of the proper way to go about it and it is risky in that the effort may only aggravate the condition. There is the added difficulty that on a noneconomic basis the social attitude that is attacked may be desirable. For example, perhaps children should demonstrate respect to their elders only on a basis of equality, as in employment, but there are many parents who think differently.

A still better example is trade unionism, which can hardly be argued for on an over-all economic basis, whether it is equality of opportunity for all workers or the total output of goods and services. The main economic purpose of trade unionism is group advantage, and it is reached by making work opportunities unequal in favor of organized employees. Many traditional and long-standing union policies—the standard rate of wages, seniority, opposition to technological improvements which throw members out of work, etc.—can only have the effect of reducing the total economic output. Nevertheless, trade unionism has highly desirable results in the form of security and community services for its members, more equal wage bargaining with employers, improvement of working conditions, increased employee self-respect, and political education. It is clear that the general verdict in the United States, as elsewhere in the twentieth century, is that these gains offset the strictly economic losses which may be assessed against union discrimination.

The FEPC. The standard reliance in modern times, of course, is "a law." In this case, the kind of law which most people have in mind is one which creates a fair employment practices commission, like that set up by President Roosevelt during the Second World War and later copied and made permanent in New York State.¹⁰ The idea and its execution are both simple. A full-time administrative commission investigates complaints of employ-

¹⁰ New Jersey, Massachusetts, and Connecticut also have FEPC laws of the same general type as that in New York.

ment discrimination and induces the employer to abandon the practice or uses the sanctions provided in the law if he refuses. President Roosevelt's executive mandate applied to industries working on wartime government orders, and the penalty which the FEPC had available was cancellation of the contract. In the case of the New York law, the Commission is armed with the customary cease-and-desist orders, and with court enforcement if they are disregarded. In neither case is there any record of extensive resort to penalties, and both commissions are on record as having had considerable success in reducing undesirable hiring practices.

A Federal FEPC law has been proposed a number of times since the end of the Second World War, but the intense opposition of business interests and Southerners kept it from passage by either the seventy-ninth or the eightieth Congress (1946 to 1948). Is it desirable and will it work?

It would be easy for anyone to get violently positive opinions on both sides of this question. Civil-rights advocates are convinced that a fair employment practices commission is a necessary first step toward equality of economic opportunity and that such a law presents no special difficulties of interpretation and enforcement. Opponents of antidiscrimination legislation point to the lawlessness of prohibition, reiterate their belief that the social attitudes involved (such as "white supremacy") are more deeply ingrained than the drinking habit, and argue that attempts to enforce the law will merely intensify interracial and other social passions to the long-run detriment of the minorities it is intended to protect. Observers whose opinions lie somewhere between these two extremes are perplexed and noncommittal.

It must be repeated that direct action to change social attitudes or to correct for inequalities caused by deeply embedded social prejudices is both difficult and risky. The results may be nil or even negative. An FEPC law is directed mainly to the protection of racial, national, and religious minorities (Negroes, Orientals, Mexicans, Jews, etc.). However, job discrimination is intangible, usually negative in form, and may be employed at any stage of the employment relationship. If it turned out that opposition were widespread and determined, the publicity and bad feeling which enforcement produced might worsen relations and bring about an increase in employment bias which it would be impossible to identify.

The policy problem is one of available alternatives. What are the alternatives to a national FEPC? They are the long-run effects of education, the work of voluntary antidiscrimination groups, and local and regional programs of toleration and equalization. They move slowly, almost imperceptibly, at times relying upon shifts of public opinion to bring about reforms.

Are they too slow?

This is the crux of the problem, and the answer appears to be "Yes"

with respect to at least three areas of personal liberties: employment opportunities, political rights, and education.

Direct legislative action to bring about economic, political, and educational equality of opportunity is risky, but it should be worth a try in the wealthiest and most powerful country in the world, if democratic institutions are to continue to have meaning. Even if the effort should fail, it would be in a good cause, and in the American past it has been principles of right and wrong, not probabilities of success or failure, that have been the basis of our greatest decisions. A fair employment practices commission would give the sanction of law to equality of employment opportunity and make it possible for employers (of whom there may be more than a few) to resist local and sectional prejudices toward exclusion, if they are so inclined. In many cases they will be so inclined, since there will be an economic advantage to be gained from tapping previously unavailable human resources.

This does not mean that either the law or its administration should be extreme or punitive in the beginning. The first legislation could well be regarded as a statement of principle, strengthened by an administrative staff whose primary duty it was to publicize, explain, and mediate. The law and its administrators might well take into account institutional and regional differences. For example, the armed services would be a poor place to experiment with social equality under current conditions of international unrest. In many sections of the South, a radical program of enforcement would probably lead to local unrest and great instability of business operations and employment.

There should be no minimizing the problems which would arise. Nevertheless, a national policy of equality of employment opportunity would be a courageous step in line with the ethical convictions of the country as expressed in its basic political institutions. Difficult and dangerous though it might be, it deserves formal expression as a standard believed in. It would give hope to the 10 per cent of the population which now exists as second-class citizens and encouragement to many others who do not approve their subordinate status.

Other Kinds of Discrimination. There are, of course, many varieties of job discrimination which would not be touched by a fair employment practices commission, some of which are written into law. Union and anti-union discrimination are examples. Another is veterans' preference. There is hardly a civil service law in the country which does not contain a veteran's preference clause, giving first or sole claim upon some classes of public jobs to former members of the armed services. The motivation for these favors has usually been an appeal to the veteran vote, and the effect, of course, is strictly uneconomic and inequitable, since there are no grounds for believing

that ex-soldiers make better public employes than civilians, either individually or as members of groups. The same laws usually contain a prohibition of selection of employes on the basis of racial, religious, or political affiliation, the last named of which is violated regularly for patronage purposes.

Another form of employment discrimination which has worked many hardships in the past has been the refusal of employers to hire new employes (or to rehire those laid off) after they pass a certain age level: 50, 45, 40, or even 35 in some instances. This form of prejudice is particularly noticeable during depressed periods. It is rationalized on many grounds; difficulty of re-training for new jobs, greater susceptibility to accident and sickness, lack of indoctrination, higher insurance and pension costs, etc. "Industrial superannuation," at an early age, is a genuine risk of the industrial worker, especially in the high-speed, mechanized, closely integrated, mass-production industries of modern times.

A number of ways have been proposed for combating it. One is education. It has been demonstrated that older employes are *not* more accident-prone than their younger colleagues, or at least that accidents are not a function of age. Nor is it proved that older men are harder to deal with, lacking in versatility, or harder to train. Evidence and opinion to the contrary may be found in industrial as well as academic circles. In addition, older men are generally discovered to be superior in the qualities of steadiness, reliability, and judgment, all of them desirable factors from the employer's standpoint. In times of strong demand for labor, the middle-aged and older members of the labor force are rapidly put back on, and many employers have been surprised to find them equally as efficient as the lower age groups.

Another attack upon the problem is reliance upon seniority as a basis for layoff and rehiring and for job assignment. Seniority is traditional on the railroads, in trade-union circles everywhere, and in many other classes of employment, notably the officer corps of the armed services, among school-teachers, and in the classified civil service. It is generally opposed by employers as contrary to the principle of efficiency, which it undoubtedly is in many individual cases, but its contribution to the morale of older employes is incalculable. Its rapid spread in recent years is further evidence of the growth of interest in employe security at the expense, if need be, of the ultimate in efficiency.

The problem of employment discrimination, whatever its form, is as complicated and vexing as any to be found in industrial relations. There is no quantitative basis for determining correct policy, for example, when an ethical principle must be balanced against more or less productivity. It is even more difficult to measure the probable effects of an antidiscrimination policy upon the social organization of a factory or a community. Yet many

of the issues are of precisely this nature. Discrimination is of all types of labor problems the one where caution, gradualness, and experimentation are to be recommended with respect to policies of correction.

There is one additional and significant point to be made about job discrimination in all its forms. It flourishes in bad times and melts away where there is a strong demand in the labor market. Nothing does more to reduce employment bias than good business, a steady demand for the output of industry, and a general feeling of security on the part of both employers and employees. This is one more powerful argument for accepting the Keynesian economic objective of "continuous full employment" and for taking direct, positive steps to avoid the unemployment of depression, with its end products of fear, suspicion, and group prejudice. It is one more item to be entered on the credit side of the balance sheet of the managed economy, as compensation for the risks involved in moving farther away from *laissez faire*.

Readings

There is plenty of literature on the problems of discrimination against minorities, especially if all phases of the subject—economic, political, educational, and social—are taken into account. They include: (1) Congressional hearings and debates on civil-rights legislation; antilynching, anti-poll tax, etc.; (2) publications of the national and local civil liberties committees, the National Association for the Advancement of Colored People, and other organizations which work constantly for the equalization of opportunity, regardless of race, creed, or color; (3) reports of the Federal Fair Employment Practices Commission, which functioned during the Second World War, and the New York State FEPC, now in operation; and (4) general research studies of specific minority group problems, like Gunnar Myrdal's *An American Dilemma: The Negro Problem and Modern Democracy*,¹¹ which examines the number one issue of segregation and discrimination in this country.

Discrimination by and against trade unionists is a large topic, which will be covered more fully later in this book. There are also numerous articles and books on job discrimination as applied to women and children, the "industrially aged," and such specific forms of employment bias as veterans' preference. A search of the card catalogue of any college or university library, or of the proper classifications in such magazine indexes as *The Reader's Guide to Periodical Literature*, *The Public Affairs Information Service* (P.A.I.S.), or the *Industrial Arts Index* will quickly furnish a long bibliography.

Exercises

Job discrimination is in some ways the most difficult of all labor problems to examine because of the taboos which interfere with its discussion and the highly emotional points of view which come to light when discriminatory practices are described. Perhaps this should not be so, but it is. It is a successful class discussion which

¹¹ New York: Harper & Brothers, 1944.

brings out the value judgments underlying the different positions pro and con the various forms of discrimination and which shows the difficulty of weighing moral, economic, and social premises in order to arrive at a policy decision.

1. If you were Secretary of Defense for the United States today, would you recommend to the President, who is Commander in Chief of all armed forces, a general policy of nonsegregation for Army, Navy, and Air Force? Why or why not? Whatever your recommendation, list some of the problems which will arise.
2. Look up the veterans' preference amendment of the Second World War to the U.S. Civil Service Act and take a position either for or against the provisions. Make a complete argument in favor of your stand, going back to the underlying value judgments it is based on.
3. If you are a member of a minority group (racial, religious, or national), describe your feelings and those of other members of your group with regard to employment and career opportunities. If not a member of such a group, exercise your imagination or ask someone who is, and then describe how it must feel to be a second-class citizen, economically.
4. Look up one of the recent Supreme Court decisions with regard to equal educational rights of Negroes and whites (in Oklahoma and Virginia, for example) and summarize the argument of the Court.
5. What kind of policy do you think a Federal FEPC should adopt toward employers in Georgia? Describe in some detail and tell why you think your recommendations are appropriate.
6. Do you think the right of employees to refuse to join trade unions should be protected equally with their rights to join? Why or why not?

PART FOUR. **Organization**

THE PROBLEMS OF TRADE
UNIONISM AND COLLECTIVE
BARGAINING

10. ORGANIZED LABOR TODAY

The Questions

What questions should the beginning student of *trade unionism* try to find the answers to? They should certainly include these five:

1. Description: What is it like today?
2. History: Where did it come from?
3. Theory: What caused it?

4. Policies and methods: What is it after and how does it try to get what it wants?

5. Law: What are its legal rights, privileges, and limitations?

Trade unions are news; they are "good copy," for newspapers, magazines, and books. As a result, most people, by the time they have reached college at least, feel that they know what a union is, how it operates, how an employer will react to it, what "strike" and "picket" and lockout" and "collective bargaining" and other labor terms mean, and have some idea of the main labor laws which protect or limit union actions. They are usually right. They do know these things. They may even have had firsthand knowledge of union membership and operation, either through a father or relative or through a job of their own. The only trouble with this knowledge is that, while correct, it is usually sketchy, one-sided, and based on limited experience.

The organized labor movement in the United States is a big thing, with millions of members, thousands of officers, a wide variety of purposes, and a history running back to colonial times. It is almost never safe to assume that one union has exactly the same problem as another, that one strike is for just the same ends and will be equally as successful as another, or that management reaction in one firm or industry will match that of another firm or industry. At the same time, there are many similarities. One of the big problems of the serious student of labor relations is to try to get the over-all picture, the features which are *common* to all or most unions and the principles on which unions or management agree, as well as those over which they argue, in order to have a basis for judging the variations.

If, in the process, a few personal convictions (perhaps "prejudices" is a

better word) are stepped on, the result may be well worth while. There is probably more opinion, prejudice, bias, and partiality per acre in union-management affairs than in any other kind of human activity, not even excluding international relations. It is that kind of animal. Most people are either "for" organized labor or "against" it; there are very few persons who find it natural to take a middle position. Nevertheless, *this is the position that the student should try to reach*, and it is much harder to do than to learn the facts and theories. It may be stated categorically that no one has become mature about labor relations so long as he thinks that every strike should be won or that every strike should be lost, or that the union leader is naturally right or naturally wrong, or that management's side is the right side, come what may, or that it is just as certainly the wrong one. Withholding judgment until all the facts are in is the fundamental rule in labor-management analysis. At the same time, it is about the hardest thing to do.

The questions listed above indicate the organization of the rest of this book. The answers will be filled in in outline form, with the idea in mind of raising the issues and "showing how the land lies" in the world of organized labor, rather than of listing every detail of organization and method. There is plenty to learn about organized labor and plenty to study; the volume of merely *current* union activity—contract negotiations, strikes, organization campaigns, lawsuits, representation elections, conventions, publications, lobbying, political activity, etc.—is stupendous. All of it (or at least, most of it) makes sense and falls into a pattern, but the pattern is sometimes not too clear. The purpose of the next nine chapters is to make a general survey of the trade-union universe in the United States, its current position, its historical background, authoritative opinions as to what caused it, its policies and tactics, and its legal situation.

Size and Importance of the Labor Movement in the United States Today

There should be no underestimating the importance of organized labor in America today—economically, politically, or socially. Union membership takes in something over 15,000,000 employees—about one quarter of the civilian labor force and perhaps a third of those who work for wages or salaries. Union leaders rival corporation managers as major advisers on government policies at both the state and Federal level. Few large businesses plan important changes in policy that affect their employees without calling in union representatives.¹ Every 2 years, trade-union support spells the difference between success and failure for scores of United States Con-

¹ When they do, they invite a shutdown and may even be instructed by the courts that their actions, even though *favorable* to their employes, constitute a failure to bargain collectively, as required by law. See *NLRB v. Allison & Co.*, U.S.C.C.A. (6th), Jan. 26, 1948, reported in the *Monthly Labor Review*, April, 1948.

gressional and senatorial candidates and is a major factor in hundreds of state and local political campaigns. In 1948, for the fifth straight time, a prolabor President was elected on a prolabor platform, with strong Congressional majorities. The United States today is a nation of employes, and the spokesman for those employes is organized labor.

Size. There are two principal measures of union power and influence. One is size; the other is the strategic importance of the industry in which the union is located. In size alone, the major unions today dwarf the corporations they deal with, even in such big-firm industries as steel, automobile

Table 36. The "Big Six" of American Unions: More than 500,000 Members Each, 1948*

Union and affiliation	Short name	Membership
1. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (AFL)	Teamsters	1,062,000
2. United Steelworkers of America (CIO).....	Steelworkers	928,670
3. International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (CIO)	UAW, or Autoworkers	920,857
4. United Brotherhood of Carpenters and Joiners of America (AFL)	Carpenters	737,514
5. International Association of Machinists (Independent)	Machinists	624,000
6. United Mine Workers of America (Independent)....	UMW, or Mineworkers	600,000
Total membership.....		4,873,041

* SOURCE: BLS Bulletin 937, June, 1948.

manufacturing, and railroads. The "big six," with individual rosters of over half a million each, and with almost one-third of the total United States union membership, are listed in Table 36.

These half-dozen top unions were evenly divided as to affiliation. Two of them (Teamsters and Carpenters) were in the American Federation of Labor; two (Steelworkers and Autoworkers) were members of the Congress of Industrial Organizations; and two (Machinists and Mineworkers) were unaffiliated, or "independent." Only slightly less powerful than the unions in the "big six" were a group of near-giants, ranging in size from 200,000 to nearly half a million members. They are shown in Table 37.

The concentration of manpower in union groups had surpassed anything the corporations could boast. The 17 major unions listed in Tables 36 and 37, with 8½ million members, contained well over half of all trade unionists *and more than one-sixth of all employes in the country, organized or unorganized.* These unions, in turn, could expect help in a pinch from one or more of the 20 unions falling in the 100,000 to 200,000 member range. As in the case of corporations, the great majority of unions in the United States were of modest size (81 per cent had less than 100,000 members each, 48 per cent had less than 25,000), but the great majority of the members were

in the big unions. Almost three-quarters (73 per cent) of all union members were concentrated in less than one-fifth (19 per cent) of the unions. The 6 biggest unions, with 31 per cent of total membership, outweighed the 160 smallest, with only 27 per cent. Table 38 shows the distribution of membership by size of union.

Table 37. American Unions with 200,000 to 500,000 Members, 1948*

Union and affiliation	Short name	Membership
1. United Electrical, Radio and Machine Workers of America (CIO)	UE, or Electrical Workers	450,000
2. Hotel and Restaurant Employees' and Bartenders' International Alliance League of America (AFL)	Hotel and Restaurant Employees	402,331
3. Textile Workers Union of America (CIO).....	Textile Workers	390,385
4. International Ladies' Garment Workers Union (AFL)	ILGWU	380,000
5. Amalgamated Clothing Workers of America (CIO)	ACW	365,000
6. Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees (AFL)	Railway Clerks	350,000
7. International Brotherhood of Electrical Workers (AFL)	IBEW	330,000
8. International Hod Carriers', Building and Common Laborers' Union of America (AFL)	Hod Carriers	267,500
9. American Federation of Musicians (AFL).....	Musicians	232,371
10. Brotherhood of Railroad Trainmen (Independent)...	BRT, or Trainmen	216,025
11. United Rubber, Cork, Linoleum and Plastic Workers of America (CIO)	Rubber Workers	208,942
Total membership.....		3,592,554

* SOURCE: BLS Bulletin 937, June, 1948.

Strategic Location. Union power depends on other things than size. Leadership is a big factor. Money in the bank also helps, as does an indoctrinated, disciplined membership. More significant than these in many cases, however, is the union's strategic location in an occupation or an industry of vital importance. Unions considerably smaller than any mentioned above may be in a position to shut down a complete industry, one which is almost indispensable, as a result of tight control of a few crucial jobs. An example is the International Longshoremen's and Warehousemen's Union, with 75,000 members, which shut down the entire West Coast shipping industry in the summer of 1948 through its control of the ship-to-shore transfer of freight. Where strategic location is buttressed by size, a strong financial position, shrewd management, and a rugged, disciplined membership, the union may be in a position practically to dictate to the largest corporations in the country. The Steelworkers, the Mineworkers, and the Teamsters, for example, do this regularly. Some of the more important industries in which employment is under strict union control are shown in Table 39.

Table 38. Concentration of Union Membership, 1948*

Size class: number of members	No. of unions	Per cent of total	Member- ship	Per cent of total
Under 1,000.....	16	8.1		
1,000 and under 5,000.....	30	15.2		
5,000 and under 10,000....	18	9.1		
10,000 and under 25,000....	32	16.2		
25,000 and under 50,000....	29	14.7		
50,000 and under 100,000...	35	17.8		
Subtotals.....	160	81.1	4,140,000	27
100,000 and under 200,000..	20	10.2	3,000,000	19
200,000 and under 300,000..	4	2.	3,590,000	23
300,000 and under 400,000..	5	2.6		
400,000 and under 500,000..	2	1.0		
500,000 and over.....	6	3.1	4,870,000	31
Subtotals.....	37	18.9	11,460,000	73
Totals.....	197	100.	15,600,000	100

* SOURCE: BLS Bulletin 937, June, 1948, p. 6.

Table 39. Union Control of Strategic Industries, 1946*

Industrial group	Industries	Percentage union repre- sentation of employees
Transportation	Railroads	80-100
	Lake and ocean shipping	80-100
	Longshoring	80-100
	Trucking, local and intercity	80-100
Communication	Newspaper printing and publishing	80-100
	Telegraph	80-100
	Radio and motion picture	60- 80
	Telephone	40- 60
Mining	Coal	80-100
	Metals	80-100
Manufacturing	Basic steel	80-100
	Building construction	80-100
	Automobile and aircraft	80-100
	Shipbuilding	80-100
	Rubber products	80-100
	Meat packing	80-100
	Men's and women's clothing	80-100

* SOURCE: *Monthly Labor Review*, May, 1947, p. 766.

In some of the industries listed above—trucking, coal mining, basic steel, meat packing, etc.—control is in the hands of a single union. In others, it is divided among several employe combinations. An extreme example of the latter is the railroad industry, whose most important unions are listed in Table 40. Other industries with multiple union control are: building construction, newspaper printing and publishing, the maritime trades, and metal manufacturing industries.

Table 40. Railroad Unions, 1948*

Classification	Union	Membership
Operating brotherhoods	Order of Railway Conductors of America	38,329 (1946)
	Brotherhood of Locomotive Engineers	76,000 (1946)
	Brotherhood of Locomotive Firemen and Enginemen	111,119
	Brotherhood of Railroad Trainmen	216,025
	Switchmen's Union of North America	8,900
Shop crafts	Brotherhood of Railway Carmen of America	108,700
	Sheet Metal Workers International Association	25,000
	International Brotherhood of Boilermakers <i>et al.</i>	166,700
	International Brotherhood of Electrical Workers	330,000
	International Brotherhood of Firemen and Oilers	58,600
	International Brotherhood of Blacksmiths <i>et al.</i>	24,000
Office employes	International Association of Machinists	624,000
	Brotherhood of Railway Clerks	350,000
	Order of Railroad Telegraphers	58,000
	Brotherhood of Railroad Signalmen	12,900
	Railroad Yardmasters of America	2,900
Right of way	American Train Dispatchers Association	4,165
	Brotherhood of Maintenance of Way Employes	156,300

* SOURCE: BLS Bulletin 937, June, 1948.

When 80 to 100 per cent of the employes in an industry are under union agreements, the unions have much to say about wages, working conditions, the regularity and continuity of operations, who works and who does not, and other important policies of the member firms. Transportation, communication, building construction, mining, and manufacturing are important activities. Three years after the close of the Second World War, no other special interest group in the United States, organized or unorganized, could match the political and economic power of organized labor. Only the Federal government had the prestige and authority to cope with the larger unions and the great federations. Professor Slichter's conclusion, quoted earlier in this book (page 9), is worth repeating and amplifying:²

² Sumner H. Slichter, *The Challenge of Industrial Relations*, pp. v-vi (Ithaca, N. Y.: Cornell University Press, 1947).

The rise of unions constitutes an epoch-making change in the economy—quite comparable to such institutional changes as the rise of the modern credit system or of the corporation. Unions are no longer simply organizations which put workers in a moderately better bargaining position in dealing with employers. They are seats of great power—of the greatest private power in the community. Their policies from now on will be a major determinant of the prosperity of the country. If their policies are farsighted, if unions see their stake in the prosperity of the community as a whole, unions will make a major contribution toward building a greater civilization in America. If unions are narrow, uninformed, and shortsighted in their policies, they will be as great a problem for the community as was the parochialism of the towns and small principalities in the later Middle Ages.

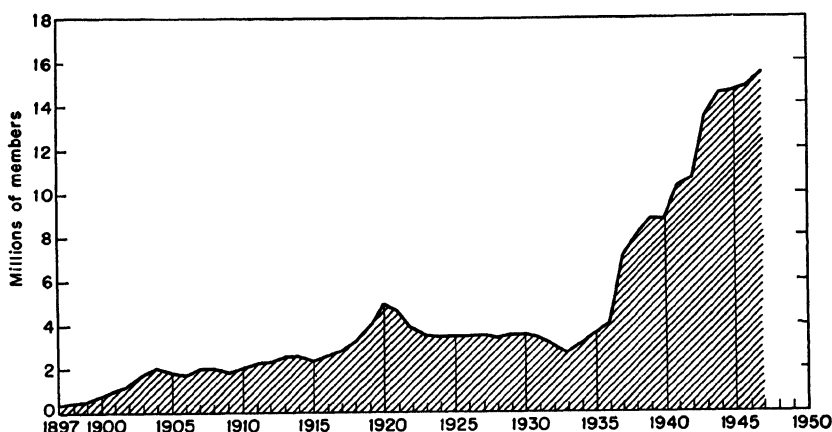


CHART 1. A half-century of growth in the American labor movement.

Part of the difficulty of adjusting to this "epoch-making change in the economy" comes from its suddenness. The rise of the American labor movement to its present dominant position took just about 12 years—from 1936 to 1948. During this period: (1) trade-union membership multiplied four times over, from less than 4 million to just short of 16 million; (2) governmental protection of the right to organize was firmly established by statute, by administrative action, and by court decision; (3) the CIO got under way and grew from 8 unions with something over a million members to more than 30 unions with 6 million members; (4) the AFL expanded in size from slightly over 2 million to something over 7 million members; and (5) in two presidential elections (1944 and 1948), the labor vote was conceded to be a dominant factor in the final decision, establishing conclusively the tremendous political potential of organized labor in this country. The growth of trade-union membership from 1897 to 1947 is shown in Chart 1.

The Federations and the Independents

Organized labor is a "movement," but in America it is a divided movement. It is split three ways, between the AFL, the CIO, and the "independents." The biggest of the three at the beginning of 1948 was the AFL (American Federation of Labor), with 105 affiliated unions and a membership of 7.2 million. Next largest was the CIO (Congress of Industrial Organizations), with 37 affiliated unions and 6 million members. There were 55 independent, or "unaffiliated," unions, with 2.4 million members, making

Table 41. Three-way Split in the American Labor Movement, 1947-1948*

Size class, number of members	Union affiliation			Total
	AFL	CIO	Independent	
Under 1,000.....	9	..	7	16
1,000 and under 5,000.....	14	..	16	30
5,000 and under 10,000.....	5	3	10	18
10,000 and under 25,000.....	20	5	7	32
25,000 and under 50,000.....	14	8	7	29
50,000 and under 100,000.....	21	11	3	35
100,000 and under 200,000.....	14	4	2	20
200,000 and under 300,000.....	2	1	1	4
300,000 and under 400,000.....	3	2	..	5
400,000 and under 500,000.....	1	1	..	2
500,000 and over.....	2	2	2	6
Totals.....	105	37	55	197
Per cent.....	53	19	28	100
Membership.....	7,200,000	6,000,000	2,400,000	15,600,000
Per cent.....	46	38	16	100

* SOURCE: BLS Bulletin 937, June, 1948.

a total for the American labor movement of 197 unions, with 15.6 million members. The line-up is shown in Table 41.

The two big federations—the AFL and the CIO—are regarded as the primary organizations in a world of organized employees. However, they have surprisingly little constitutional power and depend largely upon the voluntary cooperation of their member unions, as the British Empire does upon the voluntary action of the Dominions. They are both *very loose* federations of *strictly independent and autonomous unions*. A member union may leave the federation to which it belongs at any time and for any reason, and there is no power in the constitution of either the AFL or the CIO to stop it. It may be done formally in a minute, as John L. Lewis did at the 1947 convention of the AFL, when he wrote on a piece of scratch paper: "Green—We disaffiliate. Lewis." Or it may be done negatively by the

union just failing to remit dues to the federation and staying away from the annual convention. The "return to the fold" is a different matter, requires formal action, and may be held up by the executive board, but it is customary to welcome back the wayward member with quiet rejoicing and no penalties. Some unions, like the Carpenters, have been in and out of the federation of their choice half a dozen times over the years, and others, like the Mineworkers and the ILGWU, have been in and out of *both* the AFL and the CIO during the last decade.

But while the federations do not have the power to stop secession, they do have the power to kick out, although they use it sparingly. That is how the CIO became a rival of the AFL. As originally formed, it was the Committee for Industrial Organization of *the AFL*. The eight unions composing it were first suspended and later expelled from the Federation for going ahead with a program of organization in the mass-production industries in 1935-1938. Before the AFL realized its error, the expelled unions, under the vigorous leadership of John L. Lewis and Sidney Hillman, had added members and picked up a number of companions and were pushing the older federation for front place in the American labor movement. In 1938, the "Committee" changed its name to Congress of Industrial Organizations (to retain the distinctive initials, "CIO," which had become the federation's trade-mark), drew up a constitution, and took on an independent existence.

Although the AFL and CIO typically present a united front to employers and adopt similar political programs, there is little love lost between officials or members in the two camps. In the eyes of the AFL leadership, the CIO unions are guilty of the highest crime of which a labor organization is capable, "dual unionism," or treason. To CIO members, this is a laugh. They point out that the AFL was "failing to organize the unorganized," just as charged by the original Committee, and that union membership has tripled since the split. There have been numerous offers of reconciliation and plans to amalgamate the two competitors, but nothing has come of any of them. The federations and their member unions go their separate ways, organizing, negotiating, and occasionally raiding each other. Competent observers see little hope of unification of the labor movement in the near future.

The Independents. The third large group of unions in this country is the independents. They are unions which for one reason or another have not "affiliated" with either the AFL or the CIO. With some, the reason is a long-time choice, as in the case of the four major railway operating brotherhoods—the Conductors, Engineers, Firemen, and Trainmen—which are among the oldest unions in the country, dating from the 1860's and 1870's. With others, independence represents a kind of transient status following periods of affiliation, as was the case with the Mineworkers and Machinists in

1948. Independent unions are typically small (only 5 out of 55 in 1948 had more than 100,000 members) and many of them are of a somewhat nondescript character. They include such organizations as the Foreman's Association of America, the I.W.W., the International Mailers Union, a number of unions of government employes, etc. Being unaffiliated and with no common element to bind them together, their influence as a group is even less than would be indicated by their membership.

The "independents" are the miscellaneous remainders of the trade-union movement in the United States, often carrying over a philosophy of rugged individualism into an era of proletarian dogma and class consciousness. In the individual case, some of them are tremendously powerful. Examples are the Mineworkers, the Machinists and the Brotherhood of Locomotive Engineers. Some of them have informal understandings (the railway-operating brotherhoods often act as a group in negotiations with the carriers) and some of them have a marginal form of association with the big federations. For example, the president of the Order of Railway Conductors is a member of the Railway Labor Executives Association which has mostly AFL union leaders on its list. Nevertheless, in an era of large-scale organization, they save their sovereignty at the risk of their influence, since it is the huge federations which are listened to in the highest business and governmental circles. A glance at the functions of the federations will show why.

Functions and Influence of the AFL and the CIO. In organization and in major functions, the AFL and the CIO are almost as alike as two peas in a pod. Both have headquarters in Washington, D.C., each has two full-time administrative officers, a president and a secretary-treasurer, and each has a policy board consisting of a number of presidents of important unions in the federation. The AFL calls these its executive board; the CIO lists them simply as vice presidents. The major functions of each federation are: (1) the annual convention, (2) publications, and (3) research. Subsidiary functions performed by both are: lobbying, organization drives, and assistance in contract negotiations. The AFL is older and has more unions, more branches, and a somewhat more complicated organizational structure, including five major departments. That is about the only difference. The structure and personnel of the two are shown in Charts 2 and 3.

The officers of the major federations are the only persons who can speak authoritatively for organized labor, and hence for all labor, since unorganized workmen, by the nature of things, have no spokesmen. Over 13,000,000 employes belong to unions affiliated with the AFL and the CIO. They are 85 per cent of all trade unionists in the country, 27 per cent of all who work for wages, and 22 per cent of the entire civilian labor force. When the two groups see eye to eye, as they often do on legislation, wage increases, etc., Presidents Murray and Green speak with a powerful voice.

Chart 2. The American Federation of Labor: 1947-1948*

<i>Presidents</i>	901 Massachusetts Ave., NW Washington 1, D. C.	<i>Secretary-Treasurer</i>
William Green		George Meany
<i>Member</i>	<i>Executive Board</i>	<i>Representing Members</i>
William L. Hutcheson, Pres.	Carpenters	738,000
Matthew Woll, Pres.	AFL Union Label Dept.	
Joseph N. Weber, Honorary Pres.	Musicians	232,000
Geo. M. Harrison, Pres.	Railway Clerks	350,000
Daniel Tobin, Pres.	Teamsters	1,062,000
Harry C. Bates, Pres.	Bricklayers	65,000
W. D. Mahon, Pres. Emeritus	Street Ry. Employees	115,000
Wm. C. Birthright, Pres.	Barbers	56,000
Wm. C. Doherty, Pres.	Letter Carriers	79,000
David Dubinsky, Pres.	Ladies' Garment Workers	380,000
Chas. J. McGowan, Pres.	Boilermakers	167,000
Herman Winter, Pres.	Bakery Workers	173,000
Dan. W. Tracy, Pres.	Electrical Workers	330,000
Total		3,737,000 (52% of total AFL membership)

Origin

Originally formed in 1881 as the Federation of Organized Trades and Labor Unions of the U.S. and Canada, the American Federation of Labor adopted its present name in 1886. In that year the Federation comprised 13 national and international unions with a total membership of approximately 150,000.

Structure

Members: 7,200,000
 National and International Unions: 105
 City Central Bodies: 795
 State and Territorial Branches: 50
 Major Departments: 5
 Building and Construction Trades Dept. (19 unions)
 Metal Trades Dept. (14 unions)
 Railway Employes' Dept. (6 unions)
 Maritime Trades Dept. (5 unions)
 Union Label Trades Dept. (52 unions)
 Political Arm: Labor's League for Political Education
 International Affiliation: Inter-American Labor Confederation

Functions

Conventions: Annually on first Monday in October. In election years, the third Monday of November

Publications:

AFL Weekly News Service
The American Federationist (monthly)
Labor's Monthly Survey

Research: Florence Thorne, Director

* SOURCE: BLS Bulletin 937, June, 1948.

It is a voice which is listened to by Congress, state legislatures, chambers of commerce, associations of employers, and business executives.

As direct political objectives (both candidates and programs) become

Chart 3. The Congress of Industrial Organizations, 19³⁷~~37~~-1948*

<i>President</i>	718 Jackson Place NW Washington 6, D.C.	<i>Secretary-Treasurer</i> James B. Carey
Philip Murray		
	<i>Vice Presidents</i>	
L. S. Buckmaster, Pres.	Rubber Workers	209,000
Joseph Curran, Pres.	National Maritime Union	75,000
Albert J. Fitzgerald, Pres.	Electrical Workers	450,000 (?)
John Green, Pres.	Marine and Shipbuilding	
Allan S. Haywood, Director of Orgn.	CIO	
O. A. Knight, Pres.	Oil Workers	74,000
Walter Reuther, Pres.	Autoworkers	921,000
Emil Rieve, Pres.	Textile Workers	390,000
Frank Rosenblum, Secy.-Treas.	Amalgamated Clothing Workers	365,000
(Philip Murray)	(Steelworkers)	(929,000)
Total		3,413,000 (57% of total CIO membership)

Origin

The Committee for Industrial Organization (CIO) was formed in November, 1935, to organize into unions all workers, irrespective of their skills, in certain mass-production industries. The original committee was composed of 8 AFL unions. Differences between the AFL and its CIO-affiliated unions resulted in the latter's suspension and ultimate expulsion from the AFL. In 1938, the CIO adopted a constitution and its present name, the Congress of Industrial Organizations.

Structure

Members: 6,000,000
 National and International Unions: 37
 City, County, and District Industrial Councils: 243
 State Industrial Councils: 39
 Organizing Committees: 2
 Political Arm: Political Action Committee (PAC)
 International Affiliation: World Federation of Trade Unions (WFTU)

Functions

Conventions: Annually in October or November
 Publications: *Union News Service* (weekly)
 The CIO News (weekly)
 Economic Outlook (monthly)
 Department of Education and Research: Kermit Eby, Director

* SOURCE: BLS Bulletin 937, June, 1948.

more important to organized labor, the power and influence of the AFL and the CIO seem certain to increase. Their main functions have always been political functions—policy formation, campaigns, publicity, lobbying—and their main tools political tools—conventions, committees, research de-

partments, public speakers, magazines, and newspapers. As trade unions speak with greater authority on public policy matters, their voice must necessarily be a collective voice, and that can only emanate from the official representatives of the great federations. Both the AFL and the CIO have established their political departments as permanent features of federation activity and are preparing for a continuous round of political organization and campaigning into the indefinite future.

Union Leadership

Trade unionism is a going concern and big business. This calls for management, and the bigger the labor movement becomes, the more management it needs. Whether trade unions grew because of expert leadership or capable leaders appeared in response to the growth of unions is a fruitless inquiry. Just like businessmen, union leaders enjoy power and influence as a result of growth on the part of the organizations they head. This is as true of the modern crop of Murrays, Reuthers, and Becks as of the old-timers like John Mitchell, Samuel Gompers, and others who came to power during adversity and are remembered as much for their struggles as for their successes.

Organized labor is a big career field today, and many young men and young women prepare consciously and carefully for careers in union activity, just as others get themselves ready for business or the professions. Trade unionism may not pay quite as well as business or the professions, but there are a lot of jobs in it (about 110,000, according to one estimate in 1948), the work appeals to many newcomers in the job market, and both the range and intensity of union activity are on the increase. At the top, the salary and prestige are good, while the influence of the president of a large international union or of one of the major federations may exceed that of the chief officer of the largest corporation.

Murray of the Steelworkers and the CIO. Philip Murray, president of the CIO and of the United Steelworkers of America, is an example. He is paid a salary of \$20,000 a year (by the Steelworkers), has a large but unpublicized expense account, and takes no back talk from any management official with whom he deals. In fact, it is quite the other way around. The management representatives of the steel industry, en masse, are more than likely to listen respectfully to what Mr. Murray has to say. Murray receives frequent recognition from the White House and the Capital, being invited to both places regularly to discuss labor legislation, current disputes between management and labor, and perhaps even more intimate political matters. He is eligible for membership in any first-class club, is regularly invited to the Gridiron dinners in Washington, and is more in demand as

a speaker than the governors of most large states. He could probably name his own job and salary if he chose to take a management position. Nor is Murray in a class by himself. There are several jobs in organized labor which approximate his in power, and a number which exceed it in salary.

In several respects, Mr. Murray is typical of the top labor leaders of today. Practically all of them are from working-class families, short on education and long on hard work at an early age. Practically all have fought their way to the top of their unions without benefit of pull or special favor. The big jobs, at least in trade unionism, are mostly earned jobs. Although now president of the Steelworkers, Murray was a coal miner by trade. He was born in Blantyre, Scotland, in 1886, and came to the United States at the age of 16, becoming a naturalized citizen when he was 25. He had little formal schooling, went into the coal mines in his early teens, and at the age of 26 was a member of the international board of the United Mine Workers of America. Four years later he was president of District 5, and four years after that (in 1920) he became international vice president, at the same time that John L. Lewis was elected president.

For many years, Murray was Lewis's right-hand man, his trusted lieutenant in the negotiation of complicated agreements between the operators and the union, and his strong supporter in the secession of 1935-1936 from which the CIO was born. The two broke in 1940, when Lewis, carrying out his pledge to resign the presidency of the CIO if President Roosevelt were elected to a third term, prepared to withdraw the UMW from the CIO. Murray refused to accompany his chief, whereupon Lewis canceled Murray's membership in the miner's union. The card which Murray now holds in the Steelworkers' union is an honorary one, enabling him to accept the presidency of it and of the CIO as well. Murray and Lewis are no longer close friends.

Since 1940, Murray has been boss of both the CIO and the USA (United Steelworkers of America). Both have prospered, and he is regarded as a more than ordinarily successful labor leader, although some die-hard skeptics have pointed out that his administration has never had to weather any serious hardships, such as a major depression, an open-shop drive, or an unfriendly Federal government. Murray's principal characteristics have been a reputation for conservatism and for the highest personal integrity. He believes in keeping his word, in carrying out contracts to the letter, and in a practical, hardheaded, business approach to labor-management problems. There is no question of his great and permanent influence on the policy of the CIO, and little question of its wisdom. He has been a vigorous, determined leader of a new federation throughout a very troubled period in union-management relations, standing head and shoulders above any of his subordinates in the organization.

Organized Labor's All-American Eleven. Murray would be on anybody's All-American union team, along with several other absolutely topnotch labor leaders like John L. Lewis, Walter Reuther, James Caesar Petrillo, Dave Beck, Joe Curran, George Harrison, and Bill Hutcheson. The full first-string eleven and the positions they would be assigned to play might be matters of some choice, but the following line-up would give any competing squad of corporation executives plenty to think about (see Chart 4).

Chart 4. The 1948 All-American Union Team

Captain and Fullback MURRAY (Steelworkers-CIO)			
Right Halfback BECK (Teamsters-AFL)		Left Halfback REUTHER (Autoworkers-CIO)	
Quarterback LEWIS (Mineworkers-Independent)			
Right End PETRILLO (Musicians-AFL)	Right Guard HARRISON (Railway Clerks-AFL)	Left Guard RIEVE (Textile Workers-CIO)	Left End BRIDGES (Longshoremen-CIO)
Right Tackle HUTCHESON (Carpenters-AFL)	Center DUBINSKY (ILGWU-AFL)	Left Tackle CURRAN (NMU-CIO)	

Captain and Fullback: Murray (Steelworkers). No labor leader of modern times has demonstrated more conclusively than Murray the capacity for leadership on a broad scale. He has been the *leader*, in the best sense, of the entire CIO, including the officers and members of the affiliated unions as well as the staff of the CIO itself. Few labor leaders in this country have ever had the absolute loyalty of as many union men as Philip Murray. In addition, at the same time, Murray has directed the affairs of the United Steelworkers, the country's second (or third) largest union and certainly one of its most important, with skill and wisdom, a job which by itself would have been a credit to any full-time union official. Both here and in CIO affairs, he has shown a thorough grasp of policy formation, strategy, and execution.

A third aspect of Murray's performance since 1940 has been his growth as a public figure, his increasing influence with Congress, the President, and the general public. His characteristics as an individual have unquestionably added to this influence: his absolute personal integrity, his shrewd Scotch common sense, his hardheaded business approach to labor-management problems, and his seeming lack of the driving personal ambition which commonly affects successful labor leaders. More than any other man, Philip

Murray seems to speak for organized labor in America. He is currently the obvious choice for captain of the All-American labor eleven.

Quarterback: Lewis (Mineworkers). There should be little argument over who has the greatest tactical and strategic brain in organized labor today. It lies behind the bushy eyebrows of John Llewellyn Lewis. Brilliant, imaginative, courageous, unpredictable, vindictive, John L. Lewis has had the most checkered career of all in a group which specialized in variety. Born in 1880 and still vigorous at 69, his achievements include: vice president of the United Mine Workers, 1917-18, acting president 1919, president since 1920; long-time influential vice president of the AFL; organizer and leader of the CIO secession from the AFL in 1935; leader and first president of the Congress of Industrial Organizations, 1938 to 1940; leader of a series of outstandingly successful strikes against the government during the Second World War; leader in contract negotiations after the Second World War which brought coal miners to the position of highest paid union group in the country;³ leader in the establishment of the principle of portal-to-portal pay under the Wages and Hours Act; recipient of the largest individual and union fines ever levied by a United States court (in the injunction proceedings of 1946-47); and inventor and perfecter of the union-management health and welfare fund, financed by royalty payments based on units of production in the industry.

It is a massive list, one which cannot be approached by any other labor leader now alive and probably surpassed by none other than Samuel Gompers himself. Lewis is well worth his salary of \$50,000 a year, and his past achievements thoroughly justify the trepidation with which coal operators, industrial users of coal, and the general public look forward to the coming of spring, when the Mineworkers' agreements with their employers run out and must be renewed. Lewis is always good for a surprise and generally a shock.

Lewis's greatest weakness is probably a necessary accompaniment of his brilliance. It is the suspicion with which his varied tactics are regarded in union, management, and public circles. Not that anyone doubts his integrity; Lewis has seldom, if ever, been charged with breaking his word, violating a contract, or so much as shading an agreement. But Lewis is and always has been ambitious, very ambitious. This ambition, coupled with his imagination, his urge to do the new and spectacular, and his aggressiveness, gives a feeling of insecurity to those who deal with him, whether they be union colleagues, corporation representatives, or the U.S. Secretary of the Interior, with whom he has carried on a personal feud for a number of years. Even the public feels it. Coal is an important product. Lewis

³ *Average weekly earnings for bituminous miners were \$77.87 in August, 1948, for a work week of 39 hours.*

and his mine workers control the supply of coal. In his zeal to protect the miners, whom he sincerely feels have been shabbily treated, Lewis does not hesitate to treat the public to a shortage of coal. Hence, Lewis is widely and thoroughly disliked by all kinds of people, but no one has been brought to light yet who does not respect him and his great ability as a union leader. Given the team, the opposition, and the problem, no one is better qualified to call the plays for organized labor than John L. Lewis.

Right Halfback: Beck (Teamsters). The biggest union in the country is not the biggest by virtue of its top leadership, but because of the energy and ability of its executive vice president and "strong man", Dave Beck, who runs the "Western Conference of Teamsters" and is the most influential labor leader on the West Coast. Beck is young as AFL labor leaders go, having been born in 1894, and is noted for his ruthlessness and unorthodox organizing methods. His Western branch of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America moves practically "everything on wheels" in the 11 Western states of the Pacific Coast and Rocky Mountain region, and has expanded with abandon into such other fields as fruit canning, vegetable dehydration, automobile sales and service, dry cleaning, and service station operation. This does not make him a close friend of other AFL unionists, to whom the principle of "exclusive jurisdiction" is sacred writ. Beck's principle is "Organize them!" He has followed this principle so ruthlessly, disciplined his locals so firmly, and negotiated his contracts so ably that it is widely agreed on both sides of the labor-management fence that he earns his \$25,000 a year and to spare.

Left Halfback: Reuther (Autoworkers). As a running mate to Murray, Lewis, and Beck, there could hardly be a better selection than the brilliant freshman union president, Walter Reuther of the Autoworkers. Born in 1907, Reuther is the youngest head of a major union but already a veteran of more than ten years of bloody organizing struggle, violent internal union strife, and the growth and stabilization of the CIO. He is one of the few union leaders with some college education, having attended Wayne University in Detroit for 3 years. At the age of 17, he was an apprentice tool-and-die maker, following which he worked for Briggs Manufacturing Company (auto bodies), General Motors, and Ford, becoming a foreman for the latter in 1931-32. He quit his job to take a 3-year trip around the world observing auto plants and machine shops, returning in 1935 to start organizing auto workers in the great drive of 1935 to 1937. His success was phenomenal, and he became successively: president, Local 174, UAW (CIO); vice president, International Union, UAW (CIO); director, General Motors Division, UAW; member, Labor Management Policy Committee, War Manpower Commission; and member, Labor Management Policy Committee, Labor Production Division, War Production Board. In 1947, after a bitter

political fight within the union, he won the presidency, carrying into office with him a complete new slate of officers, as well as a large majority of the union's executive council. Intelligent, courageous, and ambitious, it is freely predicted that Reuther is a man to watch in the labor movement in the years ahead.

Center: Dubinsky (Ladies' Garment Workers). At the pivot position one should have the most reliable man available, with a thorough knowledge of defensive and offensive tactics, and an understanding of both line and backfield play. There are probably few people in organized labor with a better grasp of its history, philosophy, strategy, and tactics than David Dubinsky, since 1932 president of the International Ladies' Garment Workers Union. Born in Brest Litovsk, Poland, in 1892, Dubinsky had been banished to Siberia for union activities by the time he was 16 and 3 years later came to the United States where he joined the ILGWU, working up through the ranks to the presidency after successive terms as vice president and secretary-treasurer.

Dubinsky is a self-educated man of great energy and a wide range of interests. The union which he heads reflects its leader. It has been outstanding in its educational, cultural, and recreational activities for members and their families, producing the smash stage hit of the depression, "Pins and Needles," and operating numerous clinics and rest camps, as well as other forms of group service. However, the ILGWU is not just a community center; it is a hard-hitting, aggressive trade union in an industry afflicted by overcompetition, seasonal change, and depressed living standards for employees. Along with Lewis and Hillman, Dubinsky was one of the leaders of the CIO rebellion which founded the industrial union movement in the mass-production industries of the United States. Before Lewis did, Dubinsky withdrew, but for a different reason. He believed strongly in a united labor movement and took his union back to the AFL as a gesture of invitation and to provide a "friend at court" for his colleagues in the CIO. The Dubinsky view is labor-management cooperation and team play. He is a man of ideas and executive ability, respected alike by his colleagues and the business executives with whom he deals.

Guards: Harrison (Railway Clerks) and Rieve (Textile Workers). Flanking Mr. Dubinsky at center are two men with whom he has been colleagues at one time or another, although in different camps. At right guard, George McGregor Harrison, president of the Railway Clerks (AFL) since 1928, brings over 30 years of experience in railroad unionism to this important line position. A relatively young man (born in 1895), his list of achievements is sufficient proof of his ability. A sampling is as follows: chairman, Railway Labor Executives Association; member, Draft Committee of the Social Security Act; member of the President's Committee on Industrial Analysis;

member, Joint Railroad Labor-Management Committee on the War Effort; member, Executive Committee of the American Association for Labor Legislation; member, Board of Directors, Social Science Research Council; member, Board of Directors, National Bureau of Economic Research, and many others. Mr. Harrison is known as an intelligent, forceful labor executive, with an excellent grasp of public questions. He heads the largest railroad union and has been unusually successful in directing its affairs in an industry where union-management relations are of national importance and, hence, strictly governed by law.

It was Harrison's union which tested the Railway Labor Act of 1926 by asking for an injunction to prevent the Texas and New Orleans Railway from destroying the clerks' organization on their system. This court case produced one of the great legal victories of organized labor, establishing the constitutionality of the statutory guarantee of the right to organize and bargain collectively,⁴ and subsequently becoming the precedent for upholding the Wagner Act in 1937.

At left guard is Emil Rieve, president of the Textile Workers Union of America since 1939. Born in 1892 in Zyradow province of Poland, Rieve came to the United States at the age of 12 and became a naturalized citizen some years later. By 1929, he was president of the American Federation of Hosiery Workers, which 10 years later became the TWU. Rieve has been a successful union leader in a difficult industry, plagued by the decline of manufacturing in New England and the removal of plant after plant to the South. He has also been prominent in public life as member of numerous labor-management boards and committees, as well as holding membership on such bodies as the National Planning Association, the Foreign Policy Association, and the American Arbitration Association.

Tackles: Hutcheson (Carpenters) and Curran (National Maritime Union). For the key spots in the line, both defensive and offensive, the starting line-up would include William L. Hutcheson, president of the Carpenters (AFL) since 1915, and Joe Curran, practically founder and president of the National Maritime Union since 1937. Hutcheson, first vice president of the AFL since 1940, and head of the fourth largest union in the country, is now well along in years, having been born in 1874. He is a trade unionist pure and simple, on the old Gompers pattern, and his outside activities consist principally of a term on the War Labor Board in the First World War, 1917 to 1919, and chairmanship of the Labor Division of the Republican party from 1932 to 1936. Running the Carpenters' union has not called for much in the way of fancy footwork. Construction is a local industry, the local union lodges have great autonomy, and labor organization has a long tradition in the building crafts. However, there has been no deterioration of the Car-

⁴ Texas and New Orleans Railway v. Brotherhood of Clerks, 281 U.S. 548 (1930).

penters' position in recent years and under "Big Bill" the union has prospered both in membership and finances.

Joseph Edwin Curran, on the other hand, might be Mr. Hutcheson's son from the standpoint of age, since he is 32 years the other's junior. Curran has been a sailor since he was 16, following a career as a factory hand which started at the age of 13. He took part in the great West Coast shipping strike of 1934, which brought about a revolutionary change in labor-management relations on American vessels, and 3 years later became president of the newly formed National Maritime Union. Like many of his colleagues, who head up CIO unions, Curran has had a stormy time with employers and with fellow unionists. The principal job of the union was to regularize hiring by means of union-run hiring halls to take the place of the former casual dock-side employment practices, and to improve wages and working conditions on the ships. In both, they have been notably successful.

The NMU is small, as modern unions go, having around 75,000 members, but its influence is better measured by the importance of the industry it controls—East Coast shipping, particularly that entering and leaving the port of New York. The union is noted for its democratic methods, the extent of participation in meetings by all members, and the strongly liberal political sentiments of many of its officers and cardholders. It has been a powerful influence toward improving the condition of one of the most underprivileged groups of employes to be found anywhere, and the rise in the status of sailors over what it was prior to 1934 is startling.

Ends: Petrillo (Musicians) and Bridges (Longshoremen). It would be hard to find a pair of union leaders who have given better evidence of the capacity for rapid improvisation and airtight defensive work than James Caesar Petrillo, president of the American Federation of Musicians (AFL), and Harry Bridges, president of the International Longshoremen's and Warehousemen's Union (CIO). Petrillo is reputed to be the highest paid union official in the United States, with a salary of \$60,000 a year, plus a handsome expense account and a bulletproof car furnished by the union. The reason for the latter precaution is unknown, unless it is that his home is Chicago. If the salary figure is correct, there would still be little doubt in the minds of most musicians that Petrillo is worth every cent of it. His name has been synonymous with prosperity for music makers.

As a union boss, Petrillo has been inventive and ruthless. He has not hesitated to stop any kind of entertainment, of even the most harmless type, if he felt that nonunion players were producing the music which should be brought forth by his own unionists. Petrillo did not invent the "stand-by," but he made it famous. A stand-by is a union musician who "stands by" and receives pay for doing nothing while nonunion musicians perform. Petrillo's pet peeve is the amateur musician and his pet fear (or so he says), technology,

or "canned" music. Both are threats, in his eyes, to the honest, hard-working, professional musician who has invested a lifetime in his artistic skill and who deserves to be supported by a society which gets much of its pleasure from music.

Amateur musicians are all right and necessary, but beyond a certain point they encroach upon the livelihood of the professionals, and at that point Petrillo introduces the "stand-by" if it is worth that much to the amateurs or their sponsors for them to perform. Musical technology—principally recordings and radio broadcasting—is also all right in its place (although it is conceivable that Petrillo would prefer music "made on the spot" in every case), but Petrillo has visions of juke boxes and record players eliminating all but a few top bands and orchestras from the country's musical labor force.⁵ His answer to this is a royalty paid to the union on every record sold, the proceeds to go into a fund for unemployed musicians against the awful day when the machine will have taken their jobs. This gloomy ending to the modern musical era sounds fantastic and is quite improbable, but Petrillo makes it stick and upon occasion shuts down the entire recording industry in the country to encourage the record makers to cooperate. With Petrillo at right end, few plays would get around that side of the line.

Petrillo's alter ego on the All-American labor team, left-end Harry Bridges, is totally different in background and environment from his teammate, but rivals him in brilliant leadership and effectiveness. Petrillo is a Chicagooan of Italian ancestry, Bridges a cockney Australian immigrant. Petrillo's union contains artists and musicians, people who wear nice clothes, work late at night, and get various rates of pay running up to several thousands of dollars for one evening's performance. Bridges's union contains longshoremen and warehousemen, the modern-day casual worker of the dockside, most of whom never dress more elegantly than in overalls and who are traditionally rough, tough, and spoiling for a fight. Petrillo has been something of an artist himself in the use of the stand-by and the royalty payment and in his timing of publicity and other strike moves. Bridges relies more on the power play, the direct frontal attack, and his union problems have been the more usual ones of control of hiring and improvement of wages, hours, and working conditions.

It would be a careless reporter, however, who would put Bridges second to anyone in molding a powerful union out of difficult materials. The West Coast waterfront is the Bridges preserve. His International Longshoremen's and Warehousemen's Union, with its relatively slight membership of 75,000,

⁵ The fact that the employment of musicians has grown steadily during the period of most rapid technological development in music is either disregarded or credited to the policies and leadership of the American Federation of Musicians.

dictates to the shipping interests of Los Angeles, San Francisco, and Seattle. It is the funnel through which shipping pours into and out of the West Coast ports, and the united front which it presents is not exceeded by that of its principal opponent, the Waterfront Employers' Association (WEA) of San Francisco. During the Second World War, it also extended the benefits of organization to the docks and plantations of Hawaii, and it may be taken for granted that Bridges has further plans for the enlargement and improvement of his union.

Bridges has at times been under fire as a Communist, and two attempts have been made to deport him as an undesirable alien who was advocating subversive doctrine (the overthrow of the government by force or other unconstitutional means), but without success. His principal achievements have been the decasualization of longshoring through the union-run hiring hall and the negotiation of a series of the most extensive agreements with employers, geographically speaking, to be found anywhere in the country. Bridges's agreement with the West Coast shipping and warehousing industry is a master contract for the entire Pacific Coast, the largest regional agreement by one union in United States labor relations. As a labor leader, Bridges has the additional distinction of complete integrity in the observance of a contract. This, of course finds favor in the eyes of waterfront employers, many of whom are willing to admit privately that Bridges has been a good thing for employment relations on the Coast. Whether it be offense or defense, the left end of the line would be in good hands if Bridges were playing that position.

The Importance of Union Leadership. It is possible that not enough attention has been paid to the importance of leadership in the union movement. Trade unionism is a grass-roots development, without doubt, with many standard practices and considerable uniformity all along the line. However, it is also full of variations, contradictions, divergencies, and paradoxes. Much of this may be traced to environment; employment conditions, as in the cases contrasted above (musicians and longshoremen), are infinitely varied and call for wholly different treatment and approach. However, it can be argued that even more of it is due to the character and capacity of the men who, by chance or design, come to positions of power in the unions. A Samuel Gompers at the head means one kind of labor movement, a Eugene V. Debs, a John L. Lewis, or a Philip Murray, another. The personal power of important labor leaders is very great, their opportunities to make vitally important decisions ever present. There are a number of reasons for this.

In the first place, internal discipline in unions is traditionally very strict, approximating that of military organizations, so that a policy once decided upon is rarely questioned afterward. An announced policy therefore

becomes a *fait accompli*, making it easy for the official group in charge to control the decision making. In fact, it makes it difficult for them to avoid it. In the second place, union leaders are typically the heads of very large groups of workers who are geographically scattered and represented only through local and district officials who have inadequate opportunities both to sound out the membership and to get the ear of their superiors. The annual convention may make legislative action possible, but the interim decisions are up to the top officials without benefit of referendum. In the third place, union members are for the most part inadequately trained and educated and must rely to a much greater extent than other groups upon their leaders for advice. Very few miners are in a position to evaluate the wisdom of a set of bargaining proposals containing policy implications as well as many technical rules. They must rely upon the recommendations of a few top officials whom they trust.

Fourth, and finally, is that element of trust. Trade unionism is a doctrine, a creed. Union leaders are not just business representatives or even legislators for their membership. They are semiheroes, often bearing scars of long-forgotten strikes and jail sentences. The typical member's reliance upon Walter Reuther or Joe Curran or Dave Beck is supported by his knowledge that they have been martyrs to managerial "goons" in the "Battle of the Overpass" or the "Great Strike of 1934," have served jail terms for overzealous picketing, or have otherwise proved the depth of their convictions. To question their decisions would be almost to question his (the member's) own faith in trade unionism.⁶ He therefore delegates to his leaders an initiative and authority which are far-reaching in their implications, especially when a vital industry is at stake or when union membership runs into the hundreds of thousands.

The Friends of Organized Labor

The labor movement does not consist entirely of members of trade unions and their families. They have powerful friends, many of whom are entirely outside the labor movement as such. Organized labor is a minority group in the United States, although probably the largest and most powerful of such. It would never have reached its present size and influence without the help of an assortment of sympathetic well-wishers in politics, education, religion, and the professions.

In politics, at the national level at least, organized labor and its program are the property of the Democratic party. This proprietorship has been honestly come by, with a consistent record throughout the twentieth century of Demo-

⁶ The essential kinship of all organized labor is illustrated by the standard salutation in trade-union correspondence: "Dear Sir and Brother."

cratic administrations friendly to trade unionism, and with no competing record of friendliness on the part of the Republicans. It was Woodrow Wilson's administration which brought about the passage of the Clayton Act (incorrectly hailed by Samuel Gompers as "Labor's Magna Charta," although intended as that by Congress) and the Adamson Act which reduced hours of work on the railroads to 8 a day with no reduction in pay. It was also the Wilson administration which gave organized labor its first big taste of wartime encouragement in 1917-18, resulting in the rise of union membership to 5 million by 1920. The tradition was maintained unbroken and even improved upon by Franklin D. Roosevelt in his three terms and Harry Truman in the Roosevelt fourth. Roosevelt's great friendship with and aid to organized labor are too well known to require comment, and the subsequent Truman veto of antilabor legislation (Case Bill in 1946, Taft-Hartley Bill in 1947) and support of organized labor's program in the 1948 campaign and in the Eighty-first Congress are recent history.

On the Republican side, Presidents Taft, Harding, Coolidge, and Hoover were decidedly neutral if not cool to organized labor. Only Theodore Roosevelt had a program which might have enlisted union enthusiasm, but the "progressive" spirit in the party was soon overwhelmed by the conservative wing. Coolidge first attracted national attention when he broke a policemen's strike in Boston, and the traditional sympathy of Republican politicians for big business, high tariffs, low taxes, and limited government services has done little to endear the Republican party to union officials or the men they represent.

Organized labor has recently gained another ally. A pronounced feature of the past decade has been the shift of religious influence to the side of the trade unions and the criticisms of "capitalism" which have been voiced in church conferences and pulpits. The outstanding single organization is the Roman Catholic Church, which is lined up solidly with union labor, at all levels of the hierarchy. It is strongly seconded, however, by some of the ablest leaders of the major Protestant faiths, who have sided with employe organizations in denunciation of restrictive legislation and of employer opposition to union demands.

One of the most influential sources of union assistance, however, has been the colleges and universities. Trade unionism was first made respectable by a small group of "institutional" economists and research workers who insisted upon investigating the phenomenon of labor organization and who accorded to it the dignity of an academic "discipline." Foremost among these pioneers was John Rogers Commons, whose following at the University of Wisconsin produced a number of scholars and administrators in labor matters, with an important influence upon early union growth and public acceptance.

Other early centers of union study were the John's Hopkins University, where D. A. McCabe and his associates produced a number of important studies, and the University of Chicago, where the most active student of labor problems was Robert F. Hoxie.

The modern tendency is to make labor relations a part of the regular curriculum in colleges of arts and sciences and to carry the graduate program of research and study in labor relations beyond the limits of any single department to the status of an "institute" or even a "school" of its own. One of the states—New York—has a separate professional school of "industrial and labor relations," as a part of the state university organization, while a large number of other universities, public and private, have "institutes of industrial relations" or "industrial relations centers," where scholars from several departments unite in a teaching and research program for regular students, trade unionists, and management representatives. The great majority of these educational centers are under the direction of professors who are strongly pronoun, and a large part of the classroom instruction is devoted to such topics as union history, policies, management, and techniques. In many cases, special classes are set up for trade-union officials or for members who want to prepare for union duties.

It would be difficult to overestimate the influence of the Harvard Trade Union Fellowship Program, the Yale Labor and Management Center, the Wisconsin School for Workers, the University of Chicago Industrial Relations Center, the University of California Institute of Industrial Relations, and the many companion undertakings in colleges and universities across the country upon the public attitude toward organized labor. As Keynes said, "Soon or late, it is ideas, not vested interests which are dangerous for good or evil." Among the friends of organized labor, it is the college teachers, the research workers, and the students who record and spread the ideas of trade unionism. As assistants in the cause of a growing labor movement, they should not be ranked last.

Readings

Comparisons can at times be very dramatic. It is suggested that students refer to Chap. 14, "The Present Status of Union Organization," in the widely used textbook, *Labor Problems in America*, by Emanuel Stein, Jerome Davis, and others.⁷ This chapter brings the development of unionism up to the halfway mark of 1939 in the New Deal expansion, emphasizing the rapid increase in size and influence of the organized labor movement since 1933. The achievements of the war decade are thereby set in perspective. A good assignment to stress the importance of trade unionism at the end of the Second World War is the Preface and Chap. I, "The Labor Movement—Its Rise and Its

⁷ New York: Rinehart & Company, Inc., 1948 (fifth printing).

Present Status," in Professor Sumner H. Slichter's recent book, *The Challenge of Industrial Relations*.⁸ There have been a number of more or less detailed reports on labor leaders in the last ten years, mostly in popular and semipopular magazines. Among the best is the profile of Joe Curran in the *New Yorker* of July 6, 13, 20, 1946. Another is the report on Dave Beck of the Teamsters, in *Time*, Nov. 29, 1948. A sociological study of *The Labor Leader* as a type, by Eli Ginzberg, was published in 1948.⁹

⁸ Ithaca, N. Y.: Cornell University Press, 1947.

⁹ New York: The Macmillan Company.

11. THE FIRST HUNDRED YEARS: 1786-1886

Organized labor is something which grew up with the country. It therefore has a long history, and its history is important for those who want to know something about it. History is a study of the time factor—the growth factor. It is a necessary aid to understanding anything which grows and develops, whether it be a person, an organization, or a country. No one would expect to understand a man without some knowledge of his ancestry and background, his boyhood, home life, schooling, friends, enemies, struggles, and triumphs. Trade unionism in the United States has also had ancestors (the European guilds, some say); a sickly, protracted, and struggling childhood in a rapidly changing environment; many friends and many enemies; and its share of triumphs and defeats. The complex pattern of modern union-management relations carries over much of the past in its customs and traditions. It is easier to comprehend if one knows what has gone on before.

Dates and Periods. Since history is an attempt to interpret the effect of the time factor in human affairs, it is a matter of periods and dates. Some historians avoid the division of their subject matter into periods, but most of them yield to the convenience and advantage of marking off significant intervals in order to help the reader to remember and dramatize their interpretations.¹ This is a strictly arbitrary procedure, of course, since time is an endless continuum,² but it is an extremely helpful one in that *what happens in the course of time is not*, nor are the rates of change or directions of change as constant as the ticking of a clock. Historical periods and significant dates have as their main purpose the identification of events of outstanding importance which have a significant influence on the development of whatever is being studied.

¹ For example, "ancient," "medieval," and "modern," are standard historical time separations.

² *Natura non facit saltum* (Nature [and time] does not make jumps.)

What the dates and periods will be are matters of selection by the historian. The most authoritative study of trade unionism in recent years, Millis and Montgomery's *Organized Labor*,³ divides the history of the labor movement in this country into four main periods: (1) the nineteenth century, (2) the period from 1890 to 1920, (3) the 1920's, and (4) the period since 1930. A more detailed breakdown and one very widely used, since it follows the outline originally set up by Mary Beard in her fine *Short History of the American Labor Movement*,⁴ is the following:

1. The period of local craft unions, 1792 to 1827
2. The period of political and social agitation, 1827 to 1850
3. The period of national organization, 1850 to 1866
4. The period of amalgamation, 1866 to 1886
5. The period of federation, 1886 to 1935
6. The period of industrial unionism, 1935 to —

Almost all historical surveys of organized labor in this country, including that of Mrs. Beard, take their material from the definitive, four-volume *History of Labor in the United States*, by John R. Commons and Associates,⁵ or the excellent one-volume *History of Trade Unionism in the United States*, by Selig Perlman,⁶ who was Professor Commons's principal "associate" in most of his trade-union studies.

The principal historical issues are issues of interpretation; there is usually considerable agreement on the facts. Interpretation means deciding what events, dates, and periods were important in the given case. In the matter of periods, the history of trade unionism will be divided into three principal eras in this book:

1. 1786 to 1886: The first century of growth and development, during most of which there was no labor movement worthy of the name, although there were several events of the utmost importance to the future of organized labor.

2. 1886 to 1936: The 50 years of AFL domination, during which the labor movement took root, established itself, worked out its philosophy and methodology, and became a permanent and accepted part of American life.

3. 1936 to —: The period of the rise of industrial unionism and the CIO, during which the labor movement matured as rapidly as some boys in late adolescence, who almost overnight develop broad shoulders and gruff voices and appear ready for adult responsibility. In less than 10 years after

³ New York: McGraw-Hill Book Company, Inc., 1945.

⁴ New York: Harcourt, Brace and Company, Inc., 1936.

⁵ New York: The Macmillan Company, 1918-1934. This in turn was an outgrowth of the monumental 12-volume *Documentary History of American Industrial Society*, by Commons and Others (Arthur H. Clark Company, Glendale, Calif., 1912).

⁶ New York: The Macmillan Company, 1922.

1936, organized labor in the United States moved up to front rank in economic and political power. There is no question of the breadth of its shoulders or of the gruffness of its voice. There is some question of its readiness for national responsibility.

"The First Hundred Years Are the Hardest" (Mizner)

1786 to 1886. The first century of trade unionism in the United States starts with the first recorded strike (of some Philadelphia printers for a minimum wage of \$6 a week) and ends with the formation of the American Federation of Labor in Columbus, Ohio. In between were 100 years of national growth, during which the United States fought one foreign and one domestic war, national boundaries spread westward to the Pacific Ocean and southward to the Rio Grande, population grew from 4 million to 58 million, and the center of population moved westward from 23 miles east of Baltimore, Md., to 20 miles east of Columbus, Ind. It was a period dominated by the frontier, expansion, free land, and movement westward.

Politically, this 100-year interval witnessed the successive rise and decline of the Federalists, the Jeffersonian Republicans, the Jacksonian Democrats, and the Whigs, and was topped by the long postwar domination of the Republican party following Lincoln. Two years before the founding Convention of the AFL in 1886, Grover Cleveland, the first Democratic President in 24 years, was elected to his first term. The period ended in a blaze of economic expansion between the great depressions of the 1870's and the 1890's.

Highlights of the commercial and industrial revolution in this country were: the laying of the Atlantic cable in 1866; the invention and beginning of commercial use, between 1855 and 1885, of: the Bessemer process for making steel, the typewriter, the Westinghouse air brake for freight cars, the Oliver steel plow, railway refrigeration, the Washburn and Pillsbury processes for grinding wheat to flour, the telephone, barbed wire, the phonograph, the electric light, and the linotype; and the rapid expansion of trans-continental railroad lines, of which three were in use by 1883. In 1886, the final year of the period, the U.S. Supreme Court, in *Santa Clara County v. Southern Pacific Railroad*,⁷ gave the private business corporation a practically impregnable legal position by calling it a "person" in the meaning of the Fourteenth Amendment to the Federal Constitution, thus entitling it to the "privileges and immunities" of citizenship, with which the states could not interfere. Big business was on its way.

What happened to trade unionism in this great 100 years? The answer is: There was not much of it, at least until the very end of the period, and

⁷ 118 U.S. 394.

what there was had its ups and downs. In the perspective of today, the significant events and periods are the following:

1806: The Philadelphia Cordwainers Case. This is one of the most celebrated court cases in trade-union history, and its importance lies in its showing of the legal attitude toward organized labor during the early years of the American Republic. A cordwainer is a shoemaker. The full name of the case reveals the purpose of the prosecution. It was "The Trial of the Boot and Shoemakers of Philadelphia on an Indictment for a Combination and Conspiracy to Raise Their Wages."⁸ The attitude of the Court was made clear in one brief, pointed passage: "A combination of workmen to raise their wages may be considered from a twofold point of view; one is to benefit themselves, the other to injure those who do not join their society. The rule of law condemns both."⁹ This was the so-called "conspiracy doctrine," which meant that the activities of trade unions were in themselves illegal conspiracies, punishable by fine and imprisonment. It was an imported doctrine, brought over from England, where it had been in effect for centuries in both statutes and court decisions. Until it was reversed, there was obviously little scope for trade-union operations, except as secret societies outside the law.

1810 to 1830: Establishment of White Manhood Suffrage. During this 20 years, Maryland, South Carolina, New York, Massachusetts, and Virginia removed practically all property restrictions from the right to vote, thus making it possible for propertyless workingmen to have a voice in the selection of political leaders and the formation of basic policies. The lead of these important states was subsequently followed throughout the country, and the "rise of the common man and the era of reform" were under way. In view of subsequent developments, there are few occurrences in the history of the country more favorable to the cause of organized labor. Trade unionism is a grass-roots movement. Even with the vote, there have been long periods when hostile courts and administrative officers have defeated the clear will of the electorate on labor issues. Without the ballot, trade unionism would have been powerless to influence, much less initiate and force through, the many social reforms associated with its support.

It may or may not be a coincidence that there was a resurgence of union activity during the decade, 1827 to 1837, which included the organization of a Workingmen's party in Philadelphia and New York, followed in 1833 by a General Trades' Union, which brought together all the trade societies of New York City into one organization. A year later, this body called a convention and established the National Trades' Union, the first

⁸ E. W. Bakke and Clark Kerr, *Unions, Management, and the Public*, p. 272 (New York: Harcourt, Brace and Company, Inc., 1948).

⁹ Millis and Montgomery, *op. cit.*, p. 22.

attempt at nationwide trade-union federation. By 1836, Philadelphia had 58 local unions; New York, 52; Newark, 16; Pittsburgh, 13; Cincinnati, 14; and Louisville, 7.¹⁰ None of them were on very solid foundations, though. A financial panic arrived in 1837, and in a year or two, every form of labor organization—from the local trade societies to the National Trades' Union—had disappeared. From 1837 to 1850, the labor movement wallowed in a sea of "isms": associationism, agrarianism, socialism, Owenism, etc. It did not return to "safe and sane" unionism until the middle of the 1850's, when a number of national unions were started, some of which are still in existence, e.g., the typographers, locomotive engineers, cigar makers, machinists, and blacksmiths.

1842: Commonwealth v. Hunt.¹¹ This case is even more celebrated than that of the Philadelphia Cordwainers (at least, by trade unionists), because it reversed the latter. In *Commonwealth v. Hunt*, the conspiracy doctrine as applied to trade unions was specifically and carefully and authoritatively tossed out the window. The tossing was done by Chief Justice Shaw of the Supreme Judicial Court of Massachusetts, and the prestige of this jurist was so great that the precedent he set was seldom disregarded afterward, even in other states, whose judicial systems were supposed to be independent of the Massachusetts court.

It was another cordwainers' (shoemakers') case. The issue was the right of the Boston Journeymen Bootmakers' Society (the union) to enforce a closed-shop agreement upon one Isaac B. Wait, a master cordwainer (the employer), by compelling him to discharge one Jeremiah Horne, a member of the union, who had refused to pay a union fine and thus fell into bad standing. The lower court found the Society guilty of a criminal conspiracy, and the verdict was appealed. Chief Justice Shaw's ruling is a permanent classic:¹²

The averment is this; that the defendants and others formed themselves into a society, and agreed not to work for any person who should employ any journeyman or other person, not a member of such society, after notice given him to discharge such workman. The manifest intent of the association is, to induce all those engaged in the same occupation to become members of it. *Such a purpose is not unlawful.* It would give them a power which might be exerted for useful and honorable purposes, or for dangerous and pernicious ones. If the latter were the real and actual object, and susceptible of proof, it should have been specially charged. Such an association might be used to afford each other assistance in times of poverty, sickness and distress; or to raise their intellectual, moral and social condition; or to make improvement in their art; or for other proper purposes. Or the association might be designed for purposes of oppression and injustice. . . .

¹⁰ Perlman, *op. cit.*, p. 19.

¹¹ 4 Metcalf (Mass.) 45.

¹² Italics supplied.

Nor can we perceive that the objects of this association, whatever they may have been, were to be attained by criminal means. The means which they proposed to employ, as averred in this count, and which, as we are now to presume, were established by the proof, were, that they would not work for a person, who, after due notice, should employ a journeyman not a member of their society. Supposing the object of the association to be laudable and lawful, or at least not unlawful, are these means criminal? The case supposes that these persons are not bound by contract, but free to work for whom they please, or not to work, if they so prefer. In this state of things, we cannot perceive, that it is criminal for men to agree together to exercise their own acknowledged rights, in such a manner as best to subserve their own interests. . . .

"We think, therefore, that associations may be entered into, the object of which is to adopt measures that may have a tendency to impoverish another, that is, to diminish his gains and profits, and yet so far from being criminal or unlawful, the object may be highly meritorious and public spirited. The legality of such an association will therefore depend upon the means to be used for its accomplishment. . . .

The extreme importance of the Hunt case was that it removed the second of the two major disabilities that the labor movement suffered at the opening of the nineteenth century. These disabilities were: (1) property restrictions upon the right to vote, and (2) the doctrine that combinations of employes for purposes of collective bargaining were in themselves illegal. With both of them out of the way, the stage was set for the trade-union movement to take root. First, however, it had to weather the War Between the States and Reconstruction.

1848: The Communist Manifesto. The year 1848 marked the climax of a series of radical reform movements throughout Europe, all of them based on worker discontent. In France, Germany, and Austria, there were revolutions. Bloody street fighting in Paris, the most severe yet seen in Europe, was led by officers of the "national workshops" (trade unions). It brought prompt reprisals. French conservatives, alarmed by the "specter of communism," supported a military regime under General Cavaignac, which was succeeded by the virtual dictatorship of Prince Louis Napoleon, and the radical movement was crushed.¹⁸

What was the "specter of communism," which so appalled the property owners?

It was a reference to the first line of the *Manifesto of the Communist Party*, by Karl Marx and Friedrich Engels, a French translation of which was distributed in Paris shortly before the insurrection of June, 1848. That first line is far more accurate today, 100 years later, than it was in January, 1848, when it was written. It goes: "A spectre is haunting Europe—the

¹⁸ William L. Langer, (ed.), *An Encyclopedia of World History: A Revised and Modernized Version of Ploetz's "Epi tome,"* p. 637 (Boston: Houghton Mifflin Company, 1940).

spectre of Communism. All the powers of old Europe have entered into a holy alliance to exorcise this spectre; Pope and Czar, Metternich and Guizot, French Radicals and German police-spies."¹⁴

The *Communist Manifesto* is most important as a symbol of an idea and a movement. The idea is the class struggle; the movement, the rise to power of workingmen through organization and political action (to the "dictatorship of the proletariat"). According to Marx and Engels, "The history of all hitherto existing society is the history of class struggles." They continue:¹⁵

Freeman and slave, patrician and plebeian, lord and serf, guild-master and journeyman, in a word, oppressor and oppressed, stood in constant opposition to one another, carried on an uninterrupted, now hidden, now open fight, a fight that each time ended, either in a revolutionary reconstitution of society at large, or in the common ruin of the contending classes.

In the earlier epochs of history, we find almost everywhere a complicated arrangement of society into various orders, a manifold graduation of social rank. In ancient Rome we have patricians, knights, plebeians, slaves; in the middle ages, feudal lords, vassals, guild-masters, journeymen, apprentices, serfs; in almost all of these classes, again, subordinate graduations.

The modern bourgeois society that has sprouted from the ruins of feudal society, has not done away with class antagonisms. It has but established new classes, new conditions of oppression, new forms of struggle in place of the old ones. Our epoch, the epoch of the bourgeoisie, possesses, however, this distinctive feature; it has simplified the class antagonisms. Society as a whole is more and more splitting up into two great hostile camps, into two great classes directly facing each other: Bourgeoisie and Proletariat.¹⁶

Marx and Engels were by no means the sole proprietors of the notion that the lot of the workingman should be improved. They and their manifesto were simply the apotheosis of an era of reform which included the work and writings of Saint-Simon, Fourier, Blanc, and Proudhon in France, Bakunin in Russia, Rodbertus and Lasalle in Germany, and Robert Owen in England. Everywhere the reason was the same: the Industrial Revolution, misery and destitution among workers and their families, and insecurity born of alternating periods of employment and unemployment, prosperity and depression. In America, the same influences were at work, but they were overshadowed by the slavery issue and the war that grew out of it. They reappeared, following the war, in a form of abortive mass unionism

¹⁴ P. 11. Chicago: Charles H. Kerr & Company.

¹⁵ *Op. cit.*, pp. 12-13.

¹⁶ "By bourgeoisie is meant the class of modern Capitalists, owners of the means of social production and employers of wage-labor. By proletariat, the class of modern wage-laborers who, having no means of production of their own, are reduced to selling their labor-power in order to live." (*Communist Manifesto*.)

and political action, which reached its high point in the explosive growth of the Knights of Labor.

The importance of Marxian ideology to the growth of organized labor is debatable, but its relationship is not. See, for example, the preamble to the constitution of the American Federation of Labor, in 1932:¹⁷

Whereas, A struggle is going on in all the nations of the civilized world between the oppressors and the oppressed of all countries, a struggle between the capitalist and the laborer, which grows in intensity from year to year, and will work disastrous results to the toiling millions if they are not combined for mutual protection and benefit. It, therefore, behooves the representatives of the Trade and Labor Unions of America, in convention assembled, to adopt such measures and disseminate such principles among the mechanics and laborers of our country as will permanently unite them to secure the recognition of rights to which they are justly entitled. . . .

Whether or not it is true, the Marxian dogma is a fundamental of the labor movement. Briefly stated, that dogma is: a proletarian class of wage laborers whose fundamental interests are everywhere the same and in the main opposed to the interests of their employers. In the United States, which is today of all the great powers the farthest away from the modern Communist ideology, it is only necessary to read any current issue of the *CIO News, Labor* (publication of the railway unions), or the *American Federationist*, to find this basic idea expressed again and again.¹⁸ As Marx and Engels stated clearly, trade unionism, in their view of things, was one step in the development of a proletarian ruling class:¹⁹

The essential condition for the existence, and for the sway of the bourgeois class, is the formation and augmentation of capital; the condition for capital is wage-labor. Wage-labor rests exclusively on competition between the laborers. The advance of industry, whose involuntary promoter is the bourgeoisie, replaces the isolation of the laborers, due to competition, by their revolutionary combination, due to association. . . .

But with the development of industry the proletariat not only increases in number, it becomes concentrated in greater masses, its strength grows, and it feels that strength more. The various interests and conditions of life within the ranks of the proletariat are more and more equalized, in proportion as machinery obliterates all distinctions of labor, and nearly everywhere reduces wages to the same low level. The growing competition among the bourgeois, and the resulting commer-

¹⁷ H. S. Commager, *Documents of American History*, Sec. 2, p. 412 (New York: Appleton-Century-Crofts, Inc., 1944).

¹⁸ This does not imply that organized labor must support the policies of any particular government (like that of the U.S.S.R.) which calls itself Communist. It does mean, however, that without a permanent laboring class (an industrial proletariat), a stable union movement would be an impossibility.

¹⁹ *Op. cit.*, pp. 24, 29, 30, 31.

cial crises, make the wages of the workers ever more fluctuating. The unceasing improvement of machinery, ever more rapidly developing, makes their livelihood more and more precarious; the collisions between individual workmen and individual bourgeois take more and more the character of collisions between two classes. Thereupon the workers begin to form combinations (Trades' Unions) against the bourgeois; they club together in order to keep up the rate of wages; they found permanent associations in order to make provision beforehand for these occasional revolts. Here and there the contest breaks out into riots. . . .

The immediate aim of the Communists is the same as that of all the other proletarian parties; formation of the proletariat into a class, overthrow of the bourgeois supremacy, conquest of political power by the proletariat.

In 1864, Marx formed the First International Workingmen's Association (the First International), with headquarters first in London and then in New York. Its purpose was the spread of Marxian Socialism, and it was aimed at the organization of workers in various countries. The American branches of the International were termed "sections." Three graduates of these training schools for socialists were: Samuel Gompers, founder and long-time president of the AFL, Adolph Strasser, founder of the Cigar-makers' Union and cofounder with Gompers of the AFL; and P. J. McGuire, founder of the Brotherhood of Carpenters and Joiners.

In succeeding years, Marx wrote and published his major work, *Das Kapital*, which expressed his theories of the economic determination of history, the class struggle, and surplus value. The importance of Marx lies not so much in his economic analysis, which is thoroughly faulty, but in the remarkable appeal of his social philosophy, the vitality of which, among the mass populations of today, is the modern wonder of the world.

1861 to 1865: The War Between the States. The War Between the States was the central event in the slavery issue, the influence of which dominated the country from the Compromise of 1850 to the end of Reconstruction, two or three decades later. The immediate effect of the war was highly disruptive of the labor movement. Coming on the heels of the depression of 1857, the dislocation of men and industry occasioned by military mobilization eliminated most unions which had revived during the preceding decade. They began to reappear during the latter part of the conflict, as the pressure for industrial production brought on a labor shortage and price increases forced workers to combine in order to raise wages. For the future of organized labor, the most important result of the war was the diversion of political and economic power to the industrial states of the North and East, where a conservative business philosophy characterized all major decisions. The confused character of labor organization and activity during the 20 years immediately following 1865 are undoubtedly in part attributable to "the triumph of business enterprise," as Charles A. Beard called it, and the accom-

panying rapid industrialization of the country. One illustration of this confusion was the prevalence of the "one big union" idea, of which the most prominent examples were the National Labor Union and the Knights of Labor.

1866: The National Labor Union. This was an attempt, for a while apparently successful, to federate all the common people of the country—especially labor and the farmers—into one big organization for the improvement of working conditions and for political action. Its principal members were miscellaneous local and national unions, city centrals (combinations of local craft unions on a municipal basis), and a variety of reform organizations of a socialistic type, which had their own special purposes but were also interested in the brotherhood of man and the improvement of his condition. It had a big program: the 8-hour day, exclusion of Orientals, protection of women workers, extension of collective bargaining through trade agreements, easy money for the farmers, producers' cooperatives, limitation of interest rates and profits, the use of strikes but only as a last resort, a cooperative industrial system, etc. It is given credit for achieving the 8-hour day for employes of the Federal government in 1868, but for little else. After a short existence, the National Labor Union disappeared in 1872.

1869 to 1886: The Knights of Labor. The Noble Order of the Knights of Labor is the most complete expression of the "one big union" movement yet seen in the United States. In a number of ways it was remarkable. For one thing, during its relatively short lifetime it was successful beyond the hopes of its founders or the expectations of its critics. At its peak in 1886, it claimed more than 700,000 members, more than double the total enrollment of the entire organized labor movement at any time prior to that date. Its 1886 membership record was not surpassed by any single union in the United States until the CIO Autoworkers went over the three-quarter million mark more than 50 years later. Its rise was meteoric and its decline almost as rapid. In 1881, the reported membership was 19,400, a good, round figure by nineteenth-century standards but nothing to startle the world with. By 1883, it had more than doubled to 52,000, to make it far and away the largest single labor organization on record. But this was only the beginning, and a modest one at that, considering what was to come. Two years later, in 1885, the reported membership had doubled again to 104,000. Then, within 12 months or so, it shot up to *more than 700,000*.²⁰ This was increase at an increasing rate, starting from a fair-sized base, and obviously could not con-

²⁰ Terence V. Powderly, who was Grand Master Workman (boss) at the time, says the top figure was 600,000. The discrepancy is of little consequence. Either figure was astronomical for a labor organization in those days, and no one was inclined to quibble over a mere 100,000 more or less.

tinue. It did not. In 1886, several factors combined to slow down the boom and bring on the bust. By 1888, the figures were off to 222,000; by 1890, to 100,000; and 3 years later, to 75,000.

Another distinctive feature of the Knights was the "mixed assembly," which meant a local union including both skilled and unskilled workmen, without distinctions of craft or rank. This was anticipating the industrial basis of organization by a good many years. After 1881, women were admitted, and after 1883, Negroes. Eventually, room was made for farmers, shopkeepers, small tradesmen, and some professional men, although non-wage earners were limited to one-fourth of the membership of any local. There were a number of positive exclusions. The minimum age limit was 16. One regulation stated:

No person who either sells or makes a living, or any part of it, by the sale of intoxicating drink, either as manufacturer, dealer or agent, or through any member of the family, can be admitted to membership in this order, and no lawyer, banker, professional gambler or stock broker can be admitted.

After 1881, physicians were allowed to join. Without the miscellaneous membership provisions, particularly those admitting unskilled and semi-skilled working people, the massive enrollments of 1885 and 1886 would have been impossible.

Still another remarkable characteristic of the Order was its pacific nature and aims. It did not believe in strikes, maintaining that they should be avoided whenever possible. (It is a paradox that the great recruiting drive of 1886 was apparently put over as a result of a series of successful strikes against the railway systems of Jay Gould, who was forced to negotiate and finally capitulate, due to his precarious financial position.) The theory was that strikes afforded only temporary relief and that the members should be trained to rely upon organization, cooperation, and political action. The favored weapon of the Knights was the boycott, which was far more effective in the hands of an organization with the general membership of the Order than when applied by the ordinary craft union. It also recommended publicly the compulsory arbitration of industrial disputes and enforcement of the decisions. As to aims, the main objective was the utopian one of producers' cooperatives, by which means it was intended to do away with the system of wage labor. It was a long-run program. "Our mission cannot be accomplished in a day or a generation," read the constitution. "Agitation, education, and organization are all necessary."

A fourth unique feature of the union was its major purpose: abolition of the wage-earning class. This aim was not as revolutionary as it sounded, however, since the method by which it was to be accomplished was not the

dictatorship of the proletariat, but the creation instead of a class of independent, self-employed producers, or proprietors. Its principal targets were the trusts and corporations, the concentration of wealth and industrial power. In their place, it proposed producers' cooperation. The Knights of Labor, in fact, experimented extensively with cooperative enterprises, along the lines of the Rochdale (England) plan and that of the Owenites, but without marked success. Its reform program was even more inclusive than that of the National Labor Union, including establishment of bureaus of labor statistics in the Federal and state governments, taxation of unearned increment in land, industrial health legislation, weekly pay laws, prohibition of child labor, compulsory schooling and free textbooks, income and inheritance taxes, restrictions on the contract system with respect to convict labor, Greenbackism, free coinage of silver at a ratio of 16 to 1, government ownership of railroads and telegraph systems, the merit system in government service, the 8-hour day, and equal rights (including equal pay for equal work) for both sexes. For these proposals it lobbied in Washington and the state capitols and participated actively in the political campaigns from 1884 to 1900.

The Story of the 7 Who Become 700,000. It all began in 1869 with a meeting of seven tailors in the home of Uriah Stevens in Philadelphia. Their own union, the Garment Cutters, was a war casualty. It had gone to pieces as a result of cheap labor competition on government war contracts, and the survivors wanted to replace it. Stevens was a Baptist minister, full of evangelistic zeal, and highly critical of what seemed to him to be the narrow, selfish purposes of craft unionism. He conceived a secret society which would have the eventual aim of improving the lot of all the underprivileged, regardless of craft, industry, faith, creed, color, or national origin. However, he and his followers were shrewd enough to start with tailors, a trade they understood and whose members were without affiliation, and expand slowly and carefully, through the device of "associate members," in other trades. As these "associates" grew familiar with the Order and demonstrated conviction, they were permitted to organize their own "assemblies," as the local bodies were called. In 1871, the name of the Noble Order of the Knights of Labor was adopted.

The local assemblies eventually formed district assemblies, which were given numerical designation. District Assembly 1, with Master Workman Stevens at its head, was the center of influence and authority. In 1878, on the organization's tenth anniversary, a general assembly was formed, with Grand Master Workman Stevens as chief officer. By this time there were delegates from 7 states representing 15 trades. A year later, 13 states were represented. Annual conventions became the rule, and under Grand Master Workman Terence V. Powderly, who had succeeded Stevens, the member-

ship drive went forward rapidly to 19,000 in 1881; 52,000 in 1883; 104,000 in 1885; and 700,000 in 1886.

The Upswing. A number of factors are believed to have contributed to this growth. In 1878, when Powderly took over, secrecy was abolished and the Order's aims, activities, and organization became common knowledge. At the same time, it capitalized on the speculation aroused while it operated under cover and enjoyed a flurry of interest when it unmasked. The new leadership, abolition of secrecy, and adoption of a number of new policies, all coincided with the end of the depression of the 1870's and the business upswing which followed. Trade unionism as a whole prospered during the next few years, and the Knights shared in the general prosperity of all labor organization. Most of all, however, the Knights appear to have capitalized on the breadth of their political program and the reformist character of the purposes stated in their charter. These seem to have appealed strongly to many otherwise "simon-pure" unionists who were permanently affiliated in local craft unions on the railways and in industry generally, but whose membership in the Knights of Labor was made possible by the latter's inclusive policy.

In some ways, particularly after it renounced the policy of the strike, in 1883, the Knights of Labor resembled a political party as much as it did a trade union. This dual organization in a number of trades was the eventual cause of the Knights' downfall, but not before it had demonstrated a drawing power in 1886 that is the trade-union wonder of the world to this day.

The Boom. The two main factors in the Knights' phenomenal rise in 1886 were: (1) aggressiveness to the point of militancy (in spite of the pacific ideology of the Order's constitution), and (2) the admission of unskilled workmen. In spite of the no-strike policy adopted by the general assembly in 1883, a number of the local and district assemblies became increasingly combative. Early in 1885 the shopmen, engineers, firemen, brakemen, and conductors on two of the Jay Gould railways, the Wabash and the Missouri, Kansas & Texas, struck in protest against wage reductions. All were members of the Knights of Labor. They were joined in sympathy by members of the Order on the Missouri Pacific (another Gould road) at all points where the struck lines touched the latter. To make a long story short, the strike was won, hands down. Wage rates were restored and strikers were put back in their jobs.

Six months later, there was a layoff on the Wabash, by this time in receivership, which appeared to violate the terms of the earlier settlement. The Knights' general assembly declared a boycott of all Wabash rolling stock which might have had the effect of slowing down operations on 20,000

miles of railway lines. Gould was engaged in stock manipulation and a fall in the price of Wabash securities would have embarrassed him. He therefore threw his influence in favor of a strike settlement on the terms demanded by the Knights. The capitulation was complete; strike replacements in the Wabash shops were discharged, the victorious Knights were reinstated, and a promise of no further discrimination was given. Gould himself assured the leaders of the Order that he believed in labor organization and arbitration (one of their pet notions) and that he would always do "what was right."

It was a great victory, or rather, series of victories, over the most prominent industrial capitalist of the time, the first time, in fact, that a trade union in the United States had flatly whipped a major corporation in open economic warfare. The fact of Gould's shaky financial position was not disclosed, so it did not detract from the brilliance of the triumph. These strikes were in 1885, and as word of them and their successful conclusion got around, there was a rush to climb aboard the Knights' band wagon. Upon settlement of the second contest, late in the year, the rush became a stampede, especially among the class which up to then had found no place reserved for it in the labor movement—the unskilled.

Common laborers flocked into assemblies all across the country, clamored for admission to locals reserved for members of special crafts, overwhelmed the skilled workmen in local, district, and national meetings by sheer force of numbers, and thoroughly alarmed old-line trade unionists who had been drawn to the Order by its reform program. Above all else, they demonstrated the conflict of principle between the Knights and traditional labor organization, *viz.*, trade autonomy. It was industrial unionism 50 years too soon. Trade autonomy was the rock on which the Knights' beautiful ship foundered.

Downfall. In the year of the Knights' greatest triumph, the principle of trade autonomy was reaffirmed in a modest meeting at Columbus, Ohio. It convened on Dec. 8, 1886, called together by a trade-union committee of five, of which Samuel Gompers was a leading member. The purpose of the meeting was to form a federation to oppose the Knights, to reestablish the principle of trade autonomy, to eliminate dual unionism, and to promote collective bargaining on business principles to take the place of the hodge-podge of political and social reform that the labor movement had become. The meeting was successful, and the new organization took the name of The American Federation of Labor.²¹

This marked the beginning of powerful opposition to the Knights of

²¹ A similar federation had been set up in 1881 by the same committee under the name of the Federation of Organized Trades and Labor Unions of the United States and Canada, but it had languished, and Gompers was determined to get closer and more vigorous cooperation in order to fight off the mass unionism of the Knights.

Labor within trade-union ranks. The Order had already had a number of brushes with the earlier Federation (of Organized Trades and Labor Unions), wherein the latter had practically invited the Knights to commit suicide by breaking up its mixed locals, refraining from organization activity in trades where bona fide unions already had jurisdiction, and restricting its operations to benevolent, educational, and humanitarian enterprises. This it had refused to do, suggesting instead *mutual* recognition of working cards and union labels, and mutual exclusion of suspended or expelled members, by itself and the unions in the Federation. The very thought of such an indecisive brand of dual unionism horrified the members of the Federation, and the proposal was summarily rejected.

In 1886, with the swamping of the Knights by unskilled laborers, and with the growing public suspicion of any labor union with a reform program, which was an aftermath of the Haymarket affair, skilled craftsmen were more ready to consider countermeasures. They withdrew from the Knights and aligned themselves with the new AFL so rapidly that by 1890, the latter organization outweighed the former in membership, 150,000 to 100,000. The Knights of Labor was never again an important factor in organized labor in America.

1882: The Chinese Exclusion Act. The Chinese Exclusion Act was labor's first political victory of major size, just as the strikes against the Gould railways 3 years later were its first economic victory against big league opposition. Oriental immigration into California had been a problem since the Gold Rush days, culminating in a race riot in 1871. By 1877, the formation of a Workingmen's party in the state was the means of bringing the matter to the attention of Congress, which 5 years later barred Chinese laborers from entrance into the United States for a period of 10 years. (In 1902 the exclusion was made permanent and extended to cover Chinese in Hawaii and the Philippines, which were American possessions.) Three years afterward, in 1885, Congress prohibited the importation of contract labor. These measures were forerunners of organized labor's attitude on immigration in general, which coalesced into active opposition following the First World War and produced the Immigration Laws of 1921 and 1924.

1886: The Haymarket Affair. It is possible that the decline of the Knights of Labor might not have been as abrupt as it turned out to be if the Haymarket riot had not tended to be identified with it in the public mind. The meeting at which the riot occurred was a gathering called for May 4, 1886, in Haymarket Square, Chicago. The organizers were some radical leaders of the International Working People's Association (the "Black International," as it was called). The purpose of the meeting was to protest police brutality of the day before, when a struggle between strikers and nonstrikers at the McCormick Harvester Company's plant had been broken up and

one man had been killed. The May 4 meeting was small in size and deceptively peaceful throughout until police appeared and ordered the crowd to disperse. A bomb, thrown at the police, killed one outright, injured six more fatally, and wounded scores of onlookers. Eight members of the Black International were convicted of participation in the crime. Four were hanged, one committed suicide in his cell, and the other three were later pardoned by Governor Altgeld of Illinois on grounds of lack of evidence and judicial partiality. The Governor was reviled for the act as few people in public life in this country have ever been.

The Haymarket affair was a preview of an equally celebrated case 40 years later, the Sacco-Vanzetti trial. Many of the elements were remarkably similar. There were the same public hysteria, denunciation, demands for "justice," statements by prominent people, lack of thorough investigation, and displays of judicial partiality. In both cases, the accused were "anarchists," the evidence slender or nonexistent, and the cases were thoroughly tried in the newspapers and on the street corners long before they reached a jury. In each instance, there were elaborate efforts for the defense, appeals to higher courts, and protests by prominent liberals. Subsequent review of the evidence by impartial analysts has reinforced the conclusion that, for the Haymarket disaster as well as the later payroll killing, innocent men were convicted and executed.

There was no direct link between the Knights of Labor and the Haymarket meeting. Some of the Knights' members were probably in the crowd, but the general assembly was on record as opposed to the demonstration of May 1 for an 8-hour day,²² and it had nothing whatsoever to do with the later gatherings. The meetings of May 3 and 4 were under radical leadership and completely without formal support by the Knights. On the other hand, the date was 1886, during which the Order was the beneficiary of the greatest membership landslide in trade-union history. The Knights' program was political and reformist; it was aimed at elimination of the "system of wage-slavery." Many conservative citizens, alarmed at the rush to join the union, made the easy error of confusing the Knights' program with that of the International Working People's Association, the American Marxist organization. The popular support, which had enabled the Knights of Labor to win its strikes in 1885, was replaced in many quarters by suspicion, which was not diminished by the withdrawal of large numbers of conservative union men who decided to return to "safe and sane" business unionism. Many writers interpret the Haymarket affair as the beginning of the end for Powderly and his followers.

²² Sponsored by the Federation of Organized Trades and Labor Unions and endorsed by the Black International.

Summary

During most of the century, 1786 to 1886, there was no real labor movement in the United States and no good reason why there should have been. The frontier and free land removed economic pressure, kept the population on the move, and offered such rewards to the enterprising as had seldom been seen anywhere. The laborer of one decade was the master of the next, simply by virtue of expansion of population and of the demand for goods and services. Large-scale organization of production was still in the future. Few shops or stores employed more than a hundred men, even 20 years after the end of the War Between the States; the modern industrial plant with thousands and tens of thousands of employes was not even dreamed of. Employer-employee relations were mostly face to face, personal, and friendly. Not until the War Between the States did even medium-scale industrial production appear (to supply the Northern troops), and at just about that time the first stable unionism began to develop. It was handicapped, however, by upset conditions in the Reconstruction period; by an influx from Europe of foreign philosophies of socialism, communism, utopianism, etc.; and by the constant lure of the West, where railroad building, the discovery of silver, and Indian fighting continued to draw off the most adventurous spirits and to make the class struggle seem abstract and imaginary.

The dominant philosophies of the century, with one exception, offered little encouragement to an organized labor movement. The Toryism of the early Bostonians was about on a par with New York Federalism in its recognition of the working class, and there was little gain for the urban proletarian in Jefferson's brand of agrarian *laissez faire*. Clay's "American Plan," Calhoun's defense of the plantation aristocracy, and the Republicanism of Lincoln's successors—Grant, Hayes, and Garfield—were about on a par in their respect for property rights and their lack of concern with the workingman. Only the Democracy of Andrew Jackson could be interpreted as a political philosophy which rested on the "common man" and therefore made room for an organized labor movement. The two really basic developments of significance to organized labor during the century—reversal of the conspiracy doctrine and extension of the suffrage—occurred during the Jacksonian era.

Throughout most of the century, none of the ordinary trappings of a labor movement were present. There were few national unions, no federated organizations on a national basis, no labor intelligentsia, no program of governmental assistance. There were a few local unions, some strikes, and sporadic political action. The upsurge of the Knights of Labor, the formation of the AFL, and Congressional recognition of the labor vote in the form of the Chinese Exclusion Act, all came at the very end of the

period and were distinctly transitional features, in fact more characteristic of the labor movement which took form in the 1880's and has had a steady growth down to the present day.

Readings

The standard condensed history of the American labor movement is Mary Beard's *Short History of the American Labor Movement*,²³ which carries the development of trade unionism in this country up to 1935. The Beard interpretation has been widely adopted by subsequent writers. It might be compared with the lengthy (64-page) chapter on "Nineteenth Century American Unionism" in H. A. Millis and R. E. Montgomery, *Organized Labor*,²⁴ which relies principally on the more detailed one-volume history of the labor movement by Selig Perlman.²⁵ Practically all textbooks on labor problems contain a historical review as a preliminary to the analysis of problems of organized labor. One of the best brief presentations is in Stein, Davis, and others, *Labor Problems in America*,²⁶ Chap. 10, "A History of the Labor Movement: From Its Origins to the Knights of Labor," which is an excellent summary of only 18 pages.

Exercises

It is the contention in this book that a study of the first century of American unionism presents little evidence of a labor movement in being, but shows a number of political and social developments that laid the groundwork for labor's future rise. There are a number of topics which students should be prepared to comment on, or which might be the basis for further investigation and report. Samples are:

1. The conspiracy doctrine as applied to trade unionism in the first half of the nineteenth century: the principal cases, the reasoning and conclusions found in them, and their significance.
2. The extension of white manhood suffrage: early property limitations on voting rights, agitation for their removal, early political action by workingmen in the "era of reform," etc.
3. Effects of the War Between the States on the labor movement: the abortive union growth of the 1850's, dislocation and collapse of the early war years, revival in the late 1860's.
4. The "one big union" movement: major examples, their similarities and differences, etc.
5. The Marxian doctrine and program as expressed in the *Communist Manifesto*, and its relationship to the union movement: the work of the First International in this country.

²³ New York: Harcourt, Brace and Company, 1936.

²⁴ New York: McGraw-Hill Book Company, 1945, pp. 12-75.

²⁵ New York: The Macmillan Company, 1922.

²⁶ New York: Rinehart & Company, Inc., 1948.

12. THE FIFTY YEARS OF AFL LEADERSHIP: 1886-1936

During the 50 years from 1886 to 1936, the labor movement in America was dominated by the American Federation of Labor. Up to 1920, they were the years of a young, growing, and unified labor movement. Organized labor grew, in much the form that it takes today, from a handful of national unions with perhaps a quarter of a million members to an army of five million by the end of the First World War. After 1920, the Federation—and with it, trade unionism—went into an eclipse from which it did not emerge until rescued by Franklin D. Roosevelt's New Deal of 1933. In this case, it is thoroughly accurate to say that "the institution was but the lengthened shadow of a man." The man was Samuel Gompers, founder and permanent president of the American Federation of Labor. With Gompers's death in 1924, the Federation withered on the vine, declining steadily during the prosperity of the last half of the 1920's and the early depression years which followed.

The fortunes of trade unionism, following the First World War, thus completely reversed the pattern established in the nineteenth century, when prosperity for business meant union growth and expansion, while depression was synonymous with union decline and disintegration.

What kind of a period was it?

Background. It was a great half century for the United States. Two wars were fought and won; population grew from 58 to 128 million; 10 Western states were admitted to the union (the Dakotas, Washington, Montana, Wyoming, Idaho, Utah, Oklahoma, New Mexico, and Arizona); an empire was added in the form of the Hawaiian Islands, Puerto Rico, Guam, the Philippines, Samoa, the Panama Canal Zone, and the Virgin Islands; and as a result of the First World War the United States became a creditor nation, the world's number one financial power.

This 50 years took in the era of the trusts and the trustbusters, the appearance of the giant corporation and of the ineffectual half measures to control it. American Telephone and Telegraph, U.S. Steel, Ford, General Motors, A & P, Montgomery Ward, Pennsylvania Railroad, Dupont, J. P. Morgan, and others like them, became well-recognized peaks in the business landscape. The period was one huge boom, bounded by two depressions: the panic of the 1890's and the collapse of 1933. Its ruling philosophy was big business, high tariff, conservatism. The temporary progressivism of Teddy Roosevelt and the liberalism of Woodrow Wilson were swallowed up in the surge of trade expansion and the accompanying demand for "business as usual."

Governmentally, it was a period of rapidly expanding public regulation of business activity, initiated by a set of reluctant legislatures. On the Federal level, this started with the Interstate Commerce Act of 1887 and the Sherman Antitrust Act of 1890, and closed with the flood of New Deal legislation between 1933 and 1936. In between came:

1. Limitation of hours of work of women and children, starting in 1903
2. Several laws extending and strengthening the Interstate Commerce Act
3. The Pure Food and Drug Act of 1906
4. Dissolution of the Standard Oil and American Tobacco trusts in 1911
5. The beginning of state assistance to mothers with dependent children, started in Illinois in 1911 and adopted in 19 more states in the next 2 years
6. State minimum-wage legislation, starting in Massachusetts in 1912
7. A Federal Department of Labor with Cabinet rank in 1913
8. The Federal Reserve Bank Act of 1913
9. The Federal Trade Commission and Clayton Antitrust Acts of 1914
10. Adoption of the first old-age pension law in Arizona in 1914
11. The 8-hour day on the railroads, by Congressional action in the Adamson Law of 1916
12. Wartime control of the railroads, regulation of disputes between unions and management, and miscellaneous controls such as allocation and rationing of scarce materials
13. The Transportation Act of 1920, creating the Railway Labor Board
14. The Water-power Act of 1920, the Railway Labor Act of 1926, and the Norris-LaGuardia Anti-injunction Act of 1932.

Opposition to social and reform legislation centered in the courts. Law after law was declared unconstitutional or repealed by interpretation, as the judges tried to hold back the tide of restrictions. In spite of a long series of dissents by Mr. Justice Oliver Wendell Holmes, this attitude of "judicial obstructionism" was typical of the majority until the "reorganization" of the U.S. Supreme Court in 1937.

An era came to an end with the Black Friday stock-market crash of Oct. 11, 1929. It brought to a close the unrestrained speculation of the Coolidge-Hoover administrations and brought into disrepute the doctrine of *laissez faire* associated with them. The ensuing depression administered a shock to the economy, from which it did not recover for a decade. Average unemployment from 1931 to 1940 never fell below 7 million. It took the defense spending for the Second World War to revive the country's industrial machine. The political shock was on a par with the economic concussion. In the first 4 years of the New Deal, more regulatory legislation passed Congress and was approved by the President than in the preceding 150 years of the country's history, including such monumental statutes as the National Industrial Recovery Act, the Tennessee Valley Authority Act, the Soil Conservation Act, the Banking Act of 1933, the Social Security Act, and the National Labor Relations Act.¹ The era of big business had been succeeded by the era of bigger unions and still bigger government.

1886: Birth of the American Federation of Labor. The AFL had an humble beginning, with considerably less fanfare than accompanies the opening of a Hollywood night club nowadays. For one thing, it was completely overshadowed by the extraordinary Knights of Labor, fresh from their victories over Jay Gould and boasting more than 700,000 members. For another, it was an obvious outgrowth of the Federation of Organized Trades and Labor Unions of the United States and Canada, which had been conspicuously unsuccessful since its formation in 1881, and there seemed little reason at the time to suppose that the revised Federation would fare any better than the old. On the surface, it looked more like a change of name and a game of musical chairs. In fact, about the only assets the delegates had were unity and an idea. The idea was "strict autonomy of the trade," or the principle of "exclusive jurisdiction." The AFL was a defensive alliance, formed to protect the sovereignty of individual craft unions and to fight the "dual unionism" of the Knights of Labor, which had just signed on over half a million members in the preceding 12 months. Once again, David was taking on Goliath.

It was a ragged David that showed up at the founding meeting in

¹ Even a partial list of the work done by Congress in this 4-year period is amazing, e.g., (1) *Agriculture*: the Agricultural Adjustment, Farm Credit, Farm Mortgage Refinancing, Farm Mortgage Foreclosure, Farm Bankruptcy, Crop Loan, Cotton Control, Jones-Costigan Sugar, Tobacco Control, and Soil Conservation Acts; (2) *Financial*: Emergency Banking Relief, Bank Deposit Insurance, Home Owners' Refinancing, Home Owners' Loan, Gold Repeal Joint Resolution, Gold Reserve, Silver Purchase, Securities, Securities Exchange, and the Wealth-tax Acts; (3) *Labor*: Labor Disputes Joint Resolution, and the Railway Pension, Railway Labor Amendment, and National Labor Relations Acts; (4) *Miscellaneous*: Tennessee Valley Authority, Emergency Railroad Transportation, National Industrial Recovery, Reciprocal Tariff, Communications, Motor Carrier, Social Security, and Bituminous Coal Stabilization Acts.

Columbus, Ohio, on Dec. 8, 1886. The convention was called together by a trade-union "committee of five," consisting of the following men: P. J. McGuire, general secretary, Brotherhood of Carpenters; Adolph Strasser, president, Cigarmakers' International Union; Josiah Dyer, general secretary, Granite Cutters' International Union; P. J. Fitzpatrick, president, Iron Molders' Union of North America; and John S. Kirchner, secretary, Federation of Organized Trades and Labor Unions. There were 42 delegates representing a miscellaneous group of 25 labor organizations, which included 13 national unions (iron molders, typographers, granite cutters, stereotypers, miners, tailors, bakers, furniture workers, metal workers, carpenters, and cigar makers); the city central bodies of New York, Chicago, Philadelphia, St. Louis, and Baltimore; and some locals of barbers, waiters, and bricklayers. The delegates adopted a constitution, arranged for financing (through charter fees and a per capita membership tax of 6 cents a year), and elected Samuel Gompers full-time president at a salary of \$1,000 a year plus his traveling expenses.²

As it turned out later, the selection of a chief officer was the most important act of all. Although his name had not appeared on the "call," Gompers was one of the most determined advocates of a new federation. Upon his election to the presidency, he set out to make the AFL the American labor movement in fact, a task to which he dedicated every waking moment of his life from then on. Gompers held the presidency uninterruptedly until his death in 1924, except for a single year (1894-95), which he referred to in his autobiography as his "sabbatical." The Federation was his food, drink, and religion. It was also, in most important respects, his creation, the product of his work and imagination. Under his dogged leadership, it weathered the depression of the 1890's, and by the last year of the century contained 53 unions with a total membership of 350,000. The Knights of Labor had disappeared.

Samuel Gompers, 1850-1924. Samuel Gompers was born Jan. 27, 1850, in a London tenement, the son of a cigar maker who had emigrated from Holland. He attended a Jewish free school from the age of 6 until he was 10, when he became a cigar maker's apprentice. In 1863, the family crossed the Atlantic and settled in New York. The following year, already a journeyman at the age of 14, Sam joined the Cigarmakers' Union. As a youth and as a man, he was short, thickset, with a strong voice, a powerful constitution, an extroverted, gregarious personality, and a consuming ambition to be someone of importance.

² Lewis L. Lorwin, *The American Federation of Labor*, pp. 10-23 (Washington: Brookings Institution, 1933); Samuel Gompers, *Seventy Years of Life and Labor*, Vol. I, Chaps. XII-XIII, pp. 241-287 (New York: E. P. Dutton & Co., Inc., 1925).

The end of Gompers's formal education did not mean the end of his actual education. He was a wide reader, a careful student of matters that interested him, and a tenacious seeker after important principles. He attended Cooper Union and took part in some of the debates and forums there, but his true intellectual development he himself attributed to the political and economic discussions which went on endlessly in the cigar shops, and his association with a group of refugee socialists from Europe, who were instrumental in forming the ideas which eventually produced the AFL. Gompers himself skirted around the fringes of the socialist movement, but on the advice of his most influential tutor he did not join or commit himself in any way. That tutor was Ferdinand Laurrell, a Swedish Marxist cigar maker, whose interpretation of the *Communist Manifesto*, word by word, sentence by sentence, and paragraph by paragraph, Gompers says, revealed a "hidden world of thought," the true Marxism of trade unionism and labor's struggle for betterment. To Laurrell, Gompers dedicated his autobiography *Seventy Years of Life and Labor*.

It was while under Laurrell's influence that Gompers declined an opportunity to join up with management. His employer sent for him and said: "I have something in my mind that will be of mutual benefit. Will you become foreman in my shop at a salary of \$25 a week?" According to Gompers, the interview went as follows:⁸

I answered that the only experience I had as foreman was in our union shop and that I had no liking for such a position. He said, "Yes, but it would be a stepping-stone to greater experience in my establishment and it might be the stepping-stone to a foremanship or a superintendency in some great factory. I am paying higher wages than several other factories, and if you can get the men with your influence over them to accept a reduction of a dollar per thousand which would mean a dollar and a half or two dollars a week from their earnings, I will divide the reduction with you. I will enter into a contract with you for five years and see that your salary is increased and this fifty per cent of the reductions will be given to you." I said, "You evidently do not know the man to whom you are talking, otherwise you would know I do not want to become foreman; but even if I were inclined to do so the very suggestion that you have made would impel me to say to you what I am now saying. Good night." I abruptly left the room and the house. . . . That was on a Saturday evening, and on Monday morning I went to the factory and got my tools and quit the place.

By the time the AFL was organized in 1886, Gompers was a seasoned trade unionist, a member of the Cigarmakers' International since 1864, holding union card No. 1. With Adolph Strasser, he helped to reorganize the union in 1877, after its practical disappearance during the depression of

⁸ Gompers, *op. cit.*, pp. 159-160.

1873. The two men agreed on four principal policies: (1) international officers were to be supreme over the local unions, (2) membership dues should be raised to an unheard-of-figure in order to build up a treasury which could withstand the assaults of employers and hard times, (3) control of the union funds should be in the hands of the national officers, and (4) the union should undertake a program of sickness, accident and unemployment benefits. According to an outstanding authority, "This was the beginning of militant, persistent unionism in America."⁴

Gompers was always fascinated by the idea of federation and was one of the active members of the Federation of Organized Trades and Labor Unions, which he served as vice president for 2 years and as president for 3. He was a member of its legislative committee throughout the lifetime of the organization and led the older body into the AFL when the latter took shape in 1886. As president of the AFL, he was, according to Commons, "the official head of the American labor movement," with his influence resting not alone on his official position, but on his "moral influence" and his knowledge of labor fundamentals. His major beliefs, with respect to the trade-union movement in general and the success of the AFL in particular, may be summed up as follows:

1. The use of persuasion rather than dictation or force as a method of obtaining cooperation
2. Labor solidarity through education, discussion of issues, and rejection alike of radicalism or utopianism
3. Opposition to "theorizers" and "intellectuals" as leaders of the labor movement
4. Uncompromising rejection of producers' cooperation or any other of the "substitutes for capitalism"
5. Suspicion of government and especially the courts
6. Opposition to a labor party in politics and adoption of the policy of "rewarding friends and punishing enemies"
7. Safe and sane business unionism, to raise wages, shorten hours, and improve working conditions
8. One union to each trade for one labor movement

The success of the Federation and its member unions during his 37 years of leadership is sufficient testimony of the effectiveness of his principles. Under Gompers, trade unionism became a major institution in the United States. Much of its subsequent growth to the commanding position it now holds may be attributed to the solid foundation which he did most to build during the last decade of the nineteenth and the first quarter of the twentieth century.

⁴ John R. Commons, in "Samuel Gompers," *Dictionary of American Biography*, Vol. VII, p. 370.

In the process of representing the American labor movement, Gompers became a well-known public figure. He was a voluminous speaker and writer, publishing scores of articles in the *American Federationist* (journal of the AFL), and authoring the following books: *Labor in Europe and America* (1910), *American Labor and the War* (1919), *Labor and the Common Welfare* (1919), *Labor and the Employer* (1920), and his two-volume autobiography, which appeared in 1925, a year after his death. Gompers was appointed by President Wilson to the Council of National Defense in 1917; organized the War Committee of Labor, composed of labor leaders and employers, for assistance to the war effort; and was a member of the Committee on International Labor Legislation at the Peace Conference in Paris. In public affairs, as in other matters, he set the standard of the modern labor leader in the United States. He died Dec. 13, 1924, in the midst of a fight to save the gains which organized labor had realized during the First World War. Samuel Gompers is rightfully regarded as the father of the American labor movement.

1890: Passage of the Sherman Antitrust Act. Organized labor in the United States has had few crosses to bear that were more grievous than the Federal antitrust laws. The Sherman Act was a brief, loosely worded statute of eight paragraphs, containing the following significant declarations:⁵

Sec. 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor. . . .

Sec. 8. That the word "person," or "persons," wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Did "person" mean labor unions? Fifty years of argument and research have not disclosed what was in the minds of the legislators, but the courts answered loudly "Yes." During the 50 years from 1890 to 1940, trade unions were regularly and consistently haled before the bar of justice on charges of conspiracy to restrain trade. Thus, the conspiracy doctrine, which in common-law form had been laid to rest by Chief Justice Shaw in 1842, was resurrected by statute as a limitation upon organized labor's purposes and activities during a crucial half century of union growth.

The Sherman Act contained three kinds of sanctions: (1) criminal penalties of fines and imprisonment, (2) equity proceedings for restraining

⁵ 26 Stat. 209 (1890).

orders and injunctions, and (3) civil suits for triple damages. In a series of major cases before the U.S. Supreme Court, all three were applied impartially to union misdoings, and the precedents established thereby were effective limitations upon the activities of organized labor in general. The first important application of the law came shortly after its passage in the Pullman strike of 1894.

1892: The Homestead Strike. The impending depression of 1893 cast its shadow in the summer of the year before, when the Carnegie Steel Company of Homestead, Pa., in the face of falling prices for pig iron, asked the Amalgamated Association of Iron and Steel Workers to accept a 10 per cent reduction in wages. The union refused. On June 30, 1892, the men went out on strike. Using tactics that were subsequently to be molded into classic form in the Mohawk Valley formula, the company imported armed strike-breakers who were protected by Pinkerton detectives. A pitched battle between the workers and the armed guards was the result, with several killed on both sides. In this skirmish, the employees were victorious, but state militia were called in to restore order and the strike was eventually lost. At the same time, large sections of the steel industry went open-shop and were never effectively recaptured by organized labor until the U.S. Steel Corporation recognized the Steel Workers' Organizing Committee (CIO) in 1937.

The significance of the dispute is found in its disclosure of the defense tactics of large corporations against union penetration. Nonrecognition, labor spies, armed strikebreakers, and violence became standard elements of labor disputes in the mill and factory towns of the industrial northeast and the mining communities of Pennsylvania, West Virginia, Ohio, Kentucky, and Illinois. In 1937, the La Follette Committee, reporting on the extent of industrial espionage, listed the number of labor spies in operation during the period from Jan. 1, 1933 to July, 1936, as follows:⁶

<i>Organization</i>	<i>Spies</i>
Agencies replying to questionnaires.....	658
Railway Audit & Inspection Co., Inc., and affiliates (fragmentary records only)	313
National Corporation Service and affiliates.....	437
National Metal Trades Association.....	104
Corporations Auxiliary Companies.....	677
Wm J. Burns International Detective Agency, Inc.....	440
Pinkerton's National Detective Agency, Inc.....	1,228
Total	3,857

⁶ *Violations of Free Speech and Rights of Labor*, Report of the Committee on Education and Labor pursuant to S. Res. 266 (74th Cong.), "Industrial Espionage," Sen. Rep. 46, Part 3, 75th Cong., 2d Sess., p. 21.

An appendix to the report contains a "Table of \$9,440,132.15 Expenditures on Industrial Espionage, Munitioning, and Strikebreaking, 1933-37." Sample outlays for the period are: Baldwin Locomotive Works, Philadelphia, Pa., \$159,078; Chrysler Corporation, Detroit, Mich., \$275,534; General Motors Corporation, Detroit, Mich., \$1,019,056; Radio Corporation of America Manufacturing Co., Inc., Camden, N.J., \$1,007,350. The disclosures of the La Follette Committee had much to do with eliminating the organized strikebreaking and union-busting technique from the labor scene.

1894: The Pullman Strike. The Pullman strike of May 11, 1894, one of the great industrial disputes in American history, was the work of Eugene V. Debs. Debs was a believer in industrial unionism, the "one big union" idea, and his organization, the American Railway Union, enlisted members from all the crafts and trades among the train-operating employees and the shop workers in the industry.

In March of 1894, employees of the Pullman Palace Car Company, located on the south side of Chicago, voted to join the union, and 2 months later struck for a restoration of pay levels of the year before. The depression of the 1890's was on and the company refused the demands. The strike was endorsed by the American Railway Union in June and was soon supported by a wide following, including the Knights of Labor, the Farmers' Alliance, and many individual members of the railroad-operating brotherhoods (trainmen, firemen, engineers, and conductors). It has been estimated that 750,000 men were on strike at the height of the work stoppage. Since strikers refused to handle or service Pullman cars, train service was interfered with and the mails were held up. On these grounds, an injunction was issued to the Attorney General of the United States, Federal troops were sent to Chicago by President Cleveland (over the protest of Governor Altgeld of Illinois), and the strike collapsed. Debs refused to obey the injunction and was jailed for contempt of court. He therefore enjoys the distinction of being the only man to serve time under the Sherman Act.

There were several elements of importance to the Pullman dispute. It was the first big labor dispute in which the Sherman Act was invoked. It was the most extensive work stoppage in the experience of the country in terms of number of workers involved. Most important of all, it was a walkout planned on the European model of the "general strike," and its short-run success alarmed both the general public and many labor leaders as well, who feared that it would disrupt their unions and draw off the members into another mass organization like the recently punctured Knights of Labor.

There was, however, strong sentiment within the AFL for official support of the walkout, and a conference was called in the summer of 1894 to consider

the question. The conference appointed a committee of five, with Gompers, as chairman, to bring in a recommendation. Gompers, fearing for the Federation and the principle of exclusive jurisdiction, persuaded the committee and the conference to advise member unions *to refrain from taking part in either the general strike or any local disputes emanating from it.*

For his part in this decision, the Socialists in the Federation punished Gompers by defeating him for the presidency in the Convention of 1894, electing in his place John McBride of the United Mine Workers. The Federation, however, emerged from the Pullman affair with its conservative reputation enhanced and the position of its members strengthened in the eyes of the public. The policy which Gompers advocated successfully in the disturbed summer of 1894 has never been abandoned. The AFL has always stood for conservative, safe-and-sane, business unionism. It has had no truck with radical leadership, new theories, or innovations in organization or bargaining. At times the policy has seemed costly, but at others it has paid off handsomely, and it remains the fundamental rule of the "aristocrats of labor."

1893 to 1896: Depression; Trade Unionism Holds Its Own. During the depression of the 1890's, trade unionism in the United States recorded a significant achievement. It survived. For the first time in the history of the country, a group of national unions pulled through a major depression without disintegrating into utopianism, political action, or the espousal of radical reforms. The conservative craft unions in the AFL and a few independents equally committed to the principle of craft solidarity—the railway-operating brotherhoods, especially—resisted the appeals of the Socialists, the Populists, and the mass organizers like Debs, and tended strictly to their knitting, to wit: the maintenance and strengthening of their unions and the conduct of collective bargaining with employers. This was not easy to do in the face of aggressive employer tactics (as in the Homestead, Coeur d'Alene, Buffalo, and Tennessee miners' strikes) and militant government opposition (as in the Pullman walkout). The situation was also aggravated by unemployment and a general worsening of pay scales and working conditions. But when the panic which originated with the failure of the Baring Brothers in London had subsided, there were still 400,000 American workingmen holding union cards and more than 250,000 of them were in unions affiliated with the AFL.

The federated craft form of organization had passed its first big test. Conservative business unionism had proved that it could "take it," in hard times as well as good, and come back for more.

1897 to 1904: Prosperity; Trade-union Boom. In 1897, Gompers moved the office of the AFL from New York City to Washington, D.C. The next 7

years were big ones for the Federation and for organized labor. Total union membership multiplied over four times, AFL membership more than six times (as shown in Table 42). The latter improved its position steadily until it represented 4 out of every 5 trade unionists in the country.

By 1904, the AFL consisted of 114 national and international unions, 828 directly affiliated locals, 549 city central bodies, and 29 state federations of labor. Revenues climbed with membership. With a per capita tax of 4 cents per year, income was \$18,639 in 1898, \$115,220 in 1901, \$247,800 in 1903, and \$220,995 in 1904. In the latter year, the Federation had a field force of 99 paid organizers, working with member nationals or independently. From 1900 to 1902, it raised three strike assessments: \$9,411 for the cigar makers, \$4,560 for a group of San Francisco locals, and \$30,357 for the machinists.⁷

Table 42. American Trade-union Membership, 1897-1904*

Year	Total	AFL	AFL per cent of total
1897	440,000	265,000	60
1898	467,000	278,000	59
1899	550,000	349,000	60
1900	791,000	548,000	69
1901	1,058,000	788,000	74
1902	1,335,000	1,024,000	77
1903	1,824,000	1,466,000	80
1904	2,067,000	1,676,000	81

* SOURCE: BLS., *Handbook of Labor Statistics*, 1947, p. 130.

What was the cause of the boom?

Three things: sound organization, prosperity, and war.

As Gompers declaimed in his presidential address at the 1899 Convention:⁸

While in every previous industrial crisis the trade unions were literally mowed down and swept out of existence, the unions now in existence have manifested not only the power of resistance, but of stability and permanency. . . . As a result of the trade-union form of organization, membership is maintained, the organization remains intact during dull periods of industry, and is prepared to take advantage of the first signs of an industrial revival.

At the first sign of an upturn in 1897, a number of strikes were won, drawing in recruits to the miners and typographers and stimulating wage demands in other trades. Union positions in bargaining negotiations were

⁷ Lorwin, *op. cit.*, pp. 59-60.

⁸ *Proceedings of the Convention of 1899*, cited in Harry A. Millis and Royal E. Montgomery, *Organized Labor* (New York: McGraw-Hill Book Company, Inc., 1945).

strengthened, with a corresponding improvement in pay scales, hours, and conditions of work. The approach was hard-rock, conservative business unionism, and it prospered beyond the expectations of anyone, including Gompers himself.

The war-induced prosperity of 1898 and beyond set off the second great trade-union boom in the United States. The upward rush of the labor movement was not as precipitous as that of the Knights of Labor in the late 1880's or as large in absolute numbers as the growth during the First World War, but it was a permanent, definitive accomplishment. It put the AFL on a paying basis and settled the questions of union structure (craft), method (collective bargaining), and philosophy (business), for many years to come. They were not reopened seriously until, at a rump meeting following the 1935 AFL Convention, the Committee for Industrial Organization was formed.

Another significant tradition was inaugurated in 1898. With talk of war everywhere and war itself soon to become a fact, President McKinley received the executive council of the AFL and invited Gompers and his assistants to suggest recommendations for labor legislation to be included in his message to Congress. He also suggested to Congress that an industrial commission be established to study the relations between labor and capital. It was the first time any President had given such friendly recognition to a labor organization. This precedent of exceptional treatment of organized labor in wartime was later copied by Wilson in 1917-18 and Franklin Delano Roosevelt in 1941 to 1945. As a result, some of trade unionism's greatest gains have been registered while the country was under arms. In 1898, Congress demonstrated its friendliness by trying to outlaw the yellow-dog contract on the railroads.

1898: Passage of the Erdman Act. The Erdman Act⁹ was the second of a long line of attempts by Congress to regulate labor-management on the railroads.¹⁰ It provided for mediation and for voluntary arbitration if agreed to by both parties. However, its most significant provision was neither of these, but an anti-yellow-dog contract clause which is the first example of legislation friendly to organized labor to come from the Congress of the United States. Section 10 of the statute read:

Any employer... who shall require any employee, or any person seeking employment, as a condition of such employment, to enter into an agreement... not to become or remain a member of any labor... organization... or shall threaten any employee with loss of employment, or shall unjustly discriminate

⁹ 30 Stat. 424.

¹⁰ The first was the Railroad Arbitration Act of 1888 (25 Stat. 501), which was totally ineffective, and used only once: a commission set up under its authority investigated the Pullman strike and reported to the President.

against any employee because of his membership in such a labor organization . . . is hereby declared to be guilty of a misdemeanor, and, upon conviction . . . shall be punished for each offense by a fine of not less than one hundred dollars and not more than one thousand dollars.

It was hardly to be expected that anything so radical would be permitted to stand, and 10 years later, in *Adair v. United States*,¹¹ the Supreme Court dutifully tossed the section out as an unconstitutional limitation upon the right to enter into contracts. The mediation and arbitration provisions, meanwhile, became rather popular. Between 1906 and 1913, more than 60 disputes between the railroads and their train-operating employees were settled with the law's assistance.

It was in trying to regulate industrial relations on the railways that Congress learned its union-management ABC's. The 1934 amendments to the Railway Labor Act of 1926 were the eighth major statute in direct line from the law of 1888. In the railway labor legislation, there were worked out practically all the principles and mechanisms which were used later in labor laws of more general application, such as the Norris-LaGuardia Act, the National Industrial Recovery Act, the National Labor Relations Act, and the Labor-Management Relations Act, 1947 (Taft-Hartley Act). Looking backward, it is easy to see that the railroads were an indispensable proving ground for Congressional regulation of industrial relations.

1905: The First Labor Problems Textbook. In 1905, Ginn & Company of Boston published *Trade Unionism and Labor Problems*, a textbook of labor economics, compiled and edited by John Rogers Commons, professor of political economy at the University of Wisconsin. This was not the first book on organized labor in the United States—in 1886, Professor Richard T. Ely, professor of political economy at Johns Hopkins University, brought out *The Labor Movement in America*¹²—but it was the first book designed especially for classroom use. It is of historical significance in two respects: (1) It indicates the beginning of extension of academic respectability to the study of trade unions. (2) It identifies the "Wisconsin School" of John R. Commons.

Commons is the founder and dean of labor-problems study in America. His 50 years of research, teaching, investigation, and consultation were focused primarily upon problems of employment and the conditions of the working classes. He was a great researcher, an influential writer, and an indefatigable investigator, but his primary output was his graduate students—Perlman, Witte, Taft, Lescossier, among others—whose writings and teachings dominated the output of the labor "intelligentsia" for a generation. The "Wisconsin School" was one of three early centers of trade-union study

¹¹ 208 U.S. 161 (1908).

¹² New York: The Thomas Y. Crowell Company, 1886.

in the United States, the other two being located at Johns Hopkins University and the University of Chicago. By 1950, the study of industrial relations had spread until one state, New York, had a complete professional school devoted to it, most large universities and many technical institutes and colleges had a "center" or an "institute" for interdepartmental research and teaching, and labor problems was a standard course or series of courses in the liberal-arts curriculum.

1905: Organization of the I.W.W. The last of the radical "one big union" adventures, the Industrial Workers of the World, held their first convention in Chicago in 1905. The founders represented the extreme left wing of the American labor movement and included such radical leaders as William D. (Big Bill) Haywood, Daniel DeLeon (militant Socialist), and Eugene V. Debs. The union's program was militant and revolutionary, as indicated in its preamble, part of which read as follows:¹³

The working class and the employing class have nothing in common. There can be no peace so long as hunger and want are found among millions of working people and the few, who make up the employing class, have all the good things of life. Between these two classes a struggle must go on until the workers of the world organize as a class, take possession of the earth and the machinery of production and abolish the wage system. . . .

The I.W.W. advocated the general strike, sabotage, and violence. It is doubtful that its membership ever exceeded 60,000, but its influence was greater than the numbers indicate. After a few strikes, concentrated mainly in the textile region of the East, and some desultory wartime sabotage, the organization dwindled away to a shadow during the 1920's.

1908 to 1909: The U.S. Supreme Court versus Organized Labor. In two great decisions and a statement of principle, the U.S. Supreme Court and a President who was later to be Chief Justice of the Court made clear their views regarding the legal position of organized labor. The decisions were *Adair v. United States* and *Loewe v. Lawlor*; the statement occurred in President William Howard Taft's inaugural address of Mar. 4, 1909. The views reflected in them turned out to be controlling for many years.

In *Adair v. United States*, the Court tossed out the prohibition of the yellow-dog contract which Congress had inserted in the Erdman Act. The reasons? Interference with freedom of contract and lack of regulatory jurisdiction. Said the majority: "There is no such connection between interstate commerce and membership in a labor organization as to authorize Congress to make it a crime . . . for an agent of an interstate carrier to discharge an employe because of such membership on his part." Mr. Justice Holmes dissented, and for reasons that are now well known, his minority

¹³ H.S. Commager, *Documents of American History*, Sec. 2, p. 338 (New York: Appleton-Century-Crofts, Inc., 1944).

opinion has received more attention than that of the majority. He observed that:¹⁴

The section is, in substance, a very limited interference with freedom of contract, no more. It does not require the carriers to employ anyone. It does not forbid them to refuse to employ anyone, for any reason they deem good, even where the notion of a choice of persons is a fiction and wholesale employment is necessary upon general principles that it might be proper to control. The section simply prohibits the more powerful party to exact certain undertakings, or to threaten dismissal or unjustly discriminate on certain grounds against those already employed. I hardly can suppose that the grounds on which a contract lawfully may be made to end are less open to regulation than other terms. . . . I confess that I think that the right to make contracts at will that has been derived from the word "liberty" in the Amendments, has been stretched to its extreme by the decisions.

In *Loewe v. Lawlor* (the Danbury Hatters' case),¹⁵ the Supreme Court applied the Sherman Act to the secondary boycott. In an attempt to organize a hat manufacturing company in Danbury, Conn., the United Hatters of North America instituted a nationwide boycott against hat stores which patronized the struck firm. The company asked for an injunction, which was granted, and sued for \$80,000 damages. The Court found that the boycott was in effect "a combination in restraint of trade or commerce" and in line with the act awarded triple damages. With court costs, the total bill ran over \$250,000. Payment was finally made, with the help of the AFL, but the union was wrecked and many of its members lost their savings and property through court judgments and execution. It was a disastrous affair and one which trade unionists still remember with resentment. Few legal decisions have done more than *Loewe v. Lawlor* to strengthen organized labor's suspicion of the courts.

With the right of Congress to protect trade unions denied, and with labor's use of the boycott severely circumscribed, union officials listened with apprehension to President Taft's inaugural remarks on the labor injunction. Taft, a former circuit judge, was not considered a friend. On the injunction, he had this to say:¹⁶

Another labor question has arisen which has awakened the most excited discussion. That is in respect to the power of the federal courts to issue injunctions in industrial disputes. As to that, my convictions are fixed. Take away from the courts, if it could be taken away, the power to issue injunctions in labor disputes, and it would create a privileged class among the laborers and save the lawless among their number from a most needful remedy available to all men for the protection of their business against lawless invasion. . . . The proposition is usually

¹⁴ *Ibid.*, p. 227.

¹⁵ 208 U.S. 274 (1908).

¹⁶ Commager, *op. cit.*, Sec. 2, p. 233.

linked with one to make the secondary boycott lawful. . . . The secondary boycott is an instrument of tyranny, and ought not to be made legitimate.

On the legal side, it was a dismal year. The outlook would have been blacker still, had it been foreseen that the speaker was destined to end his term of public service as Chief Justice of the Supreme Court from 1921 to 1930.

Taft's term in the presidency brought to a close 7 years during which the United States labor movement marked time, consolidated gains, perfected organization, and matured relations with employers. The membership record is shown in Table 43.

Table 43. American Trade-union Membership, 1905-1911 *

Year	Total	AFL	AFL per cent of total
1905	1,918,000	1,494,000	78
1906	1,892,000	1,454,000	77
1907	2,077,000	1,539,000	74
1908	2,092,000	1,587,000	76
1909	1,965,000	1,483,000	75
1910	2,116,000	1,562,000	74
1911	2,318,000	1,762,000	76

* SOURCE: BLS., *Handbook of Labor Statistics*, 1947, p. 130.

1912 to 1920: The Wilson Administration. Woodrow Wilson was the second Democratic President since Lincoln, a liberal, a political unknown. Mr. Gompers said of him: "Woodrow Wilson was not my choice for the presidential candidate for the Democratic Party. I had never met him, but what I had heard of him was not calculated to predispose me in his favor Upon the issues which were of fundamental interest to organized labor I did not know what was the personal opinion of Mr. Wilson."¹⁷ However, his inaugural address, a powerful and moving statement, was reassuring:¹⁸

We have been proud of our industrial achievements, but we have not hitherto stopped thoughtfully enough to count the human cost, the cost of lives snuffed out, of energies overtaxed and broken, the fearful physical and spiritual cost to the men and women and children upon whom the dead weight and burden of it all has fallen pitilessly the years through. . . .

The firm basis of government is justice, not pity. . . . There can be no equality or opportunity, the first essential of justice in the body politic, if men and women and children be not shielded in their lives, their very vitality, from the consequences of great industrial and social processes which they cannot alter, control, or singly cope with. . . .

¹⁷ Gompers, *op. cit.*, pp. 543-544.

¹⁸ Commager, *op. cit.*, Sec. 2, pp. 263-264.

Gompers's opinion changed rapidly into a "feeling of well-nigh reverential admiration,"¹⁹ and well it might. Before Wilson left office, he had appointed a trade unionist Secretary of Labor, supported the Clayton Act which was supposed to put a halt to the use of labor injunction, upheld the 8-hour day for railway workers, made organized labor an official partner in the war effort of 1917-18, and directly encouraged union growth and collective bargaining on the railroads while they were under federal control.

When Wilson was elected in 1912, trade-union membership in the United States was just short of 2,500,000; at the end of his administration in 1920, it had risen to the impressive total of double that figure. The rise is shown in Table 44.

Table 44. American Trade-union Membership, 1912-1920*

Year	Total	AFL	AFL per cent of total
1912	2,405,000	1,770,000	74
1913	2,661,000	1,996,000	75
1914	2,647,000	2,021,000	76
1915	2,560,000	1,946,000	76
1916	2,722,000	2,073,000	76
1917	2,976,000	2,371,000	80
1918	3,368,000	2,726,000	81
1919	4,046,000	3,260,000	81
1920	5,034,000	4,079,000	81

* SOURCE: BLS., *Handbook of Labor Statistics*, 1947, p. 130.

1914: The Clayton Act. The Clayton Amendment to the Sherman Anti-trust Act was the Wilson administration's reply to big business, which had presented a solid front of opposition to the banking reforms contained in the Federal Reserve Bank Act (1913) and the establishment of the Federal Trade Commission. The Clayton Act spelled out some of the "restraints" which had been left to the (judges') imagination in the Sherman Act. These consisted, among other things, of price discrimination, exclusive selling or leasing contracts, intercorporate stockholdings, and interlocking directorates in large companies. For organized labor, however, the Clayton Act had a big Christmas present. It said, very plainly in fact, that trade unions were not "combinations or conspiracies in restraint of trade" as the courts had found in some of the Sherman Act decisions, and that the law was not to be construed so as to forbid either their existence or their activities. The precise wording was as follows:²⁰

¹⁹ Gompers, *op. cit.*, p. 545.

²⁰ 38 Stat. 730 (1914).

Sec. 6. Nothing contained in the anti-trust laws shall be construed to forbid the existence and operation of labor . . . organizations . . . or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the anti-trust laws.

Further along, the law took up the labor injunction, and it seemed to disagree with President Taft's views 5 years before. In Sec. 20, it directed:

That no restraining order or injunction shall be granted by any court of the U.S. . . . in any case . . . involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law. . . .

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do . . . or from ceasing to patronize or to employ any party to such dispute . . . or from paying or giving . . . any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner . . . or from doing any act or thing which might lawfully be done in the absence of such dispute . . . nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the U.S.

To gullible trade unionists, this was plain English. It seemed to clear away a number of major obstacles all at once: (1) the revived conspiracy doctrine, (2) the labor injunction, and (3) suits for triple damages. Mr. Gompers was so elated that he publicly declared the act to be "labor's Magna Carta." But he and thousands of others were deceived without the aid of

urbane decisions, the United States Supreme Court repealed the act by interpretation, holding that it amounted to nothing more than a restatement

that Act was designed to remove. . . . The underlying aim of the Norris-LaGuardia Act was to restore the broad purpose which Congress thought it had formulated in the Clayton Act but which was frustrated, so Congress believed, by unduly restrictive judicial construction." With this conclusion no one has seriously disagreed. The *Hutcheson* decision emancipated organized labor from the control of the judiciary under the Sherman Act, just as the Clayton amendment had intended a quarter of a century earlier.

1915: *Coppage v. Kansas*, and the Report of the U.S. Commission on Industrial Relations. *Coppage v. Kansas*²³ is the "little *Adair* case." The *Adair* decision involved a Federal statute, the Erdman Act; the *Coppage* case was over a state law which prohibited employers from using the yellow-dog contract. An employe of the Frisco Railroad refused to sign the agreement or to leave the union. He was discharged and brought suit against the company, which appealed the decision of the local court on grounds that the act was unconstitutional. The United States Supreme Court agreed: "*In Adair v. United States* . . . this Court had to deal with a question not distinguishable in principle from the one now presented." Relying in this case on the Fourteenth Amendment to the Federal Constitution, the Court held that such a law violated the guarantee of "due process." Justices Holmes, Day, and Hughes dissented. Once again, the Holmes dissent was a classic:

I think the judgment should be affirmed. In present conditions a workman not unnaturally may believe that only by belonging to a union can he secure a contract that shall be fair to him. . . . If that belief, whether right or wrong, may be held by a reasonable man, it seems to me that it may be enforced by law in order to establish the equality of position between parties in which liberty of contract begins. Whether in the long run it is wise for the workmen to enact legislation of this sort is not my concern, but I am strongly of opinion that there is nothing in the Constitution of the U.S. to prevent it, and that *Adair v. U. S.* . . . should be overruled.

It is possible that Mr. Justice Holmes had looked into the final report of the United States Commission on Industrial Relations, published early in 1915. If he had, he would have found his own tentative conclusions documented over and over again. The title of the report was "The Concentration of Wealth and Influence." Its findings were a powerful indictment of the labor policies of big business.²⁴

1. The control of manufacturing, mining, and transportation industries is to an increasing degree passing into the hands of great corporations through stock ownership, and control of credit is centralized in a comparatively small number of enormously powerful financial institutions. These financial institutions are in turn dominated by a very small number of powerful financiers.

²³ 236 U.S. 1 (1915).

²⁴ Commager, *op. cit.*, Sec. 2, pp. 287-288.

2. The final control of American industry rests, therefore, in the hands of a small number of wealthy and powerful financiers. . . . The Morgan-First National Bank group alone controls corporations employing 785,499 wage earners. . . .

3. The concentration of ownership and control is greatest in the basic industries upon which the welfare of the country must finally rest.

4. With few exceptions each of the great basic industries is dominated by a single large corporation. . . .

6. Almost without exception the employees of the large corporations are unorganized as a result of the active and aggressive "nonunion" policy of the corporation management. Furthermore, the labor policy of the large corporations almost inevitably determines the labor policy of the entire industry.

9. These industrial dictators for the most part are totally ignorant of every aspect of the industries which they control . . . and are totally unconcerned with regard to the working and living conditions of the employees in those industries.

10. In order to prevent the organization of employees for the improvement of working conditions, elaborate systems of espionage are maintained by the large corporations which refuse to deal with labor unions, and the employees suspected of union affiliations are discharged.

The Commission also pointed out the extension of corporate influence into the "educational and social" services of the country through foundations, special endowments to colleges and universities, contributions to private charities, and control of the press. It regarded with apprehension the entrance of foundations (the Rockefeller Foundation was mentioned by name) into the field of industrial relations, and it charged corporate influence with the discharge of professors who had been active in support of strikers and labor legislation. The effect of the report was blunted by the rapidly growing threat of the European War. Before any of its recommendations could be acted upon, American support of the Allies was under way, and soon the country was engaged in a tremendous defense effort of its own.

1916: The Adamson Act. In 1916, an election year, President Wilson had an opportunity to prove his friendship for organized labor. In March, the train-operating brotherhoods (railway unions of conductors, engineers, firemen, and trainmen) demanded an 8-hour day without reduction of pay and threatened to strike if they did not get it. With their extensive organization, they were in a position to tie up railroad transportation from one end of the country to the other. Such a walkout, bad enough in normal times, would have been catastrophic in the middle of the country's effort to supply the Western Allies. In the crisis, Wilson appeared personally before Congress and asked that the union demands be granted by law. Congress agreed ("with a pistol at its head," according to critics of the action) and passed the Adamson Act. The law was immediately attacked as unconstitutional, but was upheld by the Supreme Court in *Wilson v. New*,²⁵ the following year.

1917: Hitchman Coal & Coke Co. v. Mitchell. The Hitchman Coal & Coke Co., a mining corporation operating in Marshall County, W.V., went open (nonunion) shop in 1906. Beginning in 1908, it required all employees to sign individual bargaining (yellow-dog) contracts in which they stated: (1) that they were not members of the union, the United Mine Workers of America, or (2) that they would resign their membership, and (3) that they would not join in the future while employees of the company. A union organizer tried to persuade some of the employees to join, and the company obtained an injunction against his efforts on the grounds that he was inducing a breach of contract, the "contract" being the nonunion commitment. The case went to the United States Supreme Court, where the injunction was upheld, Justices Brandeis, Holmes, and Clark dissenting.²⁶

The decision gave employers a potent weapon against trade unionism, which they did not hesitate to use. It was relatively easy to get employees and applicants for work to sign the nonunion agreements. The decision had been based on the common-law rule of sanctity of contracts, so it stood as a precedent for state as well as Federal courts. With the example set by the top court of the land, and with the Clayton Act subsequently repealed by a series of judicial decisions, it was easy to find judges who would grant restraining orders when "contractual" rights were threatened. The open-shop drive of employers, which began in 1921, would have had much less chance of success without the basic legal foundation laid down in the Hitchman case. The Norris-LaGuardia amendment to the Sherman Act, 15 years later, was a legislative broadside aimed squarely at the combination of the yellow-dog contract and the injunction.

1917 to 1920: First World War and Trade-union Boom. In the United States, trade unionism thrives on war. War brings prosperity, demands for unlimited production, work for everybody, and disregard of costs. War frequently produces an outright labor shortage, which greatly strengthens organized labor's bargaining position (*e.g.*, the train-operating unions in 1916). The First World War saw the governmental adoption and wide extension of the "cost-plus" contract. This is a contract in which the price to be paid is not set in advance, but is fixed afterward, on the basis of costs, with a flat percentage fee going to the contractor as his "profit." The cost-plus contract made haggling over wage rates and hours ridiculous. Wage increases merely meant higher costs and higher costs in turn meant a larger fee. This highly strategic situation enabled unions to get immediate and dramatic improvements in terms, which attracted new members in large numbers. Employers, faced with organizing drives and possible trouble, shrugged their shoulders and recognized the unions. The government was on the union's side anyway; look at what Wilson did in 1916 and what he was up to then through the work of the War Labor Board.

²⁶ 245 U.S. 229 (1917).

President Wilson had already appointed Gompers a member of the Advisory Commission to the Council of National Defense. One effect of Gompers's influence was to see that organized labor was given equal representation with management in the staffing of the War Labor Board. In this case, "organized labor" meant the AFL, which nominated all five of the labor members. The policies of the War Labor Board, which had jurisdiction over all disputes between employers and employees in war production industries, were extremely influential. The Board was an agency of the national government; during the emergency, the rules it laid down had the force of law. These rules marked a tremendous advance for organized labor over anything previously granted by a public agency. The most important ones were:

1. No strikes or lockouts for the duration of the war (although no penalties were stipulated in case of breach)
2. The right of workers to organize in trade unions and bargain collectively through representatives of their own choosing
3. No discharge of workers for union membership or legitimate union activities
4. No coercive action by organized labor to force employees to join or employers to recognize the unions

The record of the War Labor Board in the 490 cases which it settled sounds like a preview of the work of the National Labor Relations Board 20 years later. To quote the official historian of the AFL, Mr. Lewis L. Lorwin:²⁷

In all cases where the issue of organization was involved, the Board insisted upon reinstatement of workers discharged for union activity and forbade black-listing and individual (yellow-dog) contracts. Where the Board could not secure for employees the right to bargain collectively through trade unions, it provided some form of joint dealing if the employees demanded it. Frequently the Board took the initiative in setting up shop committees for handling local grievances, and sometimes local mediation boards were added. It looked upon such arrangements as preparatory steps towards trade unionism. That was the reason employers feared these committees and boards.

This was strong medicine, and while employers feared it, organized labor loved it. Principle 2, "the right of workers to organize and bargain collectively through representatives of their own choosing," was successively embodied in the Railway Labor Act, the National Industrial Recovery Act (Sec. 7a), and the National Labor Relations Act. It is now the basic rule in union-management relations in this country.

On the railroads, which were being run by William G. McAdoo, Wilson's son-in-law, exactly the same policy was followed. Under the Rail-

²⁷ Lorwin, *op. cit.*, p. 166.

way Administration Act of Mar. 21, 1918,²⁸ the Federal government proved to be a sympathetic employer. It recognized the unions, bargained with them in an atmosphere of friendliness and generosity, established nationwide boards of arbitration to handle grievances of the workers, and agreed to numerous changes in the working rules which were advantageous to the employes. For this it was severely criticized, especially by the railroad managements, but it did succeed in untangling the transportation system and it returned the roads to their owners in 1920 in relatively good shape.

The wartime trade-union boom did not end with the Armistice of November, 1918, but continued on through the brief postwar prosperity which followed. It reached its high point in 1920, with more than 5 million workmen carrying union cards, 4 million of which were in unions affiliated with the AFL. It was the high point of Sam Gompers's career, but there were already signs of change. A strike, late in 1919, against the 12-hour day in the steel mills was defeated. In the fall of 1920, the country "returned to normalcy," with the election of Warren G. Harding to the presidency. At about the same time, the depression of 1920-21 got under way.

1921 to 1933: Years of the Locust. One of the amazing chapters in the history of trade unionism in the United States is the steady decline in membership, power, and influence during the prosperous 1920's. It was contrary to precedent and to logic. The pattern of union growth from colonial times up to the First World War, as pointed out by Commons, Beard, and many others, had been: (1) rapid expansion of organized labor during prosperous periods, and (2) disintegration during periods of depression, with widespread loss of faith in trade-union tactics and frequent political sorties of more or less radical design. The historical record was reinforced by the common sense of the situation. In prosperous times, employers are busy making money and look with misgiving upon the possibility of a shutdown. They are more able to afford concessions in the form of wage increases, shorter hours, and improved working conditions, and are therefore more amenable to compromise. With improvement in their bargaining position, unions make gains and these gains attract new members. Organization is extended, recognition forced from hesitant managements, and the momentum thus gained makes new recruiting drives feasible.

In depression, all this is reversed. Management regards the chance of a shutdown calmly. Business is bad, anyway, and there may be question of the wisdom of continuing operations. Union men are unemployed or on short time, union treasuries are low, and there is no great heart for militant action which seems unlikely of success. Marginal union members drop away, nonmembers are uninspired by recruiting talk, and many unions close

²⁸ 40 Stat. 451.

their books against newcomers in order to reduce competition for those jobs which the union may control.

What went wrong, from 1921 to 1929, so that the usual depression pattern was superimposed upon the most prosperous period of the country's history? A number of things have been pointed to by the historians, of which the most influential seem to be the following:

1. *A Steadily Falling Price Level.* It was a genuine prosperity, for workingmen as well as capitalists. The declining price level meant that if money wages were maintained (which they were) the level of *real* wages was going up. Wage earners, as well as businessmen, found that their incomes from year to year would purchase more goods and services. This is a situation which takes the steam out of union recruiting activity, especially when it is combined with plentiful employment and a large supply of things to spend money on.

2. *Normalcy.* The dominant political philosophy of the Harding-Coolidge-Hoover era was the "return to normalcy." To many, normalcy meant a release from the tensions of war, industrial strife, and reform. It meant a return to peace, Republicanism, and "business as usual." It was noised about that prosperity was normal, through the "New Era" philosophy of economics. "Two chickens in every pot and two cars in every garage" was the promise of the future, and seemed for a time to be on the way to fulfillment. Why upset the apple cart?

3. *Opposition of the Courts.* From 1921 to 1930, ex-President William Howard Taft was Chief Justice of the United States Supreme Court. There is little doubt of his great influence in most of its decisions during this decade. There is also little doubt that, in labor matters, this is the period of sublime reaction, with adverse decisions on just about every possible issue to come before the Court. The period includes the anti-child-labor-law decision of *Bailey v. Drexel Furniture*; the antiminimum wage decision of *Adkins v. Children's Hospital*; the repeal of the Clayton Act in *American Steel Foundries v. Tri-city Central Trades Council*, *Duplex Printing Press Co. v. Deering*, *Coronado Coal Co. v. United Mine Workers of America*, and *Bedford Cut Stone Co. v. Stone Cutters' Association*; and the pro-yellow-dog contract decision of *Truax v. Corrigan*. The Chief Justice himself wrote the opinions in the Bailey, Adkins, American Steel Foundries, Coronado and Truax cases. At the same time, courts all across the country, with Supreme Court approval, were issuing injunctions against organizing activity which conflicted with "individual-bargaining" contracts. Labor liberals have good reason to look back with aversion upon the Taft era in American constitutional jurisprudence.

4. *Personnel Management.* The 1920's were the boom days of "scientific" personnel management, with its tests, merit rating, time-and-motion study,

job evaluation, and wage-classification programs. A carry-over from the discredited "scientific management" of prewar days, the new techniques were practically guaranteed by their enthusiastic sponsors to "keep the square pegs out of the round holes," to spur workers on to new heights of productive effort, to reward the deserving and penalize the undeserving in precise accordance with complicated formulae, and to divide the extra return fairly between owners and employees. It was a glamorous picture and much of it was true. Production rose, wages held steady, and prices fell. In the rush to adopt "scientific" procedures, many employee benefits were inaugurated: better tools, improved lighting, heating, and ventilation; canteens, rest periods, and cafeterias; bonuses, credit unions, and savings plans; music rooms, picnics, ball clubs, and gymnasiums. Why turn to unions when employers were busy with the workers' welfare? The paternalism inherent in the programs was brushed over in the bustle and prosperity of the times. Professional trade unionists, recognizing the threat to "solidarity" in the employers' emphasis upon individual differences in employees, found their protests wasted and their members indifferent. Besides, they had their hands full with a more immediate peril, a planned, concentrated, and powerful open-shop drive.

5. *The American Plan.* The "American Plan" was a union-busting campaign originated by a group of belligerent employers' associations, whose battle cry was the open (nonunion) shop. Sponsored by the U.S. Chamber of Commerce, the National Association of Manufacturers, the National Metal Trades Association, and scores of smaller groups, the plan called for propaganda, employee representation plans (the employers' idea of industrial democracy), yellow-dog contracts and injunctions, assistance to struck fellow employers, and nonunion shops. It was well financed, carefully organized, and perfectly timed. As a result, it worked better than any similar drive before or since. The success of the American Plan following the First World War created anticipation among some employers and apprehension among many trade unionists at the end of the Second World War. Here again, history proved misleading. Up to 1949, at any rate, the only semblance of an antiunion thrust in the United States was the Taft-Hartley Act of 1947 and a number of similar state laws. During 2 years of administration of the Taft-Hartley Act, trade unions gained in membership, finances, and political power, and following the election of 1948, the Taft-Hartley law was marked for modification to remove the provisions most objectionable to union leaders.

6. *Old Age.* Coming closer to home, a factor in the organized labor movement itself has been pointed out as contributing to the decline of the 1920's. It was the advanced age and reduced vitality of the leaders of the AFL. Some of the top men in the Federation (most of them heads of

important unions) were getting along in years, but were showing no disposition to retire in favor of younger and more vigorous leaders. These were the patriarchs of the union movement, with authority beyond challenge in their own organizations. Gompers himself died in December, 1924, only a month and a half short of his seventy-fifth birthday. With his going, the starch went out of union opposition to the American Plan, and the Federation started on a downward trail which has continued to the present day. Gompers's successor was William Green, chosen primarily for his lack of aggressiveness. Green still heads the AFL.

Table 45. American Trade-union Membership, 1921-1933*

Year	Total	AFL	AFL per cent of total
1921	4,722,000	3,907,000	83
1922	3,950,000	3,196,000	81
1923	3,629,000	2,926,000	81
1924	3,549,000	2,866,000	81
1925	3,566,000	2,877,000	81
1926	3,592,000	2,804,000	78
1927	3,600,000	2,813,000	78
1928	3,567,000	2,896,000	81
1929	3,625,000	2,934,000	81
1930	3,632,000	2,961,000	81
1931	3,526,000	2,890,000	82
1932	3,226,000	2,532,000	79
1933	2,857,000	2,127,000	74

* SOURCE: BLS, *Handbook of Labor Statistics*, 1947, p. 130.

The 1929 stock-market smash and the progressive collapse of business to 1933 found the trade-union movement in the United States soft, weak, and leaderless. In traditional nineteenth-century fashion, attention was turned from economic action to the political front, and here an astounding victory was scored. Congress passed and President Hoover signed the Norris-LaGuardia Federal Anti-injunction Act, a law which prohibited the yellow-dog contract and hedged the labor injunction around with so many restrictions as to make its use practically impossible. This legislative triumph, however, did not arrest the fall in membership, which continued for another year. The long downward slide is shown in Table 45. One fact does emerge from the record, however: the value of joint action. In the drought of the 1920's and the early 1930's, the AFL unions did better than the independents.

1921: Mr. Chief Justice Taft. The appointment in 1921 of ex-President William Howard Taft as Chief Justice of the U.S. Supreme Court set the

tone of the Court's labor decisions for the coming decade. The tone was consistently negative in an unbroken series of decisions, until reversed by Taft's successor, Chief Justice Hughes, in the Texas and New Orleans Railway case in 1930. From 1921 to 1927 there were seven major antilabor decisions, five of them bearing directly on organized labor and its activities. They were:

1921: *Duplex Printing Press Co. v. Deering*.²⁹ (Pitney) An interpretation of the Clayton Act permitting the issuance of an injunction to restrain a hot (nonunion) goods boycott and stating that the Act "gives to private parties a right to relief by injunction in any court of the United States against threatened loss or damage by a violation of the anti-trust laws." Justices Brandeis, Holmes, and Clark dissented.

American Steel Foundries v. Tri-city Central Trades Council.³⁰ (Taft) An interpretation of the Clayton Act permitting the issuance of an injunction to restrain picketing in large numbers.

Truax v. Corrigan.³¹ (Taft) Holding unconstitutional a portion of an Arizona state law identical with Sec. 20 of the Clayton Act (the anti-injunction section) and authorizing the issuance of an injunction to restrain picketing instead. Justices Holmes, Brandeis, and Pitney dissented.

1922: *Bailey v. Drexel Furniture Co.*³² (Taft) Holding unconstitutional a law containing a prohibitive tax on products made with the aid of child labor.

1923: *Adkins v. Children's Hospital*.³³ (Taft) Holding unconstitutional a Federal law for the District of Columbia fixing minimum wages for women workers. On the basis of this decision, the attorneys general in a number of states having similar laws declared the state acts unconstitutional and invalid. Justices Holmes and Brandeis dissented.

1925: *Coronado Coal Co. v. United Mine Workers of America*.³⁴ (Taft) A strike in an Arkansas coal mine held to be a part of a conspiracy to restrain interstate commerce in coal.

1927: *Bedford Cut Stone Co. v. Journeymen Stone Cutters' Association of North America*.³⁵ (Sutherland) Authorizing a suit for damages against a union engaging in a hot (nonunion) goods boycott. Justices Brandeis and Holmes dissented.

1922: **The Railway Shopmen's Strike and the Railway Labor Board.** Title III of the Transportation Act of 1920, which returned the railroads to

²⁹ 254 U.S. 443.

³⁰ 257 U.S. 184.

³¹ 257 U.S. 312.

³² 259 U.S. 20.

³³ 261 U.S. 525.

³⁴ 268 U.S. 295.

³⁵ 274 U.S. 37.

their private owners, set up a Railway Labor Board to adjudicate disputes between the carriers and their employees. The Board had nine members, three each representing the carriers, the unions, and the public. The Board is distinctive in one respect. It was the first full-time, standing, administrative commission to be created by Congress to regulate labor-management relations in time of peace. As such, it was the prototype of the present National Mediation Board and National Railroad Adjustment Board (on the railroads) and the National Labor Relations Board for industry in general. Unfortunately, the Railway Labor Board had no instructions, no power to enforce its decisions, and it was weakened from the start by some unwise, lame-duck political appointments made by President Harding.

In 1922, the railway shopmen struck against one of the Board's wage decisions. The strike had varying efficiency in different parts of the country but especially in Chicago was effective in curtailing the operation of trains. In the emergency which arose, an injunction was granted by Judge Wilkerson of the Federal district court, which reached an all-time high in prohibiting speech, assembly, communication, or any form of assistance among strikers or their associates. The Wilkerson injunction broke the strike, but at the same time it reduced to insignificance the status of the Railway Labor Board, which had sat by impotently while the employees flouted its ruling. The Board never recovered from the effects of the strike, and a few years later the Supreme Court completed its demise by stating that it had no power to enforce its awards and hence was an advisory body only. It was succeeded by the Board of Mediation set up under the Railway Labor Act of 1926.

1923: Compulsory Arbitration of Industrial Disputes. After a disastrous coal strike in 1919, the Kansas state legislature in 1920 passed a law setting up a Court of Industrial Relations which was to settle all types of industrial disputes in the following industries: food, clothing, mining or transportation of fuel, and public utilities. Strikes, lockouts, picketing, and restriction of output in these industries were prohibited. The court had an uneasy existence for 3 years. Then, in *Wolff Packing Co. v. Court of Industrial Relations*,⁸⁶ the United States Supreme Court found that wage fixing in competitive industries was unconstitutional and threw the Industrial Court out the window.

1924: Restriction of Immigration. The Immigration Act of 1924⁸⁷ was a big victory for the AFL, which had for years demanded the exclusion of cheap competitive labor on grounds of its contribution to unemployment and the pressure on union wage rates. The 1924 law set the quotas at 2 per

⁸⁶ 262 U.S. 522 (1923).

⁸⁷ Commager, *op. cit.*, Sec. 2, p. 372.

cent of nationals already in the country according to the 1890 Census, instead of 3 per cent of the 1910 Census as prescribed in the act of 1921, and totally excluded Japanese. Two things were accomplished. The numbers admissible were greatly reduced and the proportion coming from the south of Europe was cut drastically, relative to those from North European areas, especially Germany, England, Ireland, and the Scandinavian countries. What the act did to immigration totals is shown in Table 46.

Table 46. Immigration in the United States, by Decades, 1881-1940*

<i>Years</i>	<i>Immigration</i>
1881-1890	5,246,613
1891-1900	3,687,564
1901-1910	8,795,386
1911-1920	5,735,811
1921-1930	4,107,209
1931-1940	528,431

* SOURCE: *Statistical Abstract of the United States*, 1948, p. 105.

1926: The Railway Labor Act. The Railway Labor Act of 1926³⁸ marks the beginning of the modern era in Federal labor legislation in the United States. The law can lay claim to a notable number of *firsts* in the history of Congressional regulation of labor relations. (1) It was the *first* Federal law to guarantee to employes the right to organize and bargain collectively through representatives of their own choosing without interference by employers, a principle which has become the basis of all subsequent labor legislation by Congress and most state legislatures. This principle is now a fundamental rule of law in the United States. (2) It was the *first* important example of Congressional protection of unions to be approved by the Supreme Court. In *Texas and New Orleans Railway v. Brotherhood of Clerks*, the Court not only upheld the Railway Labor Act; it provided an important precedent for supporting the National Labor Relations Act 7 years later. (3) It was the *first* of the big laws regulating labor relations in interstate commerce to stand the test of time. The Railway Labor Act was designed to prevent work stoppages on the railroads; in 23 years of operation under it, there was only one important walkout and that collapsed within 48 hours. (4) It was the *first* labor law on the Federal level which union officials helped to write. The act was the outcome of a joint effort by management and union representatives to find a substitute for the strike, the lockout, the boycott, and the blacklist as a way of settling disputes. Labor representatives subsequently helped to draft the Norris-LaGuardia Act and the Wagner Act, both of them highly efficient pieces of regulatory legislation. (5) Largely as a result of point 4 above, it was the *first* example of Federal regulation of

³⁸ 44 Stat. 577.

labor relations to disclose any grasp of the technical problems of dispute settlement. The Railway Labor Act is still technically the best labor law in the Federal code, and all Federal legislation on union-management relations since it was passed has drawn on it for principles or methods or both.

By 1925, both labor and management on the railroads were sick of disputes, work stoppages, arbitrary governmental interference, and the constant strife and tension which accompanied them. Brought together in joint conference, the two parties sat down to write a law which would permit management, unions, and employes to live peaceably with one another and work out their differences short of complete public control. The bill which was produced was primarily the work of Donald Richberg, an extremely able labor lawyer, who was at the time legal counsel to the railway unions. It was a path-breaking piece of work, embodying two practically new ideas in labor regulation and implying a third which is just now coming into prominence. The two new ideas were: (1) protection of the right to organize and bargain collectively, and (2) separation of disputes into the three categories of recognition, terms of the agreement, and interpretation of the agreement, with different methods of settlement for each class. The third idea, which was implied, was special emergency provisions for disputes in important industries. The RLA method of delay, fact finding, and publicity for use on the railroads was adopted whole for the handling of national emergency strikes in the Taft-Hartley Act of 1947.

Congress was just as sick of disputes on the railroads as were management and the unions. The bill submitted by the labor-management representatives was complicated and different, two things which are hard on congressmen. The Coolidge administration was not prounion, and the 1926 Congress was not a labor Congress, but they respected Mr. Richberg and the law seemed satisfactory to both management and the unions. Both the House and the Senate figuratively shut their eyes and passed the bill, and President Coolidge signed it. The act is a landmark in the public regulation of labor relations, a decisive illustration of the value of collaboration with the parties involved when drawing up regulatory measures.

1927: Execution of Sacco and Vanzetti. On Aug. 23, 1927, Nicola Sacco and Bartolomeo Vanzetti were executed on a charge of murder of a factory paymaster at South Braintree, Mass., 7 years before. As everybody knew, the real reason was their political views. The two men were Philosophical Anarchists and had been active in radical circles in and around Boston for years; much was made of this fact during the trial. The evidence on which they were convicted was meager, much of the testimony during the trial was challenged and subsequently impeached, and before the execution, a professional bandit confessed the shooting and denied that Sacco and

Vanzetti were in any way involved. Outstanding liberals the world over denounced the prosecution and appealed for clemency, which was denied after the report of a special committee (containing the presidents of Harvard and MIT) upheld the court.

The conduct of the trial and the conclusions reached therein have been reviewed and condemned by authors, dramatists, and legal experts. Without a single exception, they have pronounced the whole proceeding an example of monumental injustice. The case was the most widely publicized criminal action in the history of the country, surpassing in public interest its counterpart of the 1880's, the trial of the Haymarket anarchists. It is widely assumed that the Sacco-Vanzetti affair did more for the radical cause in America than the intrigues of an army of anarchists, philosophical or otherwise.

One legacy of the Sacco-Vanzetti struggle was a series of moving statements by one of the accused which revealed him as a master of expression, a very brave man, and a prophet of more than average understanding. In his last statement in court and in a letter written after his conviction, Bartolomeo Vanzetti summed up the case against him and looked into the future. From the statement:³⁰

What I say is that I am innocent, not only of the Braintree crime but also of the Bridgewater crime. That I am not only innocent of these two crimes, but in all my life I have never stole and I have never killed and I have never spilled blood. That is what I want to say. And it is not all. Not only am I innocent of these two crimes, not only in all my life I have never stole, never killed, never spilled blood, but I have struggled all my life, since I began to reason, to eliminate crime from the earth. . . . I have refused myself the commodity or glory of life, the pride of life of a good position because in my consideration it is not right to exploit man. . . .

You see it is seven years that we are in jail. What we have suffered during those years no human tongue can say. . . . I would not wish to a dog or a snake, to the most low and misfortunate creature on the earth—I would not wish to any of them what I have had to suffer for things that I am not guilty of. But my conviction is that I have suffered for things that I am guilty of. I am suffering because I am a radical and indeed I am a radical; I have suffered because I was an Italian, and indeed I am an Italian; I have suffered more for my family and for my beloved than for myself; but I am so convinced to be right that if you could execute me two times, and if I could be reborn two other times, I would live again to do what I have done already. I have finished. Thank you.

From the letter:

If it had not been for these thing, I might have live out my life talking at street corners to scorning men, I might have died, unmarked, unknown, a failure. Now we are not a failure. This is our career and our triumph. Never in our full

³⁰ Commager, *op. cit.*, sec. 2, pp. 398-399.

life could we hope to do such work for tolerance, for Justice, for man's understanding of man as we do now by accident. Our words—our lives—our pains—nothing. The taking of our lives—lives of a good shoe maker and a poor fish peddler—all! That last moment belongs to us—that agony is our triumph.

1929: Stock-market Crash. The great stock-market crash of October, 1929, is generally accepted as marking the end of the prosperity of the 1920's and the beginning of the depression. More than 16,000,000 shares were dumped in one day on a collapsing market. By the end of 1929, total share values had declined \$15 billion. Two years later, the value of all stocks traded on the Big Board had dropped \$50 billion, and the depression was under way.

1930: Man Bites Dog—The Texas and New Orleans Case. In 1930, the Railway Labor Act of 1926 came before the U.S. Supreme Court in the case of *Texas and New Orleans Railway v. Brotherhood of Clerks*.⁴⁰ The T & N O had been employing the classic method of union busting on the railways, of firing union men, especially active leaders and organizers, and replacing them with nonmembers, and at the same time forming a "system association" (company union) of clerks to take the place of the Brotherhood. The case was remarkable in one respect. It turned on the *union's* request for an injunction *against the employer*, on grounds that the employer was violating the guarantee in the RLA of the right to select bargaining representatives "without interference, influence, or coercion." The T & N O's contention was that the act was unconstitutional, like the anti-yellow-dog provisions of the Erdman Act in *Adair v. United States*, and even if constitutional, that it provided no sanctions or penalties for violation, and so was advisory only, as in the case of the Transportation Act of 1920 (Railway Labor Board).

The Court had changed. Mr. Chief Justice Taft was dead, and his place had been taken by Charles Evans Hughes, former Associate Justice of the same Court, ex-Governor of New York, a former Republican candidate (against Wilson in 1916) for President of the United States. The change in personnel carried with it a change in viewpoint. In a unanimous decision, read by the Chief Justice, the Court upheld the constitutionality of the act and rejected the view that a law of the United States prohibiting a form of conduct (coercion) could be disregarded with impunity. The company was permanently enjoined from continuing its interference and required to take constructive action in the form of rehiring the discharged men and dissolving the system association. It was a great legal victory for organized labor, made still greater 7 years later when the fundamental dogma of the decision, "This act does not interfere with the employer's normal right to hire and fire," was repeated in upholding the Wagner Act.

1932: The Norris-LaGuardia Act and Election of Franklin Delano Roosevelt. In 1932, there occurred two events of outstanding importance to

⁴⁰ 281 U.S. 548.

the labor movement in the United States, one of them legislative and the other political. The Congress passed, and the President approved, the Norris-LaGuardia Federal Anti-injunction Act,⁴¹ a law so binding and definite in its provisions as to preclude the kind of misinterpretation which had neutralized the Clayton Act. Then the people of the United States rejected the Republican party and elected Franklin Delano Roosevelt as President, thereby bringing into office the greatest friend of organized labor in the history of the country.

The Federal antiinjunction act was sponsored by two great liberals, Senator Norris of Nebraska and Representative Fiorello LaGuardia of New York. It prohibited outright the yellow-dog contract as "contrary to the public policy of the U.S.," unenforceable, and no basis for any form of legal or equitable relief. It also prohibited the use of injunctions to restrict any form of peaceful union activity and placed a number of limitations upon their issuance to prevent violence or other unlawful acts. The coverage of the act was broadened by the definition of a labor dispute as "any controversy concerning terms or conditions of employment [etc.] . . . regardless of whether or not the disputants stand in approximate relation of employer and employee." The act put an end to the use of the labor injunction in disputes in interstate commerce, and it was immediately adopted in identical or similar form by a number of the more important industrial states. Since the injunction was the principal weapon for combating mass and violent picketing, its elimination was a tremendous addition to strike efficiency. From the time the Norris-LaGuardia Act was upheld by the Supreme Court in 1937 until the passage 10 years later of the Taft-Hartley Act, which relaxed its provisions somewhat, no major employer in the United States was successful in continuing operations during a strike.

The election of 1932 was not on its face such an auspicious event for organized labor. It was more of a repudiation of the "Hoover depression" than anything else. The Democratic platform of 1932 did not mention organized labor other than in a vague promise to revise the antitrust laws "for the better protection of labor and the small producer and distributor." The AFL was only lukewarm toward the campaign promises of old-age and unemployment insurance. The new President had a good record as a liberal Governor of New York, where he had continued in the Al Smith tradition, but his position on national domestic issues was largely unknown. The overwhelming problems of the day were depression, bankruptcy, and unemployment. The trade unions were trying to survive; aggressive organizing activity was out of the question. Like many others, trade unionists were ready for a change, but they had no idea it was to be so advantageous to them. They first discovered their good fortune when President Roosevelt

⁴¹ 47 Stat. 70.

authorized the inclusion of Section 7a in the National Industrial Recovery Act.

1933 to 1935: Section 7a and the Labor Boards. The National Industrial Recovery Act ⁴² (NIRA) was the Roosevelt administration's main effort to whip the depression. It provided for Federal control of the entire industrial structure of the country through the mechanism of codes of fair competition, industry agreements, and governmental supervision (the "Blue Eagle" and General Hugh Johnson) plus a program of public works. The purpose was the increase of production, consumption, purchasing power, and employment. An important part of each code was a set of labor standards: minimum wages, maximum hours of work, limitation of child labor, and the now famous (or notorious) Sec. 7a:

(1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

It was soon apparent that employers *were* interfering with their employes' rights of self-organization and selection of bargaining representatives. The NRA administrators favored collective bargaining, even to the point of withholding the Blue Eagle in its absence. Since many employers found themselves without a union to bargain with, they went out and got one of their own. The NRA turned loose upon the country a flood of "employee representation plans," most of which were, in effect, company unions with little or no independence and less bargaining power. There were a lot of squawks over this and other violations of the guarantee in Sec. 7a, so two successive boards were set up to handle disputes and say what was and what was not "interference, restraint, or coercion" by employers.

The first was the *National Labor Board*, an unpaid part-time public body, organized on the traditional basis of three-way representation: three public members, two industry members, and two labor members. It had no directions, no clear idea of what it was to do, no power to enforce its decisions, and like the Railway Labor Board of 10 years earlier (which it somewhat resembled), it did not last. A couple of tough employers (Mr. Weir of the Weirton Steel Co. and Mr. Budd of the Budd Car Manufacturing Co.) told it off, and it folded. Nevertheless, in the 11 months of its existence, it did a lot of work (handling 3,532 cases involving 1.8 million employes, holding 183 employee representation elections, etc.)⁴³ and began the difficult

⁴² 48 Stat. 195 (1933).

⁴³ Millis and Montgomery, *op. cit.*, p. 758.

process of defining and classifying the unfair labor practices of employers. Both jobs (administration and definition) were continued by its successor, the (first) ⁴⁴ National Labor Relations Board.

The (first) *National Labor Relations Board* was appointed June 29, 1934, by President Roosevelt under authority of Public Resolution 44 of the Seventy-third Congress. It was quite different from the National Labor Board. It had only three members, all of them impartial, full-time, salaried employees of the government.⁴⁵ The Board had the power to subpoena witnesses, hold elections, and enforce its orders through the Federal district courts. It also lasted 11 months (to May 27, 1935, when the entire NIRA was held unconstitutional in *Schechter Poultry Corporation v. United States*)⁴⁶ and did a lot of work (9,364 cases involving 2,154,000 workers; 154 representation elections, etc.).⁴⁷ Most important of all, it found out what the main types of employer interference consisted of and what powers an administrative labor board needed to put a stop to them. Its experience provided the basis for the Wagner Act, which took the place of Sec. 7a after the NIRA was struck out.

1934: The National Railroad Adjustment Board. One of the things which the union representatives wanted to put in the Railway Labor Act of 1926, but which the carriers would not agree to, were national adjustment boards for the settlement of "grievances," which are mostly disputes over the interpretation of contracts. They had them while the government ran the railroads during the First World War and the unions (which are nationwide in scope) liked them, while the employers did not. The carriers favored "system" adjustment boards, limited to the lines under one corporation's control such as the Pennsylvania, the New York Central, the Burlington, etc. In 1934, the unions got their national boards. Congress amended the RLA to establish a National Railroad Adjustment Board, with offices in Chicago, to handle disputes "growing out of grievances or out of interpretation or application of agreements concerning rates of pay, rules or working conditions." Any dispute not settled within the system's grievance machinery could be appealed to the appropriate division of the NRAB, where it would eventually be arbitrated and the decision enforced, if necessary, by a court award.

1935: The Wagner Act. Section 7a of the NIRA turned out to have more lives than a cat. The (first) National Labor Relations Board was

⁴⁴ So designated to distinguish it from the National Labor Relations Board set up under the Wagner Act in 1935.

⁴⁵ All three men were labor experts, two of them on leave from university professorships. They were: Lloyd K. Garrison, chairman (University of Wisconsin), Harry A. Millis (University of Chicago), and Edwin S. Smith.

⁴⁶ 295 U.S. 495.

⁴⁷ Millis and Montgomery, *op. cit.*, p. 760.

hardly out of business as a result of the Schechter decision when Congress passed the Wagner-Connery National Labor Relations Act.⁴⁸ The Wagner Act was Sec. 7a(1), expanded and provided with administrative machinery to make it stick. It stuck. During 12 years of aggressive administration, enthusiastic support, virulent criticism, and violent controversy, the law stood without the dotting of an "i" or the crossing of "t," until the Taft-Hartley Act of 1947 absorbed it in modified form.⁴⁹ During those 12 years, trade-union membership grew from 4.4 million to 15.6 million, and the principles of self-organization and collective bargaining were solidly embedded in the American way of life and in the United States legal code. The Wagner Act *is* labor's Magna Charta in this country, and Franklin Delano Roosevelt is trade unionism's King John.

The Wagner Act was simple, clear, explicit. It set up a board of three with full power to administer and enforce the law, it forbade five employer unfair labor practices, and it outlined a method of giving official approval to employee bargaining representatives (unions). (1) The board was the National Labor Relations Board (NLRB). It had the power to subpoena witnesses and compel the submission of documents, to administer oaths, to enter upon employers' premises, to investigate, hold hearings and elections, and make awards. It could issue cease-and-desist orders; require constructive action, like rehiring and the payment of back wages to unjustly discharged workmen; and go directly to the circuit courts of appeal for enforcement of its orders. (2) The five unfair labor practices of employers were: (a) any interference with the employees' rights of self-organization and collective bargaining, (b) establishment of a company-dominated union, (c) antiunion discrimination in hiring, firing, or job assignment, (d) discrimination against an employee who files charges or gives testimony under the act, and (e) refusal to bargain collectively. (3) If a union claimed the right to represent some employees, the Board was to define the "appropriate bargaining unit" and then satisfy itself that a majority of the employees in the unit (or voting, if an election were held) wanted the union as their representative. If they did, the Board was to "certify" the union, and the employer was required by law to recognize and bargain with it.

Employers reacted to the Wagner Act as Pope Innocent III did to the Magna Charta. They declared it void. They had never liked Sec. 7a or the boards which administered it, and when the new NLRB began to interpret the unfair labor practices, there was widespread refusal to comply with its orders. The rebellion was supported by legal opinion. A number of lawyers,

⁴⁸ 49 Stat. 449.

⁴⁹ If it were nothing else, the Wagner Act would be a monument to the men who worked out its provisions on the early labor boards and drafted one of the most efficient pieces of legislation on record. Neither in Congress nor before the courts has any other major law in this country, in such a controversial setting, compiled the record of successes which must be credited to it.

especially those on the payroll of corporations, indicated that they thought the law unconstitutional and advised their clients to disregard it. Many clients did as advised, some of them to their ultimate cost, when the surprising Jones and Laughlin decision was rendered in the spring of 1937. Since the NLRB and the trade unions were both busy, the former investigating and issuing orders and the latter organizing as aggressively as possible in reliance upon the new statute, the period 1935 to 1937 turned out to be rather chaotic.

It was, in fact, a chaotic period within the ranks of trade unionism, as well as in the area of union-management relations. The Wagner Act had been a shot in the arm for organized labor, and the shot was too much for the elderly constitution and hardened arteries of the AFL. Rebellion was brewing in the "house of labor."

1936: The Great Schism—Birth of the CIO. The times had changed and the structure of industry had changed, but the leaders of the AFL were still unreconstructed craft unionists. They were sleeping soundly at the switch when the upturn in union fortunes made its appearance in the shape of Sec. 7a of the NIRA, and there had been hardly an interruption in their slumber by the time the Wagner Act was passed in 1935. At successive conventions, the executive council brushed off the demands of a little group of leaders of industrial unions, led by John L. Lewis of the United Mine Workers, that a new basis of organization be adopted. A minority report of the committee on resolutions of the Convention of 1935 stated this group's belief that:⁵⁰

In the great mass-production industries, and in those in which the workers are composite mechanics, specialized and engaged upon classes of work which do not qualify them for craft-union membership, industrial organization is the only solution. . . .

The report was voted down, and industrial unionism rejected. In a rump meeting after the close of the Convention, the leaders of eight unions formed the Committee for Industrial Organization. The big guns were John L. Lewis (United Mine Workers), Sidney Hillman (Amalgamated Clothing Workers), and David Dubinsky (International Ladies' Garment Workers). The historic eight unions represented were: the United Mine Workers, the Amalgamated Clothing Workers, the International Typographical Union,⁵¹ the United Textile Workers, the United Hatters, Cap and Millinery Workers, the International Union of Mine, Mill, and Smelter Workers, the International Ladies' Garment Workers, and the Oil Field, Gas Well, and Re-

⁵⁰ *Proceedings of the 1935 Convention, AFL*, p. 524.

⁵¹ The ITU never actually joined the CIO; its president, Mr. Howard, was present at the original meeting, but could never get the union to leave the AFL and join the other group. The same is true of Max Zaritsky of the United Hatters.

finery Workers. They were joined shortly afterward by four others: the Federation of Flat Glass Workers, the Amalgamated Association of Iron, Steel, and Tin Workers, the United Automobile Workers, and the United Rubber Workers.⁵² All told, these unions represented between a million and a million and a half members.

The Committee apparently had had no intention of seceding. It stated its purpose to be "encouragement and promotion of organization of the unorganized workers in the mass production and other industries upon an industrial basis . . . to bring them under the banner and in affiliation with the American Federation of Labor." But to the die-hards in the AFL—President Green, John Frey, "Big Bill" Hutcheson, Matthew Woll—it was dual unionism and treason. In a series of actions throughout 1936–38, the offending unions were first suspended and then expelled. The CIO was on its way, and the American labor movement was split, perhaps irrevocably, into two great federated groups.

1934 to 1936: Upturn of Union Fortunes. It was the second year of the Roosevelt administration before American trade unionism began to respond to the series of stimulants administered to it—Sec. 7a, the National Labor Board and the (first) National Labor Relations Board, the National Railroad Adjustment Board, etc.—and even then the recovery was slow and halting. Membership figures finally turned upward, from the 2,973,000 of 1933 to 3,249,000 in 1934 and 3,728,000 in 1935. By 1936, after 3½ years of solid government support, the organized labor movement in this country was still far smaller than it had been in 1920. It had 4,164,000 members as compared to 5,048,000 a decade and a half earlier. It was this dawdling pace of increase that exasperated John L. Lewis and his industrial union allies of the clothing trades, Sidney Hillman and David Dubinsky. At the 1935 Convention they had charged the standpat craft unionists with "failing to organize the unorganized." Pausing only long enough to set up their own Committee for Industrial Organization, they pitched into the job of showing how it was to be done.

Throughout 1936, while the AFL was scurrying around with orders to disband, stand trial, suspend or be expelled, etc., the CIO was hard at work, trying, with great success, to organize the supposedly impregnable steel and auto industries. With a war chest of \$500,000, the Steel Workers' Organizing Committee (SWOC) was plowing head on into Big Steel and the even tougher smaller scale independents. On Mar. 2, 1937, U.S. Steel recognized the SWOC, and later in the same year, General Motors Corporation fell to the United Automobile Workers. The dam had burst. By the end of 1937, total trade-union membership had jumped more than three million, and the CIO was bigger than the AFL. The turn of the tide is shown in Table 47.

⁵² *Labor Information Bulletin*, March, 1948.

1886 to 1936: Summary. The 50 years of AFL leadership illustrate the rise and decline of the craft principle in organization. The doctrine of "exclusive jurisdiction" was appropriate to the times, a sound and efficient theory up to the First World War. Then, like many another useful concept, the facts upon which it was based changed, and it became an outworn shibboleth, a principle which even its adherents disregarded in practice and which had a hampering effect upon the extension of union organization to millions of potential members. In the rebirth of the AFL during the late 1930's and the Second World War, the successful unions were those which expanded their jurisdiction, by amalgamation and extension, with complete disregard of craft lines. The fluidity of industrial society during a mass-production epoch made organization by industry a necessity, organization by craft an anachronism.

The half century from 1886 to 1936 also demonstrated the fundamental

Table 47. American Trade-union Membership, 1933-1937*

Year	Total	AFL	AFL % of total
1933	2,857,000	2,127,000	74
1934	3,249,000	2,608,000	80
1935	3,728,000	3,045,000	82
1936	4,164,000	3,422,000	82
1937	7,218,000	2,861,000	40

* SOURCE: BLS, *Handbook of Labor Statistics*, 1947, p. 130.

necessity of political action for union welfare. A friendly government means union growth, official antagonism means union stagnation and decline. The periods of greatest union development came without exception in times of governmental encouragement, during the administrations of McKinley, Wilson, and the two Roosevelts. Even the opposition of the judges could not overcome the effect of a friend in the White House. But to realize its full potential, organized labor had to be accepted by the courts, an objective which it did not achieve until 1937.

Finally, the first 50 years of an established trade-union movement in the United States saw the practical disappearance of radical, revolutionary mass organization and the full acceptance of "safe and sane" business unionism. The public disapproval of left-wing labor organizations and the prompt reprisals visited upon Debs, the Progressive Miners, and the I.W.W., taught union leaders conservatism and limited objectives. Instead of "elimination of wage slavery" and abolition of the industrial system, they demanded higher wages, shorter hours, and better working conditions. They learned to work with and influence Congress and the Chief Executive. They avoided tying political commitments and third-party adventures, and advised members to "reward friends and punish enemies." They became, in fact, too conservative,

but they established the principle of collective bargaining as an American institution and put trade unions among the leaders of the accepted special interest groups in American political and economic life.

Readings

For the full flavor of this remarkable period of struggle and growth on the part of organized labor in America, the student should read Samuel Gompers's *Seventy Years of Life and Labor*,⁵³ and Lewis Lorwin's *The American Federation of Labor*.⁵⁴ One is the autobiography of the man who built the AFL, the other is the official story as told by a sympathetic outsider.

⁵³ New York: E. P. Dutton & Co., Inc., 1925, 2 vols.

⁵⁴ Washington: Brookings Institution, 1933.

13. THE RISE OF INDUSTRIAL UNIONISM AND THE CIO: 1936 TO DATE

The history of the labor movement in the United States since 1936 is the story of the rise of industrial unionism. To a large extent, it is the story of the CIO, whose formation, expulsion, reorganization into a separate federation, and rapid growth provided the impetus and the philosophy of a labor movement in tune with the times. It includes, however, the rebirth of the AFL. The older federation, jarred out of its somnolence by what it considered the defection of some of its most powerful members, shook itself loose from the handicap of the principle of craft jurisdiction and plunged into competition for new recruits. In doing so, it practically abandoned the ancient dogma of exclusive jurisdiction of the trade, and its most successful members proselyted with abandon among miscellaneous groups of employees.

The Teamsters Union, for example, the largest AFL union, and in 1948 the largest labor organization in the country, has a large basic core of members concerned with vehicular land transportation, most of them chauffeurs.¹ However, it also contains a wide variety of production and service employees in a number of industries, in complete disregard of either craft or industry affiliation. In the process of extending their jurisdiction and amalgamating related occupations, some AFL unions have become the champions of the odd-lot and grab-bag theory of recruiting. It is the CIO which today represents a consistent theory of organization, based on the thoroughly modern principle of industrial classification.

1936: Reelection of President Roosevelt. There is little doubt that the overwhelming reelection of President Franklin Delano Roosevelt in 1936 set the stage for organized labor's explosive advance the following year. Mr. Roosevelt won the electoral and popular votes of all states except Maine

¹ Teamsters, as such, are now of course a negligible fraction of the membership.

and Vermont. His first 4 years in office had shown him to be vigorous and aggressive, and his policies were on the record for all to see. Friendship for and assistance to organized labor were high on the list. He had supported Sec. 7a of the National Industrial Recovery Act, appointed the National Labor Board and the (first) National Labor Relations Board, and sponsored the Wagner Act as an administration "must" bill. He was articulately opposed to the "judicial obstructionism" of the United States Supreme Court, which he felt was handicapping Congress and the Executive, and he had publicly referred to the Schechter decision outlawing the NRA as taking the United States back to the "horse-and-buggy" days. The size of his popular and electoral majority could only be interpreted as a powerful mandate to continue in the direction he had started. He made clear that he regarded it as such with his bill for the reorganization of the Federal judiciary (the United States Supreme Court was his real target), which was introduced into Congress early in 1937.

1937: Year of Decision

If any one year can be said to mark the date when the United States as a nation was committed to the principle of collective bargaining, that year is 1937. In 1937, the United States Supreme Court was "reformed" and by a slim margin of 5 to 4 began to uphold Federal labor legislation which it had been expected to reverse and some of which it had previously declared unconstitutional. The Wagner Act and the Norris-LaGuardia Act were thus judicially established, along with minimum-wage legislation. Some of the most powerful antiunion fortifications in American business began to crumble. Organized labor, in the shape of two CIO subsidiaries, the Steel Workers' Organizing Committee and the United Automobile Workers of America, split open the twin Gibaltars of the open shop: the steel and automobile manufacturing industries. The AFL, unable to divert the unions in the Committee for Industrial Organization from their unorthodox but highly successful recruiting drives in the mass-production industries, rushed back into the field with a series of organizing campaigns. Trade-union membership increased by 3 million—more, in absolute numbers, than in any other year before or since.

Reorganization of the Supreme Court. The "reorganization" of the United States Supreme Court, to overcome judicial frustration of Congressional action and, presumably, the will of the people, is dramatically associated with two decisions on minimum-wage legislation. In 1936, the Court had held invalid a minimum-wage law of the state of New York in the case of *Morehead v. People ex rel. Tipaldo*,² on the grounds that there was

² 298 U.S. 597.

no essential difference between this statute and the Federal law thrown out in the Adkins case of 1923. Since the New York law had been carefully phrased to comply with the objections raised in the Adkins case, and since it was one of seven laws so drawn up by state legislatures in different parts of the country, and since there was growing support of minimum-wage legislation after the wide use of wage standards in the industry codes of the NIRA, there was a violent public protest against the decision.

It was an election year. Both presidential candidates expressed disapproval of the decision, and promises of support for minimum wages and maximum hours were inserted in the 1936 campaign platforms of the two parties. Mr. Roosevelt won the election and submitted a bill for the reorganization of the Federal judiciary to the seventy-fifth Congress.³

The bill proposed, in substance, to permit the President to appoint one additional justice, up to a total of six, for every justice of the Supreme Court who failed to retire after serving 10 years and passing the age of 70. Since the Court was splitting 5 to 4 on most liberal-conservative issues and there were a number of the justices who were past 70 and had served 10 years, the new rule would permit the President to add enough liberal members to ensure a majority. It was the most controversial measure of Mr. Roosevelt's career. Arguments over it shook the country, and the debate continued at a high pitch into the summer of 1937. On June 7, the Senate Committee on the Judiciary returned an adverse report which recommended "the rejection of this bill as a needless, futile, and utterly dangerous abandonment of constitutional principle." The bill was lost. In its stead, there was passed an innocuous reform measure and a provision for the retirement at full salary of any Supreme Court justice who had reached the age of 70.

The failure of the Court reorganization plan is regarded by many as President Roosevelt's greatest defeat. However, in this case as in others, the battle was lost but the campaign was won. During the height of the controversy over the proposed "court-packing" reform, some of the New Deal's most important legislation came before the Court for review, to wit: the Social Security act, the national Labor Relations Act, and a state copy of the Norris-LaGuardia Act. And with them there came another state minimum-wage law, this time from the Commonwealth of Washington. In a series of startling opinions, several of them by a 5 to 4 division, the laws were upheld, even to the minimum-wage decision, which required a humiliating flip-flop from the position taken a year earlier.

The new attitude was widely regarded as a victory of persuasion on the part of Chief Justice Hughes, who had been voting with the liberal minority on most issues. The personnel and line-up of the Court in 1936 were as follows:

³ This was popularly known as the "court-packing bill."

The Liberal MinorityBrandeis, Cardozo, Stone, Hughes, C. J.The Conservative MajorityRoberts, Van Devanter, Sutherland, Butler,
McReynolds

In the Washington minimum-wage decision,⁴ it was Mr. Justice Roberts who slipped across the line, reversing his stand in the Morehead case. From this time on, Roberts voted consistently with the liberal group, and shortly afterward a number of the conservative judges retired, permitting President Roosevelt to appoint men of more liberal beliefs.

By the end of Mr. Roosevelt's third term in office, 7 years later, only one of the original nine—Chief Justice Stone—was still on the bench, and judicial approval of organized labor, dating from the Jones and Laughlin Corporation decision, was an established fact. Since the introduction of President Roosevelt's "court-packing" bill, early in 1937, no major piece of Federal legislation has been declared unconstitutional by the United States Supreme Court, and the freedom allowed administrative agencies, such as the National Labor Relations Board, to interpret their grants of power has been steadily increased.

The Big Labor Decisions of 1937. The spring term of the 1936-37 session of the United States Supreme Court was a decisive one for both the Court and organized labor. The President's court-packing bill was before Congress, and the judges would have been less than human not to be aware of its purpose and implications. The members of the Court were also far too astute not to know that their decisions would affect the legislative result. Some of the decisions facing them, in turn, were vital to organized labor. The National Labor Relations (Wagner) Act—the law which guaranteed and protected the right to organize and bargain collectively—was up for review, after an adverse decision in the circuit court of appeals. A Wisconsin state law which contained the substance of the antiinjunction provisions of the Norris-LaGuardia Act was being challenged, exactly 20 years after the Truax decision, which wiped out an earlier state antiinjunction statute. The constitutionality of a Washington state minimum-wage law, which had been upheld by the state supreme court, was being defended, in spite of the Morehead decision of the previous year. And important provisions of the Social Security Act, which carried benefits for labor in the form of unemployment compensation and old-age assistance, were on the docket for examination. The tip-off came in the minimum-wage case, which was tried first.

Minimum Wages. The Washington state minimum-wage decision was emphatic proof that the Supreme Court had changed its mind. In the Morehead case of the year before, the Court had had an opportunity to uphold a state minimum-wage law without specifically overruling the Adkins decision of 1923, since the New York law was carefully drafted to meet the

⁴ *West Coast Hotel v. Parrish*, 300 U.S. 379 (1937).

objections of Chief Justice Taft and his associates. The Washington law was not. It was practically the District of Columbia law over again, and to uphold it, the Adkins decision had to be brushed aside. This the Court did without delay. Chief Justice Hughes read the majority opinion and, after comparing the reasoning of Taft and Holmes (who dissented) in 1923, concluded with the flat statement: "Our conclusion is that the case of *Adkins v. Children's Hospital*... should be, and it is, overruled."

Union Recognition. The same day that minimum-wage laws were held to be legal, another constitutional support was added to the Railway Labor Act,⁵ which showed that the Court *had not* changed its mind about that law. The Virginian Railway was directed to recognize and bargain with System Federation 40, a union representing a number of shop crafts and affiliated with the AFL. Things were looking up. Two weeks later, to the day, they looked up further, when a group of five cases involving the constitutionality of the National Labor Relations Act came before the Court.

The Right to Organize. On Apr. 12, 1937, in five decisions, the principal one of which was *National Labor Relations Board v. Jones and Laughlin Steel Corporation*,⁶ the Supreme Court upheld the Wagner Act as a constitutional exercise of the power of Congress to regulate interstate commerce. At the same time it decided that the manufacture of steel, as practiced by the Jones and Laughlin Corporation, was interstate commerce, thereby opening the manufacturing and processing industries to Congressional regulation, from which they had been rigorously excluded since the time of John Marshall. It was a 5 to 4 decision, read by Chief Justice Hughes, with McReynolds, Van Devanter, Sutherland, and Butler dissenting.

At issue was the company's right to discriminate against members of the Beaver Valley Lodge 200 of the Amalgamated Association of Iron, Steel and Tin Workers of America, by coercing and intimidating employees to stop their organizing activities and by discharging the most active union members. The National Labor Relations Board ordered the company to cease and desist from such action, to reinstate with back pay 10 of the fired employees, and to post notices of its change of policy. The company refused, and the Board went to the circuit court of appeals for an enforcement order, which was denied on grounds that the order was beyond the range of Federal power, *i.e.*, the company was not engaged in interstate commerce. Before the Supreme Court, the company argued that the act regulated labor relations and not interstate commerce, its production employees were not

⁵ In the case of *Virginian Railway v. System Federation No. 40*, 300 U.S. 515.

⁶ The other four were: *National Labor Relations Board v. Friedman-Harry Marks Clothing Company*, 301 U.S. 58; *Washington, Virginia, and Maryland Coach Company v. National Labor Relations Board*, 301 U.S. 142; *National Labor Relations Board v. Fruehauf Trailer Company*, 301 U.S. 49; and *Associated Press v. National Labor Relations Board*, 301 U.S. 103. The Jones and Laughlin citation is 301 U.S. 1 (1937).

subject to regulation by the Federal government as they were not engaged in commerce, and that the law was unconstitutional in that it was an invalid exercise of the judicial power by an administrative agency and denied "due process of law."

As to the company being in interstate commerce, the Chief Justice pointed to the facts: 19 subsidiaries, wholly owned or controlled; mines in Michigan, Minnesota, Pennsylvania, West Virginia; ownership and operation of steamships, towboats, barges, and railroads; warehouses in Chicago, Detroit, Cincinnati, and Memphis; steel-fabricating shops in Long Island City and New Orleans; sales offices in 20 cities in the United States; 75 per cent of the company's product shipped out of Pennsylvania, where the home plant was located. Said the judge:

The stoppage of those operations by industrial strife would have a most serious effect upon interstate commerce. . . . It is obvious that it would be immediate and might be catastrophic. We are asked to shut our eyes to the plainest facts of our national life and to deal with the question of direct and indirect effects in an intellectual vacuum. . . . The facts of respondent's enterprise . . . present in a most striking way the close and intimate relation which a manufacturing industry may have to interstate commerce and we have no doubt that Congress had constitutional authority to safeguard the right of . . . employees to self-organization and freedom in the choice of representatives for collective bargaining.

On the question of the constitutionality of the Congressional guarantee of the right to organize and bargain collectively, the Court was equally definite. "That is a fundamental right. Employees have as clear a right to organize and select their representatives for lawful purposes as the respondent has to organize its business and select its own officers and agents. Discrimination and coercion . . . is a proper subject for condemnation by competent legislative authority." The procedure of the National Labor Relations Board in applying the unfair labor practices restrictions was approved, the question of improper use of judicial power brushed aside, and the case was remanded to the circuit court of appeals for disposal in line with the opinion. It was a great decision, the forerunner of a long and consistent series of opinions supporting the right to organize and the administrative protection of that right.

The Labor Injunction. The Norris-LaGuardia Federal Anti-injunction Act came before the Supreme Court by proxy in May. The case, *Senn v. Tile Layers' Protective Union*,⁷ involved a part of the Wisconsin state labor code which declared peaceful picketing and patrolling lawful and prohibited the granting of an injunction against such conduct. It was an odd case. Senn was a tile-laying contractor on a small scale, employing only one or two journeymen and their helpers at best, and he often helped out on the job

⁷ 301 U.S. 468 (1937).

himself, doing work that was within the jurisdiction of the members of the tile-layers' union. He was not a member of the union and could not become one, since he could not afford to spend 3 years in the apprenticeship required for membership (a requirement rigorously applied whether the applicant was qualified or not). He agreed to hire only union men, but the union still objected to his working on his own jobs, and when he persisted, they picketed him as unfair. Senn asked for an injunction against the picketing, which was refused by the trial court and the supreme court of the state. He then appealed to the United States Supreme Court, on grounds that the Wisconsin labor code violated the fourteenth Amendment, denying him equal protection of the laws and due process. Mr. Justice Brandeis read the decision of the majority, upholding the law as constitutional and denying the injunction. It was another 5 to 4 decision, Butler, Van Devanter, McReynolds, and Sutherland dissenting.

The following year the Norris-LaGuardia Act itself appeared before the Supreme Court in *Lauf v. E. G. Shinner & Co., Inc.*⁸ It was another odd case, originating in the same spot, Milwaukee. The facts were as follows: A meat cutters' union was attempting to organize some 35 employees in five Milwaukee meat markets belonging to the Shinner Company. The employees refused to join, whereupon the union demanded that the employer require them to take out membership as a condition of employment. This the employer declined to do, although stipulating that he had no objection to their joining. The union then picketed the markets as unfair to organized labor, the employer requested an injunction, and the Federal district court issued one on grounds that no labor dispute was in existence. In the majority opinion, read by Mr. Justice Roberts, the Court found that there was a labor dispute (as defined in the act) and that the district court (and the circuit court of appeals, which affirmed the decree) had erred in granting an injunction without making the findings required by the law.⁹ Justices Butler and McReynolds dissented. With this decision, the labor injunction became practically extinct until revived in limited form in the Taft-Hartley Act 10 years later.

Social Security. On the same day that the Senn decision was rendered, the Supreme Court upheld the unemployment compensation (job insurance) and old-age assistance provisions of the Social Security Act. In *Steward Machine Co. v. Davis*,¹⁰ the Federal unemployment tax was declared constitutional; in *Helvering v. Davis*,¹¹ the old-age benefit tax was found to be

⁸ 303 U.S. 323 (1938).

⁹ Threat of unlawful acts, danger of substantial injury, probability of preponderance of injury to party applying than to party enjoined, absence of adequate remedy at law, inability of public officers to furnish adequate protection, etc.

¹⁰ 301 U.S. 548.

¹¹ 301 U.S. 619.

within the general welfare clause; and in *Carmichael v. Southern Coal and Coke Co.*,¹² the Alabama unemployment insurance law was approved. These decisions (on May 24, 1937) brought to a close the Supreme Court's most widely publicized session in history. Day after day, crowds had to be turned away from the courtroom for lack of space. Newspaper and radio announcements recorded each new opinion. The Court's swing to the liberal side is now history. Beside the labor cases, many other pieces of controversial New Deal legislation were considered. None were struck down. On June 1, Mr. Justice Van Devanter retired, and in his place President Roosevelt appointed Senator Hugo Black of Alabama. The "reorganization" of the Court was complete.

Organization of the Steel and Automobile Industries. The Supreme Court drama was acted out against a backdrop of reviving business activity, intensive union recruiting drives, violence and bloodshed on the picket lines, and the exchange of taunts and recrimination between the AFL and its suspended Committee for Industrial Organization. It was a recovery year, the first time in almost a decade for business activity to appear really to be on the upgrade, and the CIO was riding the boom. Under the leadership of John L. Lewis, two CIO affiliates, the Steel Workers' Organizing Committee (SWOC) and the United Automobile Workers of America (UAW), had invaded the mills and factories of the leading producers of steel and automobiles.

General Motors. It was the year of the sit-down strike. The campaign started in Flint, Mich., with the simultaneous closing of seven General Motors Corporation plants by sit-downs in the last day of December, 1936. A little over 30,000 employees were involved, but they were so strategically placed as to eventually bring about the layoff of more than 200,000. The shutdown lasted exactly 6 weeks, ending by agreement between Lewis and President William S. Knudsen of General Motors, on Feb. 11, 1937. The terms were: immediate recognition of the union; prompt reopening of the plants without discrimination against strikers, whether sit-down or not; and a bargaining conference on specific union demands regarding wages, hours, and working conditions. Governor Frank Murphy (later Associate Justice of the U.S. Supreme Court), who had resisted efforts to get him to use state militia to break the strike, was the hero of the day. The settlement was pooh-poohed by management and by the AFL, whose union of automobile workers had been shouldered aside by its fast-growing CIO rival.¹³

The Fansteel Strike. In February, employees of the Fansteel Metallurgical Corporation, of Waukegan, Ill., just north of Chicago, emulated the UAW

¹² 301 U.S. 495.

¹³ The AFL's United Auto Workers of America, International Union, is still in existence, with 54,900 members in 1948, compared to the CIO's 921,000 United Automobile Aircraft and Agricultural Implement Workers of America.

tactics by sitting down on the job. This action was less successful. At the end of a week, the strikers were ousted by a dramatic police attack, using movable towers, tear gas, and other appurtenances of modern Trojan War. However, the Fansteel shutdown got wide publicity and helped to bring about a rash of sit-down strikes across the country, in a variety of metal-working industries.

Big Steel. The Fansteel strike ended on February 26, and at this point two large, ripe plums fell into the lap of the CIO: Big Steel and Chrysler. On March 2, almost without warning, the United States Steel Corporation caved in and signed a contract with the SWOC, recognizing it as the bargaining agency for its own members in the corporation's largest subsidiary, the Carnegie-Illinois Company. The agreement also raised wages 10 per cent and established the 40-hour week with time and a half for overtime. This remarkable break with the past occurred after numerous conferences between Myron C. Taylor, president of the corporation, and John L. Lewis, and between Mr. Taylor and President Roosevelt. The atmosphere of the negotiations was remarkable for its friendliness and cooperation.

In labor relations as in pricing, Big Steel turned out to be a leader. Within less than six months, the SWOC had signed agreements with more than 100 additional steel companies, including a dozen large U.S. Steel subsidiaries. As in the case of Big Steel, recognition was achieved practically without the use of strikes. One of the converts was the Jones and Laughlin Steel Corporation. A month after its reversal at the hands of the Supreme Court, the company and the union announced a "peace plan," which included the usual ingredients of union recognition and a bargaining conference to settle union demands.

Chrysler. The second plum falling to the CIO was the agreement of the Chrysler Corporation to start negotiations with the UAW on March 3, the day following the signing of the U.S. Steel agreement. Here the path to agreement was less smooth, and before there was a meeting of minds between Lewis and the Chrysler officials, sit-down strikes occurred in all the main Chrysler plants. The main issue was exclusive bargaining rights for the union. These were not yielded by the company, and the strike was settled in the first week of April with the customary company recognition of the union as representative of its members only and a bargaining conference on the union's demands, to be held after the plants had been vacated by sit-downers and reopened for operation without discrimination against the strikers. Once again, the AFL looked down its nose at the result, with President William Green giving his opinion that labor had achieved nothing in the settlement. President Martin of the UAW (CIO) replied by stating that the union now had over 300,000 members, making it in all probability the largest labor organization in the country.

Ford, Little Steel, and the Memorial Day Massacre. The CIO had obtained solid footholds in both the steel and automobile industries, but the vote was not unanimous. Five of the larger independent steel producers (Republic, Youngstown Sheet and Tube, Inland, Weirton, and Bethlehem) rejected the policy of the U.S. Steel Corporation and with the help of friendly state and local officials succeeded in breaking the strikes at their plants and continuing operations on a nonunion basis. On the automobile front, the Ford Motor Company took the same position. All were able to hold out against general union recognition until 1941. In each case, there was extensive picket-line violence and bloodshed. The Ford dispute came to a head in the celebrated "battle of the overpass," in which a number of UAW organizers (including Walter Reuther, now president of the union) who were distributing literature at one of the exits from the River Rouge plant were attacked and beaten by company guards. The "Little Steel" struggle culminated in the Memorial Day massacre at the South Chicago plant of the Republic Steel Company.

The independent steel companies were struck almost simultaneously in the week following the signing of the U.S. Steel agreement, when it became apparent that they were not going to follow the example of the larger corporation. The outcome was different, however, due to the consistent refusal of company officials, led by President Tom Girdler of the Republic Steel Company, to recognize or deal with the union, and to the absence of official protection to strikers such as had been furnished by Governor Murphy of Michigan. A typical case was the Bethlehem Steel Company's Lebanon Valley plant, which was struck by the SWOC on March 4. The union demands were for recognition, a 40-hour week, a pay increase, and better working conditions. The NLRB was called in on charges of unfair labor practices, including interference with organizing activities and refusal to bargain collectively. The company denied the union's claim of majority representation in the plant and disregarded NLRB intervention. A back-to-work movement was organized, and on March 25 the plant was reopened under a guard of state troopers, city police, special police, and deputies from the sheriff's office. There was a good deal of violence on the picket line, and on the day of reopening one man dropped dead of excitement.

The Memorial Day massacre of 1937 grew out of the tension resulting from attempts to unionize three of the "Little Steel" companies in the South Chicago-Gary-Indiana Harbor steel district at the southern end of Lake Michigan. The companies were Republic, Inland Steel Company, and the Youngstown Sheet and Tube Company. President Girdler of Republic had been the most articulate and also the most unyielding spokesman of the group. The struggle between his company and the union had assumed

almost the character of a military campaign, with armed guards quartered in the plant, interference by union pickets with the delivery of supplies, the dropping of food and other essentials by parachute from planes flying overhead, etc. It had been a long-drawn-out affair, running through March, April, and May. In order to mobilize opposition to the company's resistance, the SWOC organized a mass demonstration for Memorial Day, the main element of which was to be a parade of several thousand demonstrators in front of the closed plant. A large detail of Chicago police was sent to the spot to maintain order.

The demonstrators assembled and faced the police, who stood with their backs to the plant. Some shots were fired, nobody knows by whom, whether demonstrators or (as claimed by the SWOC) by company guards from the windows of the plant. The police thereupon fired into the crowd and then attacked the demonstrators with clubs. Four people were killed outright and more than 80 wounded. At least 6 more of the wounded eventually died. There were charges, countercharges, and investigations. A news photographer's film of the affair was variously interpreted by those who saw it, but the general impression was of police irresponsibility and poor handling, not an unusual conclusion with respect to the policing of industrial disputes. The strike collapsed soon afterward.

The Republic Steel affair is the last of the great picket-line killings which are associated with the dispute over recognition in American labor history. It came several weeks after the judicial validation of the Wagner Act in the Jones and Laughlin decision, but the dispute from which it emerged arose while the law's constitutionality and its application to a manufacturing firm were still in question. It was one of the main purposes of the statute to eliminate arguments over recognition, and in this it has been conspicuously successful. Since its final acceptance there have been no further examples in this country of mass murder to force or deny the right of workers to organize and bargain collectively through representatives of their own choosing.

The AFL versus the CIO. The split between the AFL and the CIO, which opened up late in 1935, grew and widened in 1936 and began to congeal in 1937. It had become a matter of personalities, as well as union rivalries. Mr. Lewis's capacity for vigorous expression and his disinclination to restrain himself when commenting upon the character and capacities of his former colleagues in the AFL were one obstacle to reconciliation. Lewis's acerbity had not been diminished by the prompt labeling of the Committee as "dual unionism," "insurrection," and "rebellion," and the direction that its officers "stand trial" before the executive council of the AFL. CIO leaders, in turn, had jeered at the older organization's failure to organize the basic and mass-production industries and had actually offered to provide one-

third of a \$1.5 million war chest to finance a campaign in the steel industry. The offer was rejected, of course, and with the organizing successes of 1937 in steel and automobiles, the cockiness of the younger group increased.

Early in 1937 the AFL kicked the CIO unions out of the city central bodies and the state and municipal federations. It was expulsion, not suspension—an acknowledgment that the differences between the two were irreconcilable and the beginning of the end. The CIO retaliated by organizing state and local industrial councils, similar in structure and function to the ones they were expelled from. This *was* dual unionism in fact. Both groups intensified their organizing campaigns, and raiding and recrimination increased. In the 1937 Convention of the AFL, the executive council was authorized to revoke the charters of the unions affiliated with the CIO. A last-minute attempt to compromise the differences between the two failed. Then, early in 1938, a number of unions were summarily expelled from the AFL. They included: United Mine Workers of America; Amalgamated Clothing Workers of America; International Union of Mine, Mill and Smelter Workers; Federation of Flat Glass Workers; United Automobile Workers of America; United Rubber Workers of America; United Textile Workers of America; Amalgamated Association of Iron, Steel and Tin Workers; Oil Field, Gas Well, and Refinery Workers.

The expulsion and the subsequent organization of the CIO into the Congress of Industrial Organizations did not stop the peace feelers on the part of members of both groups. Representatives of both sides regularly state their desire for a "united labor movement," and there is little doubt of a strong urge in that direction among the rank and file. However, the probability of a formal merging of the two federations has become less and less with each passing year.

1937 to 1940: Union Growth

Due in part to the rapid expansion of union membership in the basic and mass-production industries, where the CIO was recruiting with great energy and success, and in part to the effects of AFL competition with its junior rival, 1937 is the banner year in the history of union growth in the United States. Total trade-union membership rose more than 3,000,000, to 7,218,000 (from 4,164,000 in 1936). This was a new high, more than 2,000,000 above the previous peak of 5,034,000 in 1920. It was divided as follows: AFL, 2,861,000 (40%); CIO, 3,718,000 (52%); and Independent, 639,000 (8%). The recession which began in the fall of 1937 slowed down the membership boom, and the fight between the AFL and the CIO used up energies which might otherwise have been put to use in recruiting among the unorganized. In the next 3 years there was only a modest increase, while the gains of 1937

were digested and the labor movement regrouped into competing sections. The distribution of membership during this prewar "period of consolidation," which extended from 1938 to 1940, is shown in Table 48.

1938: Recession and Consolidation

The depression of 1937-38 reversed the swing toward business recovery and brought instead stagnation and increased unemployment. It was an odd type of downswing, with few signs of financial crisis, other than a stock-market sellout. There was a withering away of demand, an almost simultaneous fall in output, and the industrial economy collapsed in a

Table 48. American Trade-union Membership, 1937-1940*

Year	Total	AFL	Per cent	CIO	Per cent	Independent	Per cent
1937	7,218,000	2,861,000	40	3,718,000	52	639,000	8
1938	8,265,000	3,623,000	44	4,038,000	49	604,000	7
1939	8,980,000	4,006,000	45	4,000,000	44	974,000	11
1940	8,944,000	4,247,000	47	3,625,000	41	1,072,000	12

* SOURCE: BLS, *Handbook of Labor Statistics*, 1947, p. 130.

downward spiral of deflation that moved faster than any previously on record in this country. Unemployment, which had declined to 6,372,000 in 1937, jumped back to 10,099,000, approximately 19 per cent of the labor force. The effects of the deflation lasted 3 years, with unemployment holding at 9,080,000 in 1939 and 8,120,000 in 1940. For trade unionism, this meant 3 years of marking time, reorganization, and assimilation of gains already achieved.

In 1938, there were several indications of the lines which future developments in organized labor would take: (1) The National Labor Relations Act withstood a barrage of criticism and reported an impressive total of achievements. (2) The CIO organized as a separate federation, completing the duplication of facilities of the AFL. (3) Congress passed the Fair Labor Standards Act, another major link in the social-security program of the Roosevelt administration. (4) In August, the Harlan County Coal Operators Association, of Harlan County, Ky., signed its first agreement with the United Mine Workers, recognizing the union as bargaining representative of the employees and authorizing the checkoff of union dues. This recognition brought to a close one of the longest and most lurid stories of violence, bloodshed, and intimidation in American trade-union history. It followed closely a Court decree upholding National Labor Relations Board intervention, in which the Board had ordered the reinstatement with back pay of 60 miners discharged for union activity. The taming of Harlan County was as big a thing, in its way, as the conquest of the Supreme Court by the

New Deal. It was a milestone in the upward progress of the workers in coal mining.

The NLRB under Fire. The National Labor Relations Board had never acted as though it had any doubts of its own legality, and with the Supreme Court approval of April, 1937, it redoubled its efforts in behalf of employees who wanted to exercise their rights of self-organization and collective bargaining. However, the Court decisions did not relieve the Board of criticism. It appeared that many persons who had been relying on the judges to remove the objectionable law and its even more objectionable agency (the NLRB) now felt that it was up to them to point out its deficiencies and call for a change.

One group which became very vociferous on the subject was the AFL. It reported officially that: (1) the NLRB had shown gross favoritism and bias in the handling of cases, favoring one type of organization (industrial) over another (craft), (2) the Board had set aside legally valid and binding agreements entered into in good faith with employers,¹⁴ and (3) the Board had made arbitrary decisions with respect to the "appropriate bargaining unit," imposing a given type of organization on employees contrary to their wishes. The AFL worked up an impressive nine-point program of proposed amendments to the act, some of which would have limited the powers of the NLRB, while others would have modified the procedure for determining the official bargaining representatives of the workers. The proposals were duly adopted in convention and forwarded to Congress, but nothing ever came of them.

Another group which turned to legislation after being let down by the courts was the organized employers of the country. They were ably represented in Congress by Senator Burke of Nebraska, who led the fight for amendment on grounds that the law was one-sided, disruptive of good relations, and coercive of individual workers; that it permitted unions to violate contracts with impunity; and that its interpretation and administration were biased and unfair.

To both the AFL and hostile congressmen, the NLRB presented in its 1938 *Annual Report* a careful analysis of its work to date. The volume of work completed came first. Pointing out that the fiscal year, July 1, 1937, to June 30, 1938, was its first real year of operation, due to constitutional uncertainties which were not resolved until the spring of 1937, the Board reported that it had carried over 2,202 cases involving more than a million employees on July 1, 1937, and during the following year it received 10,419 complaints and petitions, so that there was a grand total of 12,632 cases involving more than 3,000,000 workers on the docket during the 12-month period. Of these, the Board disposed of 8,851 cases involving 1,846,000 em-

¹⁴ The Board had declared invalid a number of closed-shop agreements between employers and AFL unions on grounds that the union did not represent a majority of the employees at the time the contract was signed.

ployes. "Disposal" included settlements agreed to by the parties, dismissals of charges by the Board for lack of evidence, withdrawal of complaints, and Board decisions and orders. The summary was as follows:¹⁵

Settlements in compliance with the act were secured in 4,621 cases, or 52.2 percent of the total cases closed. A total of 1,439 cases, or 16.3 percent of the cases closed, was dismissed either by the regional directors or by the trial examiners

Table 49. Cases Disposed of by the NLRB, July 1, 1937, to June 30, 1938*

Method of disposal	Number	Per cent of total
Settlement in compliance with the act.....	4,621	52
Withdrawal of charges or petitions.....	2,345	27
Dismissal for lack of evidence.....	1,439	16
Board decisions and orders.....	446	5
Certification of official bargaining representatives.....	342	
Dismissal of charges.....	75	
Compliance with order of the Board.....	29	
Total.....	8,851	100

* SOURCE: Adapted from material in *Third Annual Report* of the NLRB, for the fiscal year ended June 30, 1938.

during hearings. Parties filing charges and petitions withdrew 2,345 cases, or 26.5 percent of all cases closed. The remaining 446 cases, or 5 percent of the total cases disposed of, were closed after the issuance of Board decisions and orders. Included in these 446 cases are 29 cases in which there was compliance with the Board's orders, 75 cases which were dismissed by Board decision, and 342 cases which were closed as a result of the Board's certification of unions representing a majority of the workers in the appropriate units.

The summary is shown in condensed form in Table 49.

Table 50. Rise in the Work of the NLRB in 1937-38 compared with 1935-36 and 1936-37*

Fiscal year	Cases on docket	Disposals	Hearings	Decisions
1935-36	1,068	738		
1936-37	4,398	2,344	329	152
1937-38	12,632	8,851	1,451	701

* SOURCE: *Third Annual Report* of the NLRB for the fiscal year ended June 30, 1938.

The sharp rise in the work load of the Board during the third year of operation is shown in Table 50.

No one had been caught more squarely in the middle by the AFL-CIO schism than the NLRB. It therefore carefully compared its treatment of the unions identified with the two organizations. For the year 1937-38, it reported 3,159 complaints on the docket from AFL unions and 4,138 from CIO unions.

¹⁵ *Third Annual Report* of the NLRB for the fiscal year ended June 30, 1938, p. 19.

**Table 51. Comparison of the Handling of AFL and CIO Complaints
by the NLRB, 1937-38***

Cases	AFL	Per cent	CIO	Per cent
Cases closed before issuance of complaint				
Settlement in compliance with the act . . .	1,190	52	1,395	52
Withdrawal	557	24	737	28
Dismissal	390	17	424	16
Transfer to other agencies	46	2	41	1
Cases closed before formal proceedings . .	2,183	95	2,597	97
Cases closed after issuance of complaint				
Settlement in compliance with the act . . .	55	3	55	2
Withdrawal	26	1	13	1
Dismissal	5		9	
Compliance with Board decision	17	1	10	
Cases closed after issuance of complaint .	103	5	87	3
Total cases closed July 1, 1937, to June 30, 1938	2,286	100	2,684	100

* SOURCE: *Third Annual Report* of the NLRB for the fiscal year ended June 30, 1938, pp. 34-38.

**Table 52. Comparison of the Handling of AFL and CIO Representation
Cases by the NLRB, 1937-38***

Cases	AFL	Per cent	CIO	Per cent
Cases closed before formal action				
By settlement—election, payroll check, etc.	603	54	893	54
By withdrawal	208	18	374	23
By dismissal	73	7	89	5
By transfer to other agencies	5	..	18	1
Total cases closed before formal action . .	889	79	1,373	83
Cases closed after formal action				
By settlement	15	1	34	2
By withdrawal	34	3	33	2
By dismissal	50	4	33	2
By certification by the NLRB	140	13	182	11
Total cases closed after formal action . . .	239	21	282	17
Total cases closed, 1937-38	1,128	100	1,655	100

* SOURCE: *Third Annual Report* of the NLRB for the fiscal year ended June 30, 1938, pp. 45-46.

Of these, 2,286 (or 72 per cent) of the AFL cases and 2,684 (or 65 per cent) of the CIO cases were disposed of. A comparison of the settlements by method (as shown in Table 51) indicated no great divergence in results. The same proved true of the settlements in representation cases (shown in Table 52).

After an extensive review of the principles established during its 3 years of operation, the Board turned to its record before the courts during the year 1937-38. The picture was more than encouraging; it was remarkable. Out of 9 cases before the U.S. Supreme Court, the NLRB was successful in 8. Only once did the Court decide against the agency. Four of the favorable decisions were after retrial before the upper bench and 4 were denials of petitions of appeal from circuit court decisions upholding Board awards. Before the circuit courts of appeal, the NLRB was successful in getting its orders enforced without modification in 15 cases; it was upheld with modifications in 2 others; and there were 6 decisions denying enforcement of its orders. The NLRB obtained 11 consent decrees and 8 cases were withdrawn for settlement. Altogether, it was a record of judicial approval of an administrative agency almost without precedent in the American courts. When the controversial nature of the subject matter and the inflammatory character of the disagreements between the parties are considered, the Board's consistent record of court victories is all the more unusual.

The record was too much for Congress. The Wagner Act was passed over without amendment, and the Board continued its work of protecting employes in their enjoyment of the right to organize and bargain collectively.

The Congress of Industrial Organizations. The expulsion of nine CIO unions from the AFL during the first half of 1938 was the climax of the labor drama which had been splitting the American trade-union movement for 3 years. The permanent organization of the CIO into the Congress of Industrial Organizations (to keep the distinctive initials, which had become the trade-mark of industrial unionism) was an obvious result and almost an anticlimax. However, it was not a clean break, and there is little doubt that personalities clouded the issue.

The principal personality was that of John L. Lewis, who has been charged by more than one of the principals in the dispute with blocking all attempts to bring the AFL and its independent offspring back into agreement after they had taken different forks in the road early in 1936. Some of Mr. Lewis's critics were men who had been on his side originally, like David Dubinsky, president of the International Ladies' Garment Workers Union. Mr. Dubinsky would not join the permanent CIO and after two or three years of indecision led his union back into the AFL. On the other side of the question, there is plenty of evidence of the "stern parent" attitude on the part of influential officers of the AFL, an attitude which was not by any means justified by the record. The CIO was tremendously successful. The AFL had been proved wrong. It had been failing to organize the unorganized, and the reason was its cumbersome principle of craft jurisdiction. By the middle of 1938, the CIO unions had more membership than the AFL and had proved their ability to organize the most powerful and antiunion

industries. If anybody was to eat crow, whether a full meal or just a side dish, it was the AFL and not the junior organization.

The CIO met in constitutional convention at Pittsburgh, Nov. 14 to 18, 1938. The major structural details had already been worked out, as was shown by a tally of the representatives on hand. The CIO was to be a practical copy at all levels of the AFL. Delegates were present from 35 affiliated national or international unions, 675 local industrial unions, 9 organizing committees, 23 state industrial councils, and 115 city industrial councils. They represented a claimed membership of 3,787,877 workers. In a closely controlled meeting, with little or no free discussion of issues, they adopted a constitution, arranged their finances, and elected officers. The management structure of the federation consisted of an unpaid president (John L. Lewis), two vice presidents (Philip Murray¹⁶ and Sidney Hillman), a secretary (James E. Carey, president of the United Electrical Workers), and an executive board composed of representatives of each affiliated national or international union. The federation was to be supported by a tax of 5 cents a month per member of each affiliated national union and 50 cents per month per member of each directly affiliated industrial local.

The long-run objectives of the Congress of Industrial Organizations were declared to be:

1. To bring about the effective organization of the workingmen and working women of America regardless of race, creed, color, or nationality and to unite them for common action into labor unions for their mutual aid and protection
2. To extend the benefits of collective bargaining and to secure for the workers means to establish peaceful relations with their employers by forming labor unions capable of dealing with modern aggregates of industry and finance
3. To maintain determined adherence to obligations and responsibilities under collective bargaining and wage agreements
4. To secure legislation safeguarding the economic security and social welfare of the workers of America, to protect and extend our democratic institutions and civil rights and liberties, and thus to perpetuate the cherished traditions of our democracy.

The Fair Labor Standards Act of 1938. The recession of 1938 was a disheartening aftermath of the 1937 recovery. There were renewed demands for Congressional action to alleviate the increased unemployment, many of which took the form of minimum-wage and share-the-work proposals. The Fair Labor Standards Act of 1938 (more popularly known as the Wages and Hours Act) was the legislative answer to the crisis. It established a pro-

¹⁶ Then director of the Steel Workers' Organizing Committee and later president of the United Steelworkers of America.

gressive schedule of gradually rising minimum wages and gradually shortening maximum hours of work to be observed by employers in interstate commerce, and it abolished child labor below the age of 16 in any form, and below the age of 18 in dangerous occupations. The main ideas were to raise purchasing power by requiring an increase in pay rates in the lowest income brackets and to spread the existing employment by shortening working hours and removing children from the labor market. The act was primarily a *wage* law. Long working hours were not prohibited; they were simply made more costly by requiring that employers pay workingmen time and a half for any work done beyond the statutory maximum.

The unions' stake in the new law was their position as watchdog in its administration. Complaints of violation could be made by individuals or their representatives, and the new legal standards for wage payment were a strong inducement for unions to bring charges against low-wage employers as a publicity move in organizing campaigns among underprivileged employees. The unions also proved to be alert observers of the child labor and maximum-hours limitations. It was a series of suits brought by the United Mine Workers of America which established the principle of portal-to-portal pay in coal mines. CIO unions were also behind the drive to extend the portal-to-portal pay principle to factory employment, which became a national issue in the case of *Anderson v. Mt. Clemens Pottery Company*, decided by the Supreme Court in 1946.¹⁷

1940: John L. Lewis and the Third Term

Lewis Takes a Walk. In 1940, President Roosevelt ran for a third term and was elected. The event was highly significant for labor, since it ensured a friendly administration during the war which was already under way in Europe. In the short run, however, it precipitated a flurry of opposition within the CIO which resulted in the abdication of Lewis and his replacement in the presidency by Philip Murray. The opposition to Roosevelt as a third-term President, it soon became clear, was limited to the personal antagonism of Mr. Lewis, and had little support among the other leaders or the rank and file. Any such attitude was expressly disclaimed by Sidney Hillman, while Murray, tied to Lewis by years of loyal service, remained silent. In an extreme statement of his position shortly before Election Day, Lewis threatened to resign if Roosevelt won. When Roosevelt did win, there were immediate and loud demands that Lewis carry out his threat (promise, some called it). On Nov. 18, 1940, Lewis announced his retirement from the presidency of the CIO, and 4 days later Philip Murray was elected to succeed him.

¹⁷ See above, pp. 146-149.

There are enough rumors concerning Lewis's tiff with Roosevelt and his support of Willkie to fill a number of volumes, but the Mineworkers' chief has not yet seen fit to clarify his action, which was based at the time on the argument that Roosevelt had let the trade unions down. However, it was the beginning of the end of a beautiful friendship between Lewis and Murray and the forerunner of a period of maverick independence on the part of Lewis and his Mineworkers. In 1942, the UMW pulled out of the CIO and the next year petitioned for readmission to the AFL. The petition was not granted until 1945, after which the reconciliation lasted a short 2 years. In 1947, Lewis again stalked out of the AFL and resumed his more natural role of thorn in the side of both labor federations and the Federal government as well.

United States v. Hutcheson.¹⁸ This case marked the emancipation of American trade unionism from the Sherman Act. Mr. Justice Frankfurter, the former Harvard law professor, read the majority opinion. The opening sentence stated the issue: "Whether the use of conventional, peaceful activities by a union in controversy with a rival union over certain jobs is a violation of the Sherman Law . . . as amended . . . is the question." Using the Norris-LaGuardia Act as a prop, the learned justice proceeded to rehabilitate Sec. 20 of the Clayton Act, and to argue that its interpretation by the Supreme Court between 1914 and 1932 was incorrect and indefensible. He then broadened the ruling of the case to cover more than jurisdictional disputes.¹⁹

It is at once apparent that the acts with which the defendants are charged are the kind of acts protected by section 20 of the Clayton Act. The refusal of the Carpenters to work for Anheuser-Busch or on construction work being done for it and its adjoining tenant, and the peaceful attempt to get members of other unions similarly to refuse to work, are plainly within the free scope accorded to workers by section 20 for "terminating any relation of employment," or "ceasing to perform any work or labor," or "recommending, advising or persuading others by peaceful means so to do." The picketing of Anheuser-Busch premises with signs to indicate that Anheuser-Busch was unfair to organized labor, a familiar practice in these situations, comes within the language "attending at any place where any such person or persons may lawfully be, for the purpose of peacefully persuading any person to work or to abstain from working." Finally, the recommendation to union members and their friends not to buy or use the product of Anheuser-Busch is explicitly covered by "ceasing to patronize . . . any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do."

The Norris-LaGuardia Act reasserted the original purpose of the Clayton Act by infusing into it the immunized trade union activities as redefined by the later Act. In this light *section 20 removes all such allowable conduct from the*

¹⁸ 312 U.S. 219 (1940).

¹⁹ Italics supplied.

taint of being "violations of any law of the United States," including the Sherman law.

There has been no attempt to prosecute a trade union under the anti-trust laws of the United States since the Huthcheson decision.

1941 to 1945: War and Union Growth

For the third time in the history of America, war proved the great catalyst of union expansion. The United States became involved economically before it did militarily. In 1941, defense production and military conscription cut the number of unemployed to a little over 5 million, the lowest figure since 1930. From there it dropped to 2.5 million in 1942 and 1 million in 1943. The number of people out of work did not rise above the 3 million mark again until 1949. At the same time, there was a rapid shift of the working population from agriculture, trade, and service establishments, which are typically small in size and hard to unionize, into mines and factories, which are typically large in size and the common target of union organizers. Several key manufacturing industries (munitions, aircraft, ship-building) rose from almost nothing to positions of top significance in the economy, and a number of others (automobiles, heavy machinery, railroad equipment) expanded steadily under the impact of war orders. The situation was made to order for a labor movement which had temporarily composed its differences, clarified its organization, and developed big plans for extension of its membership.

A friendly government also provided encouragement and support. When President Roosevelt was reelected to his third term, with strong union backing, there was no question of the administration's stand on the matter of labor organization and collective bargaining. In agency after agency set up for purposes of preparedness or more vigorous prosecution of the defense effort, the President included organized labor on an equality with management representatives. In a number of special cases, going over the heads of the administrative agencies which were responsible, the President showed his determination to strengthen the union position. All suggestions that the operations of the National Labor Relations Board and the limitations of the Wages and Hours Act be suspended for the duration of the war were vigorously and successfully resisted. The only important piece of legislation intended to limit union activities which was passed during the war period—the Smith-Connally War Labor Disputes Act—was enacted by Congress over the President's veto. As organized labor well knows, there is no friend like a friend in the White House. It had one, in both war and peace, in Franklin Delano Roosevelt.

The combination of a friendly government and a favorable economic

situation proved irresistible. In 5 years of war, the organized labor movement registered a clear gain of 6 million members, from 8,944,000 in 1940 to 14,974,000 in 1945. In doing so, it raised its proportionate representation of the civilian labor force from 16 per cent (about one out of six) to 28 per cent (more than one out of four.)²⁰ The largest gains came in 1941 and 1943. In the former year, there was a general tightening of the labor market due to war spending and conscription, with consequent gains for organized labor, but the year is most notable for the final capitulation of the Ford Motor Company and "Little Steel" to the CIO. In 1943, there was a rapid increase in union membership resulting from the adoption of the National War Labor Board's policy of "maintenance of membership" awards in union-management disputes. As the war progressed, the three-way split in union affiliation became more pronounced. The increase by years and its distribution are shown in Table 53.

Table 53. American Trade-union Membership, 1941-1945*

Year	Total	AFL	Per cent	CIO	Per cent	Independent	Per cent
1941	10,489,000	4,569,000	43	5,000,000	48	920,000	9
1942	10,762,000	5,483,000	51	4,195,000	39	1,084,000	10
1943	13,642,000	6,564,000	48	5,285,000	39	1,793,000	13
1944	14,621,000	6,807,000	47	5,935,000	40	1,879,000	13
1945	14,796,000	6,931,000	47	6,000,000	40	1,865,000	13

* SOURCE: BLS., *Handbook of Labor Statistics*, 1947, p. 130.

1941: Ford and Little Steel. The CIO went into the lend-lease and rearmament period of 1941 with some unfinished business on its hands. In the great union campaigns of 1937, it had shaken U.S. Steel and its subsidiaries out of the open-shop tree and then had plucked General Motors and Chrysler from the antiunion front of the automobile industry. Along with these top prizes had come recognition by a large number of small manufacturers and suppliers, but no amount of effort had seemed to have any effect on the true holdouts, the Ford Motor Company and the Little Steel group of Bethlehem, Republic, Youngstown, Inland, and Weirton. In these plants, strikes were resisted, company unions flourished, and managements refused to deal with the United Automobile Workers and the Steel Workers' Organizing Committee. A series of prosecutions by the NLRB dragged interminably through the long schedule of investigation, hearings, award, refusal to comply, appeal to the circuit courts, and appeal to the Supreme Court. The holdouts were a genuine threat. If they were successful, they might attract recruits to the nonunion camp.

In the spring of 1941, these final bastions of militant antiunionism gave

²⁰ Revised census figures, as reported in *Statistical Abstract of the United States*, 1948, Table 200, p. 174.

way. On February 10, the U.S. Supreme Court refused to review an appeals court decision upholding the NLRB in a judgment it had made in 1937 regarding the Ford Motor Company. The judgment was that the Ford Company had been guilty of coercion and intimidation of its employees in trying to prevent their organization and selection of representatives for purposes of collective bargaining. The Supreme Court's refusal to grant certiorari was the end of the trail for Ford; the NLRB had won again. On February 17, the company reinstated a number of men discharged for union activity in 1937. Three months later, after an interval of negotiation and arrangement, a National Labor Relations Board representation election was held at the giant River Rouge plant, with its 85,000 employees. The UAW (CIO) won by a clear majority, and the company was immediately directed by the NLRB to disestablish its company union and reinstate a number of men previously discharged at various plants throughout the country. On June 20, the company signed an agreement with the UAW which amounted to complete surrender.²¹ The firm agreed to the union shop, the universal checkoff of union dues, wages equal to the highest in the industry, and abolition of its private detective unit, called euphoniously the "service department." In return, it received the right to put the union label on its cars. The agreement covered 130,000 employees in all parts of the country. The automobile industry was in the bag.

The progress with Ford was duplicated by the steady advance among the hard-boiled independent steel producers. The first to give in was Youngstown Sheet and Tube. On March 30, the company reached a settlement with the SWOC in which it agreed to pay strike claims running back to 1937. Bethlehem came next, with a circuit court of appeals ruling upholding an NLRB order to toss out a company union. In rapid succession, master agreements were signed with the SWOC at the Bethlehem and Buffalo plants, following representation elections which were won by wide margins. In May, the Republic Steel Company, the hardest nut of all, was found guilty by the NLRB of unfair labor practices at its South Chicago plant and was ordered to reinstate 610 employees fired for union activity. Six weeks later, the company signed a Wagner Act compliance agreement with the SWOC and rehired the discharged employees with full pay for time lost, some of it running back 4 years. In August, an NLRB check showed SWOC majorities at 17 Republic plants and the company was safely tucked away in the CIO trophy room. By the end of the year, all of the independents except the Weirton Steel Company had recognized the SWOC as the official representative of their employees and were busily engaged in learning how to bargain collectively.

²¹ As a *New York Times* headline put it, "Henry Ford Signs C.I.O. Contract, Giving All It Asks."

1942: The National War Labor Board. The big event of 1942 for organized labor was the National War Labor Board. It was the first year of war for the United States. Following Pearl Harbor, organized labor and management had voluntarily presented the government with no-strike and no-lockout pledges, assurances of maximum production, and promises to bury the hatchet for the duration. However, all agreed that there would still be disputes—plenty of them—over wages, hours, organizing campaigns, grievances, etc. And all agreed that there should be some sort of agency to settle the disputes, which might otherwise interfere with war production. The pattern had already been set in the First World War, and it was renewed without delay by President Roosevelt. On Jan. 12, 1942, by executive order, he established a 12-man National War Labor Board (four representatives each, of industry, labor, and the public) with final power to settle all disputes certified to it by the Secretary of Labor.

The NWLB was only one of a succession of public defense agencies on which organized labor was given full representation. Some of the others were: the Advisory Council for National Defense; the National Defense Mediation Board (the NWLB's predecessor and model); the labor division of the Office of Production Management, headed by Sidney Hillman, who had coordinate authority with William S. Knudsen, representing industry; and the War Production Board. The NWLB, however, was the most important of the wartime mediation and arbitration bodies. It lasted out the war and was responsible for a number of important decisions which became national policy and strongly influenced wartime and postwar labor relations. Two of the most notable of these were: the wage-stabilization rule known as the "Little Steel formula," and the union-security award called "maintenance of membership."

The Little Steel Formula. War means a shortage of consumers' goods, an increase in employment, incomes, and spending, and inflation if there are no controls placed on prices. The United States answer to this danger in 1942 was price control, rationing, and wage stabilization. In April, 1942, President Roosevelt announced a stabilization policy. Price control and rationing were the job of the Office of Price Administration (OPA). Demands for increases in wages would come up to the National War Labor Board. In July, 1942, the NWLB handed down a historic decision in a wage case involving the same four steel companies that had come to terms with the SWOC the year before: Bethlehem, Republic, Youngstown, and Inland. The rule, which came to be known as the "Little Steel formula," was that a maximum wage increase of 15 per cent was permissible between Jan. 1, 1941, and May 1, 1942. If employees had received that much already, they were not in line for more. If they had received part of it, they could receive the remainder. If they had received no increase at all since January, 1941, they

were eligible to receive the whole 15 per cent. The idea was to hold real wages at the January, 1941, level. Prior to that date, the cost of living had been stable for a number of years. Between then and May, 1942, there had been a 15 per cent rise, according to the Bureau of Labor Statistics' cost-of-living index. The plan was to hold the line at that point, relying upon the OPA to keep prices at a constant level, thereby stabilizing the civilian economy.

In October, 1942, Congress gave the NWLB official responsibility for wage stabilization. With very few exceptions, *all* wage (or salary) increases—individual or general, union or nonunion—had to be authorized in advance by the Board or they were illegal. It was a tremendous responsibility and a huge administrative job, as indicated by some of the statistics of the agency's operation. Between January, 1942, and August, 1945, the Board handled 20,692 dispute cases involving over 10,000,000 employees. In the 3 years after Congress made it the official wage-arbitration body (between October, 1942, and August, 1945), more than 450,000 voluntary wage-adjustment cases were submitted for processing. The administrative requirements of wage stabilization shot the Board's staff up from less than 200 to over 4,000 by the end of the war.²²

The authority of the Little Steel formula was restated by President Roosevelt in his "hold-the-line" order of April, 1943, and it became known as the true wartime wage policy of the country. It later became necessary to modify decisions based on it, due to price rises in spite of the OPA, and shortages of consumers' goods which invalidated the cost-of-living index. However, the principle of stabilization of real wages continued to be the basis of NWLB decisions. In 1943 and 1944, the AFL and the CIO attacked both the formula and the statistics of the index, and by the end of the war the original rule had been twisted beyond recognition through "correction of inequities," authorization of "fringe" wage items, and exceptional rulings. It was the United States' first taste of full-scale compulsory arbitration of wages, and after it was over, no one was willing to admit that he liked it.

Maintenance of Membership. The NWLB was not only responsible for nationwide compulsory arbitration of wages; it also had to pass on all other forms of union-management disputes. The most crucial one of these was the right to organize in time of war, or "union security." The big question was whether unions should be permitted to recruit actively in war industries and the kind of contract they should be permitted to demand of employers. The central problem was expansion. For example, if a shipyard (or an airplane plant) expanded from 500 employees to 5,000 within a year or two, it made a great difference to the union having jurisdiction over the original

²² George W. Taylor, *Governmental Regulation of Industrial Relations*, p. 178 (New York: Prentice-Hall, Inc., 1948).

group if it had a closed- or a union-shop contract. If it had a closed-shop agreement, all the new employes had to pass through the union hiring hall first. If it had a union-shop contract, all the new employes had to join the union within a specified period (usually a month) after being hired. In either case, the union expanded with employment. Unions were aware of this and they rushed to get such "union-security" agreements with employers in the mushrooming defense plants.

But the employers balked. The fair thing, they said, was to maintain the *status quo* for the duration of the war—no strikes, no lockouts, no recruiting, and no management interference with unions in existence. In short, a quick freeze of the labor-management situation, to be thawed out and the traditional warfare resumed when the crisis was over.

But what was the *status quo* in an expanding plant and how was it maintained? If 300 out of 500 original employes were union members, would 300 out of 5,000 employes a year later represent a continuation of the *status quo*? Was it a question of absolute numbers or of proportionality? And suppose the new employes *wanted* to join the union on their own and with no coercion whatsoever? What then? Should they be denied the right to take out membership? And if a union had a good, solid majority (say, 75 per cent) of the employes in its membership, and in normal times would demand and would have a good chance of getting a closed or union-shop agreement, to eliminate free riders and reduce the need for continuous organizing so that it could get down to sound, cooperative relationships with the employer, should such a demand be ruled out because of the no-strike, no-lockout rule?

These were the kinds of questions that the NWLB faced every time it turned around, and it had no national policy to help it reach a decision. So it worked out a compromise. The compromise was the famed "maintenance of membership" award. In terms of union security, the award was a modified union-shop arrangement. The employer could hire when and where he pleased, union or nonunion men. The union, in turn, could recruit among the new workers without limitation, but no one was obliged to join. Those who did join, however, were required to remain members for the life of the agreement, usually 1 year. This was also true of men who were members of the union at the time of hiring. After a two- or three-week "escape period," they were required to keep up their union membership in good standing while the agreement was in effect. Thus, under a maintenance of membership agreement, union membership was not compulsory, but it was a one-way street. Once entered into, it could not be discarded and was a prerequisite to continued employment.

Like most compromises, the maintenance of membership agreement satisfied no one, but it worked. The unions wanted full security, through

the compulsory union shop or the closed shop, and management wanted the *status quo*, which it was unwilling to spell out very clearly, but which seemed to mean a ceiling on union membership at the point it had reached when the country went to war. Nevertheless, both accepted the new policy, and it became the typical contract of the war period. It was in full operation by 1943, and the remarkable union growth of that year is attributed largely to the escalator effect of union recruiting campaigns which brought large numbers of the new war workers into membership, sometimes by the device of waiver of initiation fee and the first few months' dues.

1943: The Smith-Connally War Labor Disputes Act.²³ The War Labor Disputes Act of 1943 was aimed at John L. Lewis, who had just conducted the first of a series of successful wartime coal strikes. It had two main features: (1) It gave the President power to seize establishments (mines, plants, or firms) in which strikes or labor disputes threatened to interrupt production essential to prosecution of the war. (2) It required advance notice of disputes which might threaten production, called for maintenance of the *status quo* for 30 days, and made a strike at the end of the 30-day period lawful only if it was approved by a majority of the employees affected in an election conducted by the National Labor Relations Board.

The law was an oddity in a number of ways. Clause 2 (above) in effect provided for the *legalization* of wartime work stoppages, after they had already been ruled out by the no-strike, no-lockout agreement. Clause 1 gave the President a power which he had already as Commander in Chief in time of war and which he had already used several times to put an end to strikes and lockouts. To seize a plant *after* an election would put the government in the anomalous position of appearing to deny a privilege granted by statute after the parties had taken the legally required steps to exercise it.

The act was passed over President Roosevelt's veto on June 25, 1943. Its provisions were subsequently exercised a number of times, but there is little evidence that they improved union-management cooperation or reduced strikes, either in numbers or effect. The general conclusion is that as a labor relations measure, the law was a foul ball. It expired at the end of "hostilities," on Dec. 31, 1946, with no expression of regret from labor, management, or the public.

1944: The Political Action Committee. After President Roosevelt had broken tradition by running for and being elected to a third term, it was a foregone conclusion, with the war still going on, that he would be a candidate for a fourth. What made the election unusual was the normal fashion in which it was conducted, during the midst of a full-scale war effort, and the closeness of the final result. Mr. Roosevelt was reelected, but by the narrowest popular majority of his career. A new agency on the political scene,

²³ Public 89, 78th Cong., 1st Sess. Chap. 144.

the CIO's "Political Action Committee," took full credit for producing the winning margin.

The Political Action Committee (or "PAC," as it came to be referred to) was the brain child of Sidney Hillman, president of the Amalgamated Clothing Workers, and a man who had risen steadily in public importance since the 1935 revolt of the Committee for Industrial Organization, which he helped John L. Lewis to lead. Hillman was a socially conscious labor leader in the socially conscious needle trades (garment industry), but he was no visionary. He was an astute, practical, hard-hitting organizer, negotiator, strike leader, and politician. His own version of his career, as reported in *Who's Who in America*,²⁴ is a striking example of the Horatio Alger success story in trade unionism:

HILLMAN, Sidney, labor leader; b. Zagare, Lithuania, Mar. 23, 1887; s. Schmucl and Judith (Paikin) Gilman; came to U.S. at age of 20; received Rabbinical education . . . Department under United Garment Workers, at Hart Schaffner & Marx, Chicago, 1911-14; chief clk. under Brandeis' protocol in Cloakmaker's Union, N.Y., Feb.-Oct. 1914; pres. Amalgamated Clothing Workers of America since 1915; chmn. bd. Amalgamated Bank of New York; dir. Amalgamated Trust & Savings Bank, Chicago. Led strike, Hart Schaffner & Marx, which resulted in collective agreement with that firm, 1910; strike in New York which achieved 48-hour week, 1916, the 44-hour week, 1919; organized Rochester market, 1918; organized Chicago market, 1919; visited Russia, 1921, and made agreement for transmission of Am. dollars; made agreement with Arthur Nash Co., Cincinnati, 1925; organized Phila. market, 1929; built cooperative houses in New York; established Unemployment Insurance Fund, Rochester, Chicago and N.Y.; mem. of Labor Advisory Board, NRA, 1933, Nat. Industrial Recovery Bd, 1935; mem. advisory bd. Nat. Youth Administration, 1935; reached first nat. collective bargaining agreement in men's clothing industry in 1937; mem. textile and apparel industry coms. Fair Labor Standards Bd, 1938; v.p. Congress of Industrial Orgns; chmn. Textile Workers Orgn. Com., 1937-39; chmn. exec. council, Textile Workers' Union of America, since May, 1939; apptd. labor mem. Nat. Defense Advisory Comm., 1940; became asso, dir-gen. O.P.M. and dir. labor div. of same, 1941; apptd. to Supply Priorities and Allocation Bd., Sept. 1941, dir. labor div., W.P.B., 1942. Mem Acad. Polit. and Social Science.

Mr. Hillman's faith in President Roosevelt was demonstrated on numerous occasions. One was in 1940, when John L. Lewis took his famous walk. Hillman not only refused to accompany his CIO partner and chief, but also reiterated his conviction that Roosevelt was the sole hope of the labor movement and of liberalism in America and worked energetically for the third term. The President, in turn, had reciprocated the confidence by giving Hillman the top-ranking labor position in every major government defense agency created between 1940 and 1943, passing over such bigwigs as William

²⁴ Vol. 24, 1946-1947, p. 1,080.

Green, Philip Murray, and John L. Lewis. As the public representative of organized labor, therefore, Hillman was the Samuel Gompers of the Second World War.

After passage of the War Labor Disputes Act, in 1943, Hillman, the labor leader and politician, began to worry about the possibility that Mr. Roosevelt might not be reelected. There was much at stake. The war came first, of course, and the postwar international situation, but the possibility of losing the war was receding as American industrial production began to reach its peak and a second front was on its way to being established in Europe. To many, both in 1943 and 1944, it seemed at least an equal possibility that the war might be over sooner than expected, in which case the policies adopted during the reconversion period would be in the hands of the administration elected in 1944. Hillman very much wanted President Roosevelt to be in charge in the difficult (and probably turbulent) days of shifting back from defense to peacetime production.

It was obvious to many and especially clear to a seasoned veteran of labor's ups and downs like Hillman that policies adopted and pursued during reconversion might have a lasting effect on the long-run interests of many special groups, but none more so than organized labor. Labor had made tremendous gains during the war. Trade-union membership was up to an unheard-of 15 million, union security widespread, and collective bargaining (within the limits of wartime regulation) more and more accepted, the National Labor Relations Act in full force undamaged, and labor officials like himself were sitting on public boards and taking part in public conferences from one end of the country to the other. But Hillman remembered 1920 with its political overturn that brought in Harding as President, and 1921 and the "American Plan," and the disastrous years that followed. He turned to Murray and the executive board of the CIO with a plan for a trade-union political organization which would be effective, and which might be mobilized behind the man that they all regarded as the greatest friend of organized labor in American history. They named it the Political Action Committee.

The PAC was a new type of union political weapon, patterned directly on tested, old-line political party methodology. It called for *organization*, by state, county, city, ward, precinct, block, and cell. It called for *work*: doorbell ringing, solicitation, vote counting, distribution of literature by the ton, and delivery service to the polls on election day. It called for *mobilization* of relatives, associates, and friends, and their education in the issues of the campaign. It used every modern device of *publicity*: radio, sound truck, platform speakers, debates, forums, motion pictures, handbills, newspapers, magazine articles, and pamphlets. Above all, it called for *cooperation* with friends, especially the political organizations which were already lined up

in support of the candidates which the PAC was for. In big city after big city, the PAC merged its efforts with the local Democratic managers in an all-out combined effort to reelect President Roosevelt and others on the ticket that had labor's endorsement. The PAC stopped just short of endorsing an entire party, but its active efforts in favor of Roosevelt constituted the most vigorous application so far in American labor politics of the rule of "rewarding friends and punishing enemies."

There is no way of assessing precisely the political importance of the PAC in 1944, since its work was merged with that of so many other organizations. Its claim of providing the winning margin in the election has been strongly denied by regular Democratic party officials and by relatively impartial observers. No one, however, has any doubts about the terrific impact of the new labor methods of vote getting on American politics.²⁵ Nor is there any doubt about President Roosevelt's appreciation of trade-union efforts in his behalf in 1944. The widely repeated (and probably apocryphal) story that party leaders were directed to "clear it with Sidney" before deciding on a vice-presidential candidate is an example of the political rank that Hillman was supposed to hold in the estimation of his wartime Commander in Chief.

1945: Death of Roosevelt, War's End, Labor Chaos. Franklin Delano Roosevelt died suddenly of a cerebral hemorrhage while on vacation in Georgia on Apr. 12, 1945. He was succeeded by Vice President Harry S. Truman, a former Senator from Missouri, who had been put on the 1944 ticket as a compromise choice when a split threatened between the backers of Henry Wallace and James S. Byrnes. To have succeeded Mr. Roosevelt at any time would have been difficult enough, just as to succeed anyone to the presidency in the spring of 1945 would have been difficult enough. The combination of the two made Truman's position exceedingly unenviable. In less than two months, the war was over in Europe, and three months after that, Japan surrendered. Peace, demobilization, disarmament, reconversion, and readjustment arrived all at once, much sooner than anyone expected (at least, in the case of Japan), with a new and untried Chief Executive in the White House.

With the end of hostilities, the voluntary no-strike, no-lockout agreement of labor and management expired. There was an accumulated fund of disagreement and resentment on the part of both sides. Unions and management, fat from the war years, were ready to "take each other on." At the same time, however, a full-scale program of economic stabilization was in effect, with wage and price limits, rationing, priorities, etc. The unions could strike and employers could lock out, but wage increases were not legal unless

²⁵ If they did have such doubts, they would have been dispelled 4 years later in the astonishing upset reelection of President Truman in 1948.

they could be absorbed by profits without a rise in prices. The unions said that handsome increases were justified by the profits picture; management, for the most part, disagreed. This was the situation when the President called the Labor-Management Conference of 1945 to work out a way of adjusting industrial disputes without stopping production.

The conference, composed of representatives of the CIO, the AFL, the U.S. Chamber of Commerce, the National Association of Manufacturers, and a few other responsible groups, worked without much success to formulate a national industrial relations policy. It did succeed in outlining a code of procedures to help negotiators reach agreements in collective bargaining and it made some recommendations for improvement of conciliation services and of arrangements for voluntary arbitration. But it refused to look at the wage issue, although stymied by the government's wage-stabilization policy, and it hardly touched the problem of dispute settlement during the reconversion period, which was the main item on the agenda. The strikes of 1945 and 1946 and the Taft-Hartley Act of 1947 may be laid in large part to the inability of union and management representatives to find a common ground in the Labor-Management Conference of 1945.

1946: Year of the Big Strikes

The year of the big strikes really began in the fall of 1945, with the General Motors walkout by the United Automobile Workers. In reopening contract negotiations with the corporation at the close of the war, the UAW made clear the position of organized labor. What the unions feared was an immediate cutback in production, extensive unemployment, reduction of the working week from 48 hours (with the last 8 hours at time and a half) to 40 hours (straight time), and a consequent loss of 30 per cent in take-home pay. The UAW's principal demand was for a flat 30 per cent increase in basic rates. The demand was rejected, and on Nov. 21 more than 150,000 production workers walked out. Total idleness in the corporation's plants, including supervisory and clerical help, exceeded 200,000.

The UAW-GM contest was strictly big-league stuff, with both sides in top condition and confident of success. Its outcome would obviously be important for the pattern of industrial relations in the country during the reconversion period. Hence, every move received wide publicity, and the leaders played to the papers as much as to the opposition. Prior to the strike, the corporation had offered a 10 per cent wage increase, which was rejected. Two days before the walkout, the union offered to submit the dispute to a three-member arbitration board if the latter would be permitted to examine the company's books. This was vetoed, in its turn, and the strike was on.

After 2 weeks of ineffective attempts at conciliation by officials of the

U.S. Department of Labor, the company announced that it was terminating its agreement with the union (in accordance with a clause permitting cancellation of the contract in event of a strike lasting more than 10 days). General Motors then presented a list of counterdemands: elimination of the maintenance-of-membership agreement, penalties for wildcat strikes, and a guarantee of "management prerogatives." In the middle of December, a presidential fact-finding board took over, but hung up on the question of "ability to pay," which implied that it might want to "look at the books" of the company. At this, company representatives walked out on the board, refusing to take part in further hearings. The presidential board subsequently suggested a 19½-cent increase, which was acceptable to the union but not to the company. Meanwhile, the steel strike and settlement had entered the picture.

Negotiations had been going on for some time between the United Steelworkers of America (formerly the Steel Workers' Organizing Committee) and the entire steel industry over a demand for a wage increase of a flat \$2 a day. After a strike vote, conciliation, and fact finding, the union cut its asking price to 19½ cents an hour, while U.S. Steel, as representative of the industry, offered 15 cents. President Truman suggested a compromise of 18 cents, which the company refused, and on Jan. 21, more than 750,000 Steelworkers struck. It was the largest strike on record and cut steel production from its current 80 to 85 per cent of capacity to about 6 per cent. Agreement was eventually reached at the 18 cent figure on Feb. 15, when the government revised its wage-price policy to permit a \$5 per ton increase in the price of steel. Approximately a month later, on March 13, the General Motors strike was settled on the same pattern; an increase of 18 cents an hour, equalization of rates, improved vacation pay, and overtime pay for work on the seventh day.²⁶

The General Motors and steel strikes were not by any means the only major work stoppages of 1946; they were merely the lead-off actions. In January, 200,000 electrical workers, members of the United Electrical, Radio, and Machine Workers of America, walked out of 75 plants of the General Electric Company, Westinghouse, and the electrical division of General Motors Corporation. They were followed the same month by 125,000 packing-house employees, members of the United Packinghouse Workers (CIO) and the Amalgamated Meat Cutters and Butcher Workmen of North America (AFL). On April 2, 350,000 members of the United Mine Workers of America stopped work in the bituminous coalpits and stayed out until the Federal government seized the mines and a new contract was negotiated between Mr. Lewis and the Secretary of the Interior. On May 23, the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad

²⁶ *Monthly Labor Review*, March and May, 1946.

Trainmen stopped work in the first nationwide railway strike since passage of the Railway Labor Act in 1926. They brought all principal rail traffic to a standstill for 2 days. During the first week of June, 75,000 anthracite coal miners stayed away from the job while a new contract was being negotiated with the operators. In September, a strike of maritime workers paralyzed all shipping on the East, West, and Gulf Coasts. The same month, electric light and power were cut off in the Pittsburgh area by a strike of an independent employes association, and 30,000 truck drivers walked off the job in New York City. And so it went.

All told, there were 31 large strikes, involving 10,000 or more workers each, which began in 1946. They involved 2,925,000 employes and produced most of the 116 million man-days of idleness resulting from work stoppages

Table 54. Post-Second World War Strike Record Compared with Previous Periods*

Period	Work stoppages		Man-days idle
	Number	Strikers	Number
First postwar year, August, 1945 to August, 1946	4,630	4,981,000	119,785,000
Highest previous year, 1919.....	3,630	4,160,000	Unknown
Second highest previous year, 1937.....	4,740	1,860,000	28,400,000
Yearly average, 1935-1939.....	2,862	1,125,000	16,949,000

* SOURCE: *Monthly Labor Review*, December, 1946; May, 1947.

during the year.²⁷ They made 1946 the top year in strikes in the history of the country and probably contributed materially to the Republican victory in the fall election and the subsequent restrictive labor legislation of state legislatures and the Eightieth Congress. A statistical summary of the work stoppages in the first postwar year and a comparison with previous periods are shown in Table 54.

Lewis versus the United States. The last of the big strikes of 1946 was the walkout of 300,000 bituminous coal miners on November 21. The strike was not only a threat to the national welfare (winter was coming on, stocks of coal were low, and fuel was badly needed for steel and other basic industries which were operating at capacity to reconvert from war to civilian production); it was also a strike against the government. The soft-coal mines had been under the direction of a Federal Coal Mines Administrator of the U.S. Department of the Interior since May 21, 1946, when President Truman took them over to put a stop to a shutdown over new contract terms.²⁸ By October, Mr. Lewis was restive again and charged that the government had not lived up to its contract. After a series of charges and countercharges by Lewis, Secretary of the Interior Krug, the Attorney General of the United

²⁷ *Monthly Labor Review*, May, 1947.

²⁸ Exec. Order No. 9728.

States, and President Truman, the miners stayed away from work on November 21. There was no formal strike call, merely the published statement of President Lewis of the UMWA that no contract existed between the union and the government. This was enough for the miners. There is a long-standing rule in coal mining of "no contract, no work." The union leader's notice was the signal for a prompt industry-wide shutdown.

However, the predicament had been anticipated. On November 18, 3 days before the walkout (or "stayaway"), Judge Alan Goldsborough of the Federal district court for the District of Columbia had issued an order restraining the UMWA and its president from issuing or publicizing any notice "to the effect that the Krug-Lewis agreement has been, is, or will at some future date be terminated."²⁹ When the miners stayed out, Judge Goldsborough ordered the UMWA and John L. Lewis, individually and as its president, to appear on November 25 and show cause why they should not be punished for contempt of court. They tried, but were unsuccessful. On December 3, they were found guilty of both civil and criminal contempt, and the following day Judge Goldsborough levied a fine of \$3.5 million on the union (\$250,000 a day for the 14 days of the work stoppage) and of \$10,000 on its president, and extended the injunction indefinitely. On December 7, Lewis directed all miners to go back to work at the wages, hours, and conditions prevailing before the walkout, while the Supreme Court reviewed the decision.

On Mar. 6, 1947, the Supreme Court came up with its verdict. It upheld the contempt conviction of the union and its president, ruled that the Norris-LaGuardia Act was inapplicable to the United States government when it is acting as an employer, and okayed the \$10,000 fine against Lewis. The fine against the union was cut to \$700,000 with the proviso that the remaining \$2.8 million would have to be paid unless there were immediate and full compliance with Judge Goldsborough's order of November 18. Within 24 hours, Lewis notified the Secretary of the Interior of the unconditional withdrawal of his notice of termination of the agreement. The strike was broken.

1947: John L. Lewis and the Taft-Hartley Act

The Taft-Hartley Act was the important labor event of 1947, and many people gave John L. Lewis principal credit for its passage. The soft-coal dispute of the fall of 1946, with its debate over the use of the labor injunction and its tremendous fines imposed upon the union and its president, naturally received a great deal of publicity. The Supreme Court's final review of the dispute came after the installation of a new Congress, the Republican-con-

²⁹ *Monthly Labor Review*, February, 1947.

trolled Eightieth. And Lewis no sooner retreated before the Supreme Court than he bounced back in another direction, raising once again the threat of a widespread coal shortage.

A week after the UMW's unconditional surrender of March 19, the Centralia, Ill., mine disaster occurred. An explosion at the Centralia Coal Company number 5 mine killed 111 men. Three days later, Lewis wrote the officers and members of the union that a memorial period (which was in accordance with their contract provisions) should be observed from March 31 to April 6. On April 3, the Federal Coal Mines Administrator shut down 518 bituminous coal mines indefinitely, pending review of safety conditions. This did not satisfy Lewis, who suggested that all but two mines (which had been found by the U.S. Inspection Service to meet the full requirements of the Safety Code) be closed. This the Administrator declined to do. On April 10, Judge Goldsborough questioned the good faith of the union in the mine shutdown, which was still in effect, and postponed until July 1 the return of the \$2.8 million deducted by the Supreme Court from the fine he had imposed. Lewis then authorized the district presidents of the union to permit reopening of individual mines which they believed to be safe, and shortly afterward the Court handed back the union's \$2.8 million.

There was widespread speculation over the capacity of the coal operators to deal with the UMW and its versatile and aggressive leader when and if the mines should be returned to their owners, and over the future position of the general public if a dispute arose. The Lewis-directed coal mine shutdown became a symbol in the public mind of the labor dispute which creates a national emergency. Lewis's successful negotiation of a 10-cents-a-ton royalty payment into a miners' welfare fund was described as an example of private taxation for the benefit of a special group. The new labor law, passed by the Eightieth Congress, contained passages dealing with both.

The Taft-Hartley Act. The Labor-Management Relations Act, 1947 (the Taft-Hartley Act) was the answer to 12 years of demands for amendment of the "one-sided" Wagner Act, but it was also much more than that. It was an attempt to summarize the Federal labor policy in a single statute, an "omnibus" law, and to extend government regulation to many phases of labor-management relations previously left up to the parties themselves. One authority has described the effect of the law to be a shift from "government-sponsored" collective bargaining (under the Wagner Act) to "government-regulated" bargaining (under the Taft-Hartley law).⁸⁰ Every step in the passage of the legislation (in hearings, in committees, and on the floors of both Houses of Congress) was violently opposed by organized labor. After passage, trade unionists unanimously agreed in labeling it the "slave labor" law and put its repeal as item 1 on their political agenda.

⁸⁰ Taylor, *op. cit.*, p. 336.

The unions were supported in their opposition by President Truman, whose remarkable shift of positions on the labor question had been a feature of the year before. At the time of the railway strike in May, 1946, the President had gone before Congress with a request for authority to draft strikers into the Army and compel them to man the trains. A few months later, the President vetoed the Case Bill,³¹ a much less extreme regulatory measure than the Taft-Hartley proposal, as "too severe." The President's 1947 suggestions to Congress had consisted of proposals to outlaw jurisdictional strikes, extend the conciliation and mediation services of the Department of Labor, and to establish a commission to study the causes of labor-management conflict. His consistent opposition to the Taft-Hartley measure culminated in its veto, which was overridden by the House on June 20 and the Senate on June 23, 1947. On the latter date, it became law.

The Taft-Hartley Act was a very big statute, with many additions to the Federal code for regulation of labor relations in the United States. It (1) modified the procedures and substance of union-management dealings, (2) changed the basic policy of the Wagner Act, (3) reestablished the labor injunction as a tool of governmental regulation, (4) put the government into the business of regulating the internal affairs of unions, (5) took the U.S. Conciliation Service out of the Department of Labor where it had reposed for years, and (6) set up a procedure for handling national emergency disputes. A list of the principal changes and additions which it introduced is found below:

Main Provisions of the Labor-Management Relations Act, 1947

1. *Changes in policy of the Wagner (National Labor Relations) Act*
 - a. In addition to the right to organize and bargain collectively through representatives of their own choosing, the act gave employees the right to reject union membership and to refrain from participation in union activities except where an authorized union-shop agreement was in effect.
 - b. Unions, as well as management, were found to be capable of burdening commerce by their acts.
2. *Changes in required procedure of unions, management, and the government*
 - a. The National Labor Relations Board was reorganized from three to five members and its prosecuting and judicial functions were sharply separated, the former going to a semiindependent General Counsel and the latter being retained by the board.

³¹ H.R. 5262, 79th Cong., 2d Sess.

- b. Secret-ballot elections were required for all official certifications of union representatives and for settlement of union-shop questions.
- c. Unions, as well as employers, were required to bargain in good faith. Collective bargaining was defined as: meeting, conferring, and signing a written agreement if one was reached, plus a 60-day notice before striking or locking out.
- d. Union practices such as "featherbedding," jurisdictional strikes, secondary boycotts, and hot-goods boycotts were prohibited, as were strikes to force employers to violate the law or bargain with an uncertified union in place of a certified labor organization.
- e. Strikes by Federal government employees were made unlawful.
3. *Limitations on the substance of union-management agreements*
 - a. Closed-shop agreements were outlawed, and union-shop contracts were made accessible only to unions that could win a secret-ballot election by a majority of all the employees eligible to vote.
 - b. The involuntary checkoff of union dues was prohibited and voluntary checkoffs (authorized by individual members) could run for 1 year only.
 - c. Extensive limitations as to the purpose, administration, and audit of union trust funds to which management had contributed were placed in the law.
4. *Regulation of internal union affairs*
 - a. Foremen's unions were not protected by the law, and unions of guards (plant-protection employees) had to be entirely independent of other labor organizations.
 - b. Professional and craft employees were given support if they wanted to organize separately from other workmen.
 - c. Unions were required to make extensive annual reports containing general and financial information about themselves if they wanted to be protected under the act, and their officers were required to file annual affidavits that they were not Communists and did not support the Communist party or any other subversive organization.
 - d. Union coercion of employees to join or take part in activities was made an unfair labor practice.
 - e. If a union with a closed- or union-shop contract charged excessive initiation fees or put a member in band standing for anything other than failure to pay his dues, it was guilty of an unfair labor practice.
 - f. Union political contributions or expenditures were forbidden.
5. *The U.S. Conciliation Service*
 - a. The U.S. Conciliation Service, in the Department of Labor, was abolished. In its place there was formed the Federal Mediation and

Conciliation Service, an independent agency, responsible directly to Congress.

6. *National emergency strike procedure*

- a. A six-step procedure was set up for handling threatened or actual strikes or lockouts which imperiled "the national health or safety."

It consisted of:

- (1) A presidential fact-finding board
- (2) An injunction stopping the strike
- (3) A 60-day period for the fact-finding board to report in
- (4) A secret ballot of the employees on accepting the employer's last offer
- (5) Discharge of the injunction (total cooling-off period: 80 days)
- (6) A presidential report to Congress.

7. *The labor injunction and other penalties*

- a. Government officials were authorized to ask for injunctions (in effect, an amendment of the Norris-LaGuardia Act) to delay strikes or lockouts, halt unfair labor practices by either unions or management, and to restrain violation of the checkoff and trust-fund regulations. Injunctions were made mandatory in jurisdictional-dispute, secondary-boycott, and hot-goods boycott cases.
- b. Employers and labor organizations were held to be bound by the acts of their agents and unions were made suable as entities, rather than as collections of individuals. Violations of collective agreements were specifically made suable as breeches of contract.
- c. Trust-fund and checkoff violations and political contributions contrary to law were made subject to criminal penalties.
- d. Striking employees of the Federal government were made subject to immediate discharge, loss of civil service status, and ineligibility for reemployment for 3 years.

It was a tremendous set of rules, some of which were entirely new to unions and management alike, and every provision carried teeth. The unions were stunned, and many employers examined their lawyers' reports on the law with misgivings. The new statute raised all sorts of issues, as, for example:

<i>Constitutionality:</i>	of the prohibition of political contributions of the non-Communist affidavits of the required union reports to the NLRB and the Secretary of Labor
<i>Interpretation:</i>	of the featherbedding, boycott, and jurisdictional-dispute rules of the ban on political contributions and expenditures

- of the meaning of union "coercion"
- of the meaning of "excessive" initiation fees
- Administration:* of the many required secret-ballot elections
- of the handling of cases by the new Board and its general counsel
- of union-shop and decertification proceedings
- of the settlement of jurisdictional disputes
- of the national emergency strike procedure
- Union procedure:* compliance with discretionary provisions, especially affidavits and reports
- administration of established and new welfare trust funds
- organization of foremen, plant guards, craft, and professional employees
- damage suits against employers for violation of contract
- bargaining with management for protection from legal penalties
- Employer action:* suits for damages in case of union breach of agreement, such as wildcat strikes
- bargaining with unions for protection from penalties of the law
- use of the guarantee of free speech contained in the act
- reporting of union unfair labor practices

What the net effect of these uncertainties and the law's many penalties would be on union membership and bargaining power was an open question, on which there were many opinions. Union leaders declared that it was intended to produce and would surely result in the destruction of the labor movement. Management generally came around to the opinion that it reestablished a fair balance of power between unions and employers, and supported its regulations, with a few exceptions. Disinterested observers also covered the entire range from eulogy to disparagement.

One thing was certain. It would take a number of years for labor, management, and the government to adjust to any code containing so many revolutionary provisions, so that judgments short of three to five years' experience, at a minimum, would be tentative and incomplete. It appeared to be the fate of the Taft-Hartley Act not to last that long, at least in its original and pristine form. The surprising political upset of 1948 erased the Republican majority in both houses of Congress, vindicated the program of President Truman, and presented the new administration with a "mandate" to repeal the act, which had been a major issue in the campaign. One

of the first pieces of business that the Eighty-first Congress put its hand to in January, 1949, was repeal of the Taft-Hartley Act and substitution for it of a law more acceptable to organized labor.

The Portal-to-Portal Pay Issue. By the early months of 1947, the portal-to-portal pay issue had snowballed to astonishing proportions, and courts throughout the country were piled high with lawsuits for back pay (overtime and penalty rates) totaling an estimated \$6 billion dollars. The exact origin of the campaign to extend the principle of portal-to-portal pay to factory work seems to be in doubt, but many journalists attributed it to the versatile imagination of the general counsel of the CIO, Mr. Lee Pressman. There was no doubt at all that trade unions—especially CIO affiliates—were backing the drive and financing legal actions of their members for recovery of claims. There was also little doubt that the public and Congressional reaction was adverse and that the portal-to-portal pay drive prejudiced lawmakers in favor of legislation regulating trade unions. The Portal-to-Portal Amendment to the Fair Labor Standards Act was passed by the Eightieth Congress by a wide majority (and approved by President Truman) just prior to the enactment of the Taft-Hartley Act.³²

1946 to 1948: Postwar Union Growth

Unions came out of the Second World War with fat treasuries, big memberships, and a fear of repetition of the post-First-World-War pattern of depression and union busting. As the shooting came to a stop in August, 1945, a number of economists, especially a group in government circles, predicted a smashing cutback in production when defense contracts were canceled, with 6 million to 8 million men out of work by the spring of 1946. These fears proved groundless, and 3 years later, employment was still running in the neighborhood of 60 million, with less than 5 per cent of the labor force out of work. Next to depression, the unions' main bogey was another management open-shop drive on the 1921 model of the "American Plan." To intercept these tactics, the unions stepped off with a powerful offensive of their own, ostensibly to raise wages, but with the equally important objective of underwriting union security for the reconversion period and after. Union drives in the automobile, steel, coal, electrical, and meat-packing industries were generally understood to have this in mind as much as wages and working conditions. Vigorous organization campaigns in the South, the last stronghold of antiunion employers, were undertaken by both the AFL and the CIO.

The depression did not show up, and management, with a few exceptions, gave no evidence of any plan for aggressive opposition to collective

³² See above, pp. 147ff.

bargaining. Wage increases were obtained, union security maintained, and new contracts were signed. The only cloud on organized labor's horizon in the postwar years was the Taft-Hartley Act, a "union-busting" law, said to be aimed at the heart of labor. But the figures talked differently, or else the effect of the act was delayed. Trade-union membership continued to climb, in each of the the first 3 postwar years, and it was authoritatively guessed that: "Unless unions make grievous blunders and lose the confidence of the community . . . a union membership of over twenty million within the next decade is a strong probability."³³ The figures for 1946-1948 are given below in Table 55.

Table 55. American Trade-union Membership, 1946-1948*

Year	Total	AFL	Per cent	CIO	Per cent	Independent	Per cent
1946	14,974,000	7,152,000	48	6,000,000	40	1,822,000	12
1947	15,414,000	7,578,000	49	6,000,000	39	1,836,000	12
1948	15,600,000	7,200,000	46	6,000,000	38	2,400,000	16

* SOURCE: BLS, *Handbook of Labor Statistics*, 1947, p. 130, and BLS Bulletin 937, June, 1948, p. 5.

Summary

It is always hazardous to generalize about recent history and never more so than when dealing with a period containing a succession of rapid changes. On the other hand, one conclusion stands out with respect to the years since 1935 in American labor history, and that is their outstanding importance relatively to any previous period. It seems safe to say that this short interval in terms of time (a decade and a half) has witnessed developments at least equal in significance for organized labor to anything that has gone before. One proof of this statement would be the more than quadrupling of trade-union membership from 3.7 million in 1935 (14 per cent of the non-agricultural labor force of 26.8 million)³⁴ to 15.6 million in January, 1948 (35 per cent of the nonagricultural labor force of 44.6 million).³⁵ Between 1935 and 1950, organized labor in the United States grew up. Almost overnight it found itself in a position to influence importantly the economic and political environment of the country. Some of the forces which helped to bring about the transformation will be outlined tentatively below.

Government Support. An outstanding feature of the entire period was a national government friendly to organized labor and its objectives. The sole exception included the 2 years, 1947-1948, when the Eightieth Congress

³³ Sumner H. Slichter, *The Challenge of Industrial Relations*, p. v (Ithaca, N. Y.: Cornell University Press, 1947).

³⁴ *Statistical Abstract of the United States*, 1948, p. 200.

³⁵ *Monthly Labor Review*, February, 1949, p. 224.

was in session. Even then, the presidency and the executive branch of the government were occupied by "friends of labor," who, with minor defaults, opposed restrictions on unionism and threw their support to prolabor policies. The Federal government is incomparably the most powerful single force in the country; in legislation, administration, and court decisions, it has, since 1936, steadily underwritten the thesis that organized labor and collective bargaining are desirable institutions and must be protected and encouraged. It is hard to believe that trade unionism could have thrived as it has without this solid backing.

Troubled Times: Depression and War. The depression psychosis was well fixed by 1936, and "security" was the national objective. To the laboring man, security meant a job to which he had a right. This was also the union view, and where they could, unions fought for jobs for their members and an equitable distribution of the existing work among them. The "new economics" was born that same year, with its emphasis upon purchasing power and the maintenance of continuous full employment. National income analysis diverted economists from internal price adjustments to national aggregates of savings, investment, consumption, and gross product. It called for more equal distribution of personal incomes and implied government spending to correct for deficiencies in private investment. The followers of Keynes were almost without exception prolabor, since trade-union objectives were higher wages, greater purchasing power, and more security for low-income groups. This was economics that unionists could understand and vote for. Deficit spending was also a politically attractive doctrine. Unions supported it and the government supported the unions, with a high degree of mutuality of interest and purpose.

The depression psychology carried over into the war period and the postwar years. Union "security" continued to be and still is a major issue in industrial relations, in spite of 16 straight years of union growth, without a single setback. With the return of prosperity, induced by wartime government spending, unions capitalized on the security fixation to recruit members, gain plant-wide and company-wide bargaining agreements, blanket whole industries with standard contract provisions, and demand closed- and union-shop provisions to eliminate the possibility of individual job competition or group defection. The need for uninterrupted production in wartime and later in postwar reconversion gave organized labor the lever it needed to break down the last remaining pockets of employer resistance. For more than a decade, no major employer or group of employers has successfully withstood a set of union demands in their entirety.

Structural Changes in the Labor Movement. At precisely the appropriate time (coincident with the appearance of powerful governmental support), the American labor movement regrouped and reorganized its structure

to conform to the pattern of modern industry, in which the "craft" had become largely an anachronism. Industrial unionism became the dominant form of labor organization, and the rule of exclusive jurisdiction of the trade or craft was discarded in fact, although maintained as a principle by the descendants of Gompers. The labor movement became a mass movement, rather than the privilege of a few "aristocrats" of the skilled trades. It thereby gained many supporters not directly affiliated with it because it was helping those who needed help most—the unskilled and semiskilled. At the same time, it raised its political power many times over by enlisting mass groups of the working population and members of minority groups which had suffered discrimination at the hands of both employers and craft unions.

Political Power. In its new mass memberships, organized labor discovered a potent political weapon. It was already organized—for economic action. Why not for political action too? All that was needed was a practical set of political techniques. The brain and energy of Sidney Hillman and his colleagues demonstrated that union structure (especially industrial union structure) was as well fitted for political campaigning as for strike action and picketing.

The first great demonstration came in 1944. In 1946, with Hillman dead and industrial relations chaotic, union political action was a feeble gesture. Then the Taft-Hartley Act provided an issue and a point of mobilization. The Political Action Committee was revived, and the AFL formed its own "Labor's League for Political Education." The day after the general election of 1948, the country awoke to find that 103 congressmen and 17 senators, listed as antilabor by the CIO, the AFL, and the major independent unions, had been retired to private life. Their places were taken almost without exception by candidates endorsed by the PAC and other labor political groups. President Truman, whose reelection furnished one of the notable upsets in American political history, publicly credited organized labor with his victory, as did his campaign manager.

The raw statistical facts were undeniable. With more than 15 million trade-union members in the United States, any candidate that could mobilize the union vote could count on at least 30 million potential ballots. If union organization and persuasion were applied to political activity, and the issues differentiated as union and nonunion, how would the labor bloc be defeated? Only by equivalent organization and activity elsewhere, and very few groups seemed prepared to match the union setup in this regard.

Readings

The rapid growth of organized labor in the last 15 years has been accompanied by a deluge of books, pamphlets, studies, reports, and articles on the whys and wherefores

of union success. The most exhaustive study of the American union picture—both historical and analytical—to the end of the Second World War is H. A. Millis and R. E. Montgomery's *Organized Labor*,⁸⁶ Chap. V of which covers the historical developments from 1930 onward. A good survey of public policy from 1935 to 1947 is supplied in George W. Taylor's *Government Regulation of Industrial Relations*.⁸⁷ However, the definitive analysis of the growth of organized labor during its most important years is yet to come.

⁸⁶ McGraw-Hill Book Company, Inc., 1945.

⁸⁷ New York: Prentice-Hall, Inc., 1948.

14. SOME THEORIES OF THE LABOR MOVEMENT

Organized labor has come a long way in the United States since the strike of the Philadelphia printers in 1786. Trade unionism is one of the commonplace institutions of the country, along with the home, business, and government. In membership, power, and influence, it has supplanted such previously dominant groups as the farmer and the independent businessman. There are almost twice as many members of trade unions as there are people working on farms and at least five times as many unionists as there are proprietors or partners running their own businesses. "Labor" no longer means the workingman; it means the *organized* workingman. Organized labor is a "movement" in every sense of the word, with an organization, a philosophy, a strategy, a hard core of almost fanatical constituents, and a goal.

But what is the goal?

Is it Sam Gompers's succinct and dramatic "More and ever more of the product of our labor"? Is that enough to hold together a complex and differentiated group of 15 million men and women; to keep them paying dues, attending meetings, electing delegates, walking the picket line, going hungry and doing without during strikes, putting in long hours electioneering after a full day's work, and screaming "Scab" at a next-door neighbor who violates a picket line? To many people, trade unionism seems almost a religion, to be propagandized and defended under any circumstances. To others, it appears to be a faith, adhered to quietly but no less firmly, although with due recognition of its faults and weaknesses. What is the basis of this faith? What makes people join and support trade unions? Why have unions appeared and prospered and become more and more powerful? What things in modern society make trade unions necessary? Are these things political, economic, psychological, institutional, or technological in nature?

These questions are not just academic exercises. The United States, for example, is thoroughly committed to a policy of protection and encourage-

ment of labor organization. That would be a poor policy if the goals of trade unionism were incompatible with the more basic goals of our society. According to Marx and Engels, trade unions are only an intermediate step in the class struggle toward the overthrow of existing social and political institutions and the dictatorship of the proletariat. Do American trade unions fit this description? Some current observers seem to think so, but they are vigorously opposed by equally competent authorities who maintain just the opposite. The answer, if there is any, will be found in a study of the long-run objectives of the labor movement. It is the function of theory to try to supply such answers.

The kind of theory we have in mind is defined in the *Shorter Oxford English Dictionary* as: "a scheme or system of ideas or statements held as an explanation or account of a group of facts or phenomena." In the nature of things, a theory of social action is almost unverifiable, except on the basis of its appeal to the judgment of the reader. The controlled experiment of the natural sciences is out of the question when dealing with people, and the multiplicity of influences in social situations makes the selection of *the* cause or causes exceedingly difficult. However, a careful inductive approach to the study of trade-union aims, policies, and strategy has considerably narrowed the area of disagreement concerning the motives and purposes of organized workers. The final synthesis must be made by the student, but he should be familiar with the central propositions of the eight or ten most influential theoretical analyses of the labor movement.

There will be no absolute agreement by students of the labor movement as to which theories should be included in the first ten, but there would probably be unanimity on at least half of them. No review of theory could afford to leave out Marx and Engels, the Webbs, Commons, Hoxie, and Perlman. From thereon, the selection becomes more difficult and is influenced by the writer's point of view and purpose. In this book, five other writers will be added, to give more complete representation in terms of background and theoretical coverage.

The complete list includes: one German: Karl Marx (and his coauthor Friedrich Engels); two Englishmen: Sidney Webb, the first Baron Passfield (and his wife and coauthor Beatrice Potter Webb), and G. D. H. Cole; and seven Americans: John R. Commons, Robert F. Hoxie, Harry A. Millis, John Mitchell, Carleton H. Parker, Selig Perlman, and Frank Tannenbaum. In background, they range from active revolutionaries (Marx and Engels) through the academic ranks (Cole, Commons, Hoxie, Millis, Parker, Perlman, and Tannenbaum) to high public office through politics and the civil service (Webb) and active labor leadership (Mitchell). In theory, they run the gamut from the revolutionary design of Marx to the influence of technology cited by Tannenbaum.

The Theorists and Their Theories

Heinrich Karl Marx (1818–1883), social philosopher, revolutionary leader, and founder of “scientific” socialism, or present-day communism. Marx was born in Treves, Prussia, the son of a Jewish lawyer who was converted to Christianity in 1824, along with his entire family. Karl went to high grammar school in Treves and then studied law, history, and philosophy at the universities of Bonn and Berlin, taking his Ph.D. degree at the latter in 1841. He was strongly influenced by Hegel, with whom he subsequently disagreed, retaining the dialectical method of his master but arriving at different conclusions. Marx’s deduction (the famous “dialectical materialism”) was to the effect that social and political institutions could not be regarded as autonomous phenomena or as natural outgrowths of the human spirit, but were rather rooted in the material conditions of life. The anatomy of civic society, he decided, was to be found in economics. His radical views making an academic career impossible, Marx took up journalism, becoming the editor of the *Rheinische Zeitung*, which was suppressed in 1843. That same year he married Jenny von Westphalen, the daughter of a high government official, who was a constant and faithful companion throughout his career. She died in 1881, and Marx outlived her only 15 months.

Shortly after his marriage, Marx went to Paris, where the socialist movement was extremely active, to study economics and to write. Before the year was out, he had formally announced the fundamental conclusion around which his life work was built, namely, the “class struggle,” and the necessity of the emancipation of the proletariat through the dissolution of all constituted society and its replacement by the classless community. In Paris, Marx met Friedrich Engels and from 1844 on, the two collaborated in perfect agreement and the closest friendship. From Paris, Marx moved to Brussels, where he and Engels wrote the *Manifest der Kommunisten* in 1847, on the eve of the French and German revolutions. Returning to Germany, Marx took an active part in the revolt, was tried for high treason and acquitted, but was expelled from Prussia and subsequently from France. He moved to London in the latter part of 1849 and lived there until his death, taking an active part in the International Working Men’s Association, which was founded in 1864, and spending untold hours in the British Museum, where he did most of the research for his great work, *Das Kapital*.

Friedrich Engels (1820–1895), social theorist and revolutionist, co-founder with Marx of scientific socialism. Engels was born in Barmen of a prosperous commercial family with strong Protestant convictions. While at school, he broke with his family on religious grounds and began consorting with radical student groups. In 1842 he was sent to work in a factory of his father’s in Manchester, England, where he became interested in the

Chartist and Owenite movements and studied laissez-faire economics. He met Marx in Paris 2 years later and spent the next 5 years in France, Germany, and Belgium organizing underground revolutionary groups and collaborating with his new friend in various publications, including the *Manifesto*. Engels turned back to business in 1850 and supported Marx while the latter wrote *Das Kapital*. Retiring in 1869, he busied himself with general revolutionary activity until his death. He was a member of the general council of the First International and influential in the Second. He edited Marx's posthumous works and wrote widely on problems of socialist theory and practice.

The Politico-Revolutionary Theory of the Labor Movement of Marx and Engels.—In the eyes of Marx and Engels, the organized labor movement is an intermediate step in the class struggle, the fight for power by the proletarian (wage-worker) class to overthrow the bourgeoisie (capitalist businessmen). The short-run purpose is to eliminate competition between the workers, which keeps them disorganized and at the mercy of their employers: "Organization of the proletarians into a class, and consequently into a political party, is continually being upset again by the competition between the workers themselves. But it ever rises up again, stronger, firmer, mightier."¹ The villain of the piece is modern industry, which²

has converted the little workshop of the patriarchal master into the great factory of the industrial capitalist. Masses of laborers, crowded into the factory, are organized like soldiers. As privates of the industrial army they are placed under the command of a perfect hierarchy of officers and sergeants. Not only are they slaves of the bourgeois class, and of the bourgeois State, they are daily and hourly enslaved by the machine, by the over-looker, and above all, by the individual bourgeois manufacturer himself.

But this situation has its own solution; the necessary conditions of industrial production carry the seeds of its own downfall. They result in the regimentation of workers, the obliteration of distinctions of rank and craft, the reduction of wages and the standard of living, irregular employment, and its corollary, insecurity. In the Marxian analysis, then, the disputes between labor and management take on more and more of the character of class conflict:³

Thereupon the workers begin to form combinations (Trades' Unions) against the bourgeois; they club together in order to keep up the rate of wages; they found permanent associations in order to make provision beforehand for these occasional revolts. Here and there the contest breaks out into riots.

¹ *Communist Manifesto*, p. 25 (Chicago: Charles H. Kerr & Co., undated).

² *Ibid.*, p. 22

³ *Ibid.*, p. 24.

But the formation of unions, even successful ones, is not the true aim.⁴

Now and then the workers are victorious, but only for a time. The real fruit of their battles lies, not in the immediate result, but in the ever expanding union of the worker. . . . Every class struggle is a political struggle. . . . Of all the classes that stand face to face with the bourgeoisie today, the proletariat alone is the really revolutionary class. The other classes decay and finally disappear in the face of modern industry; the proletariat is its special and essential product. . . . The advance of industry, whose involuntary promoter is the bourgeoisie, replaces the isolation of the laborers, due to competition, by their revolutionary combination, due to association. The development of Modern Industry, therefore, cuts from under its feet the very foundation on which the bourgeoisie produces and appropriates products. What the bourgeoisie therefore produces, above all, are its own gravediggers. Its fall and the victory of the proletariat are equally inevitable.

In some of his later writings, Marx gave evidence of modification of his ideas to a degree that led some of his interpreters to feel that he had adopted an evolutionary view of society instead of the aggressive, revolutionary position so prominent in the *Manifesto*. However, there was no alteration of perspective. Trade unions were not ends in themselves; they were not agencies for the protection of workers' rights in a permanent, equitable society. They were essentially political institutions, a means of consolidating and solidifying the workingman's position on a parity with and eventually superior to that of any other members of the community. The motives which drove men into them were economic insecurity, political exploitation, and social degradation. The labor movement was a *collective* movement, on an international scale, with the interests of the workers identical and always in opposition to those of their masters.⁵

The proletarians have nothing to lose but their chains.

They have a world to win.

Working men of all countries, unite!

Sidney James Webb (the first Baron Passfield) and **Beatrice Potter Webb**, reformers, investigators, scholars, active politicians, and leading Fabian Socialists, of Passfield Corner, Liphook, Hants, England. Sidney Webb was born in London, July 13, 1859. He was well educated in private schools in England and on the Continent, after which he held a succession of government jobs obtained through civil service competition. His remarkable career included a professorship at the London School of Economics, membership in Parliament from 1922 to 1929, the Secretaryship of State for Dominion Affairs and for the Colonies, and service on innumerable royal and departmental commissions for the study of various economic and social problems.

⁴ *Ibid.*, pp. 24-26, and 29.

⁵ *Ibid.*, p. 58.

He was the author of a large number of books and reports, and coauthor (with his wife) of many more. The Webbs's most influential labor analyses, written in collaboration, were *The History of Trade Unionism* (1894) and *Industrial Democracy* (1897).

The Webbs's Theory of Industrial Democracy. If any book deserves to be known as the bible of trade unionism, it is the Webbs's *Industrial Democracy*.⁶ It was the first, and still remains the classic, statement of the assumptions, purposes, and methods of organized labor. It consists of an exhaustive analysis of the structure, function, and theory of British trade unionism, based on 6 years of painstaking empirical investigation. Peculiarly enough, the greatest analytical study of trade unionism in the English language was a by-product. As the Webbs have explained elsewhere,⁷ the purpose of their 6-year research was to present a definitive history of the British labor movement, which was duly published in 1894. They then discovered that a rearrangement and reexamination of their notes, accumulated for historical purposes, permitted a cross-cut analysis of the organized labor movement in terms of assumptions, politics, economic rationalizations, and effects. The result was *Industrial Democracy*.

The essence of the Webbs's position is indicated by the title of their book. Trade unionism is the extension of democracy from the political sphere to that of industry and the overcoming of managerial dictatorship. Unionism thus serves to strengthen the liberties of the individual worker by giving him representation in a bargaining situation, the outcome of which will determine his standard of living and his working environment. In the absence of such representation, all the dimensions of the employer-employee relationship are imposed upon the workingman from above, and he is forced to accept because he has no "reservation price" below which he may refuse to sell his services. He *must* work and his bargaining power is nonexistent. The result is a servile condition incompatible with the precepts of a free society.⁸

Men and women of the upper or middle classes are totally unable to realize what state of body and mind, what level of character and conduct, result from a life spent, from childhood to old age, amid the dirt, the smell, the noise, the ugliness, and the vitiated atmosphere of the workshop; under constant subjection to the peremptory, or, it may be, brutal orders of the foreman; kept continuously at laborious manual toil for sixty or seventy hours in every week of the year; and maintained by the food, clothing, house-accommodation, recreation, and family life which are implied by a precarious income of between ten shillings and two pounds a week [roughly, \$2.50 to \$10, at the rate of exchange in effect in 1897].

⁶ New York: Longmans, Green & Co., Inc., 1920, first published in 1897.

⁷ *In Methods of Social Study* (New York: Longmans, Green & Co., Inc., 1932).

⁸ *Industrial Democracy*, p. 821.

If the democratic state is to attain its fullest and finest development, it is essential that the actual needs and desires of the human agents concerned should be the main considerations in determining the conditions of employment. Here, then, we find the special function of the Trade Union in the administration of industry.

This function—of representing and protecting the interests of workingmen—is not just a temporary obligation, arising from the current state of modern industrial development, nor does it lead eventually to the all-embracing “dictatorship of the proletariat” of Marx and Engels. The Webbs agreed with Marx that the modern capitalist state was a transitional phase of political organization, but as Fabian Socialists they saw a different outcome in the evolution of political forms. They rejected emphatically the “classless society.” The proper resting place of control in the modern industrial community was envisioned as democratic socialism, with a distribution of functions similar to that now in effect, but with a guarantee of a national minimum of security to all citizens and the direction of major industrial processes in public hands. In this type of society, organizations of workers would continue to play an important role.⁹

It is essential that each grade or section of producers should be at least so well organized that it can compel public opinion to listen to its claims, and so strongly combined that it could if need be, as a last resort against bureaucratic stupidity or official oppression, enforce its demands by a concerted abstention from work, against every authority short of a decision of the public tribunals, or a deliberate judgment of the Representative Assembly itself.

In their analysis of the causes of trade unionism, the Webbs placed the major emphasis upon the invidious effects of competition. In the “higgling” of the market, the ruthless struggle for commercial and industrial survival based on comparative prices, with its long chain of pressures extending from the consumer back through the retailer to the wholesaler to the manufacturer, is to be found the explanation of the workers’ misery. Trade unionism performs its greatest service in the capitalist free enterprise society by lifting off the individual employe the heavy downward pressure of competition upon wage rates, hours, and conditions of work.¹⁰

In order to accomplish this, two major devices are used: (1) the device of restriction of numbers, and (2) the device of the common rule. Restriction of numbers (accomplished by placing limitations upon entry to the trade) is admittedly uneconomic, undemocratic, and undesirable. In the good society, it will have to be abandoned in large part, except for the exclusion of children, the unqualified, and other undesirables. The common rule (uniform standards of wages, hours, and working conditions), on the other hand,

⁹ *Ibid.*, p. 825.

¹⁰ See *supra.*, Chap. V. for a detailed explanation of the Webbs’ “bargain theory” of wages.

is economically valid and politically desirable.¹¹ It should be extended by law in the form of national minimum standards.

On the question of identity or opposition of interests between employers and employes, the Webbs range themselves on the side of the class struggle.¹² Unlike Marx and Engels, however, they see the resolution of the conflict in equality and collective negotiation, rather than the liquidation of the business class and worker dictation. Elimination of industrial autocracy provides the key. To the industrial wage earner, "the uncontrolled power wielded by the owners of the means of production, able to withhold from the manual worker all chance of subsistence unless he accepted their terms, meant a far more genuine loss of liberty, and a far keener sense of personal subjection, than the official jurisdiction of the magistrate, or the far-off, impalpable rule of the king." Trade unions are working-class democracies. "The agitation for freedom of combination and factory legislation has been, in reality, a demand for a 'constitution' in the industrial realm. The tardy recognition of Collective Bargaining and the gradual elaboration of a Labor Code signifies that this Magna Charta, will, as democracy triumphs, inevitably be conceded to the entire wage-earning class."¹³

John Mitchell (1870-1919), American labor leader. John Mitchell was an orphan at an early age, started to work when he was 9, went into the mines at the age of 10, and joined the Knights of Labor when he was 15. Upon the subsequent collapse of that Order, he took out membership in the United Mine Workers of America, becoming national president of that union in 1899. He retired from the presidency in 1908 on account of ill health and became a free-lance lecturer and writer on labor problems. In 1914 he was appointed Commissioner of Labor for the State of New York and later Chairman of the State Industrial Commission. Mitchell was active in the AFL, serving as vice president from 1899 to 1914, and was considered second only to Gompers in his influence upon policy. He fought the craft principle as the exclusive basis of organization and established the right of

¹¹ See *Ibid.*, pp. 733-734: "Thus, the effect of the Common Rule on the organization of industry, like its effect on the manual laborer, and the brain-working entrepreneur, is all in the direction of increasing efficiency. It in no way abolishes competition, or lessens its intensity. What it does is perpetually to stimulate the selection of the most efficient workmen, the best-equipped employers, and the most advantageous forms of industry. It in no way deteriorates any of the factors of production; on the contrary, its influence acts as a constant incentive to the further improvement of the manual laborers, the machinery, and the organizing ability used in industry. In short, whether with regard to Labor or Capital, invention or organizing ability, the mere existence of a uniform Common Rule in any industry promotes alike the selection of the most efficient factors of production, their progressive functional adaptation to a higher level, and their combination in the most advanced type of industrial organization.

¹² In the introduction to the 1920 edition, p. xvi, they refer to "the long-drawn-out battle of interests between capitalist employers and manual working wage-earners."

¹³ *Ibid.*, p. 841.

the miners to organize on an industrial basis in 1901. For many years it was the largest AFL union, with 300,000 members. Mitchell was an advocate of "prudent business methods" and the "sacredness of contract" and proved outstandingly successful as a union official and tactician. He is probably the only labor leader whose fortune at the time of his death amounted to a quarter of a million dollars. His principal written works were: *Organized Labor* (1903) and *The Wage Earner and His Problems* (1913).

Mitchell's "*Economic Protection*" *Theory of Trade Unionism*. The explanation of trade unionism, according to one of its most successful practitioners in this country, lies in the economic protection it affords to workingmen. The essence of trade unionism is the collective bargain, which gives the worker economic equality with the employer, rids him of fear, raises his efficiency and establishes his citizenship in the industrial order. A corollary of this proposition is the absolute rejection of the individual bargain:¹⁴

A trade union, in its usual form, is an association of workmen who have agreed among themselves not to bargain individually with the employer or employers, but to agree to the terms of a collective or joint contract between the employer and the union. The fundamental reason for the existence of the trade union is that by it and through it, workmen are enabled to deal collectively with their employers. . . . Trade unionism thus recognizes that the destruction of the workingman is the individual bargain, and the salvation of the workingman is the joint, united, or collective bargain.

The reasons for preferring collective dealings over individual bargaining are the usual ones—the employer's advantageous situation with reference to finance, market information, and the like, and the individual workman's complete lack of means of putting pressure on the purchaser of his services. But it is a question of contract, *within existing market institutions*, and not the class struggle, according to Mitchell. As definitely as any other writer, Mitchell denies the thesis of opposition of interests.¹⁵

Labor unions are *for* the workman, but *against* no one. They are not hostile to employers, not inimical to the interests of the general public. They are for a class, because that class exists and has class interests, but the unions did not create and do not perpetuate the class or its interests and do not seek to evoke a class conflict. There is no necessary hostility between labor and capital. Neither can do without the other; each has evolved from the other. Capital is labor saved and materialized; the power to labor is in itself a form of capital. There is not even a necessary, fundamental antagonism between the laborer and the capitalist. Both are men, with the virtues and vices of men, and each wishes at times more than his fair share. Yet, broadly considered, the interest of the one is the interest of the other, and the prosperity of the one is the prosperity of the other.

¹⁴ *Organized Labor*, pp. 2-4 (Philadelphia: American Book and Bible House, 1903).

¹⁵ *Ibid.*, preface, p. ix.

It is pertinent to note that the views presented above are not those of a trade unionist turned capitalist, with a private fortune mounting toward the \$250,000 mark. They were published in 1903, when Mitchell was 31 years of age and in his fifth year of the presidency of the United Mine Workers of America, when his daily concern was with the strategy and tactics of strikes, picketing, lockouts, black lists, injunctions, and yellow-dog contracts. It was long before he had begun to realize income from his writing and lecturing on the problems of labor. In view of the bitterness of the struggle between the coal miners and the operators, the calmness and impartiality of Mitchell's exposition of "pure and simple" business unionism is worthy of comment.

John Rogers Commons (1862-1944), long-time (1904-1932) professor of political economy at the University of Wisconsin, dean of American labor scholars, and founder of the "Wisconsin School" of institutional economists. Commons studied at Oberlin College and Johns Hopkins University, where he came under the influence of Professor Richard T. Ely, himself one of the earliest students of the labor movement in this country. Following his graduation, Commons taught at Wesleyan, Oberlin, Indiana, Syracuse, and finally came to rest at Wisconsin, once more under the supervision of Ely, who had preceded him there as head of the department. It was a favorable environment. The University of Wisconsin is located at Madison, which is also the state capital. During most of Commons's term of service, the state government was dominated by the progressivism of "Fighting Bob" La Follette, and the tie-up between the two state institutions was as close as could be found anywhere in the country. Commons alternated in service between the campus and the capitol, with spells of outside investigation for the Federal government and private organizations. His researches produced a tremendous volume of writing, of a miscellaneous character, primarily oriented to the condition of the workingman and the relationship between the state and private business organizations. His most influential books were *Trade Unionism and Labor Problems* (1905), *History of Labour in the United States* (4 vols., 1918-1932; Commons was editor, with most of the writing done by associates), *The Legal Foundations of Capitalism* (1924), *Institutional Economics* (1934), and, with John B. Andrews, *Principles of Labor Legislation* (several editions, 1916 to 1936).

Commons's "Environmental" Theory of the American Labor Movement. John R. Commons was a born skeptic, an indefatigable investigator, a thoroughly unsystematic thinker, and one of the most inspirational teachers and supervisors in the history of higher education in America. His greatest contribution to the study of the American labor movement was to arouse the enthusiasm of gifted graduate students and set them to work, individually and in platoons, producing masterpieces of research. Commons's own views are typically to be found in fragmentary observations in his

reports and journal articles, in his autobiography, or as introductory summaries to collaborations like the definitive *History of Labour in the United States*.¹⁶

A convinced institutionalist, Commons believed what he saw with his own eyes or found in the record. He was skeptical of generalizations, especially those of the armchair variety, and this skepticism kept him from indulging in long-range predictions or guesses as to fundamental aims. Nonetheless, Commons had a theory of the labor movement and this theory had a set of basic premises. The premises were Marxian, although the conclusions, being those of a careful observer and a restrained reporter, would hardly have satisfied the German philosopher. Commons regarded the labor movement as an aspect of the class struggle,¹⁷ and his method of investigation indicated a firm belief in the influence of political and economic institutions upon the thoughts and actions of men. He regarded the labor movement in America as delayed and thwarted by a number of factors, the first of which (in his catalogue) was *free land*:¹⁸

The condition which seems to distinguish most clearly the history of labour in America from its history in other countries is the wide expanse of free land. As long as the poor and industrious can escape from the conditions which render them subject to other classes, so long do they refrain from that aggression on the property rights or political power of others, which is the symptom of a "labour movement."

The necessary precondition to free land was *universal manhood suffrage*, "which alone could make land a political issue."¹⁹ But the right to vote was not an unmixed blessing; it diverted the workingman from his proper business of organization and class unity into visionary and unprofitable political ventures where he was consistently outwitted:²⁰

The tragedy, the credulity, the fiasco, the lessons learned, forgotten, learned again, the defection of leaders, the desperate reaction to violence or anarchism, the disintegration of unions—these are the moving picture of eight decades of that universal suffrage, for which the laborer would give his life, but by which he has often followed a mirage.

¹⁶ New York: The Macmillan Company, 1919, Vol. I, pp. 3–21.

¹⁷ "The labour history of the country . . . is the story of how, in the course of three centuries, the wage-earner, as a distinct class, has been gradually, even violently, separating himself from the farmer, the merchant, and the employer [Commons's synonym for "manufacturer"]" (*ibid.*, p. 3).

¹⁸ *Ibid.*, pp. 3–4.

¹⁹ Thirty years after the final grant of white manhood suffrage, the revolt of the unprivileged masses against seizure of the Western lands by speculators and slave owners, culminated in the Homestead Law of 1862 (*ibid.*, p. 4).

²⁰ *Ibid.*, p. 5.

The trouble with political action, as Commons has observed elsewhere,²¹ was that in America it was not the voice of the people, but the province of professional politicians who used the parties as bulwarks of special interests. Nonetheless, it was political and economic action and not any benevolent assistance from on high that produced free land and the other gains of the workingman:²²

We are likely to ascribe to the bounty of nature what proceeds from the struggle of classes. Like the *laissez-faire* philosophers, we trace back to a benevolent physical nature what springs directly from our social nature, and shows itself in organization and political effort.... Free land was not a mere bounty of nature; it was won in the battle of labour against monopoly and slavery.

Free land was influential in producing a labor movement "based on the ideas of a 'middle class' or the 'producing classes' rather than the 'wage-class,'" an inhibition that held trade unionism back for half a century. Ranking next to it as a major influence upon the labor movement of the nineteenth century was the tremendous *expansion of markets*, which occurred as the country was opened up to trade without any handicap or barriers other than competition, and as the technologies of transportation and communication were developing rapidly. The mere size of the market area "changed the character of competition, intensified its pressure, separated manufactures from agriculture, introduced the middleman, produced new alignments of social classes, and obliterated the futile lines that distinguish the jurisdiction of States."²³ The chief products of this competitive melee were two: the *merchant-capitalist*, who acted as middleman between the manufacturer and the retailer and drove a hard bargain with each, and the *financier*, who aided the merchant in his extension of credits.

The effects of the new competition upon labor were much as described by the Webbs. It was the function of the manufacturer-employer to drive a hard wage bargain in order to satisfy the merchant-capitalist, who was the servant of the retailer and his customers. This produced a series of "sweated" trades and drove employes to their first conscious combination with others of their class in "trade" unions, and away from the guildlike associations of earlier days which included masters as well as journeymen.

A fourth important influence was found in the *organs of government*. The confused pattern of state and Federal law made extensive legislative reforms impracticable, while the courts, "blocking the way of a new aggressive class with precedents created to protect a dominant class," were vetoing the laws which labor in its political struggles had been able to get passed. The final step in judicial usurpation of power came with the use of the

²¹ In his essay, "Samuel Gompers," in the *Encyclopedia of the Social Sciences*.

²² *History of Labour in the United States*, op. cit., p. 4.

²³ *Ibid*, p. 6.

injunction to extend the control of the courts to legislative and executive spheres of action. The main effect of these obstacles was to turn labor away from political action to reliance upon organization and economic power. As a result, some trade unions, by the simple force of their bargaining power, "exact[ed] over a competitive area wider than any State more drastic regulations than those previously vetoed by the courts or even adopted by the most responsive legislatures."²⁴ Additional influences of great importance have been *immigration*, with its influx of races, nationalities, and languages, thrown together in a single competitive area, and *cycles of prosperity and depression*, which Commons found to have a positive correlation with the rise and fall of union activity.

But what of the long-run aims and aspirations of the labor movement? On these, Commons was reticent. He discussed "socialism" and "anarchism" and found that neither properly described the American labor movement for long. Rather, the outcome to the time of the First World War had been opportunistic and nonrevolutionary and implied an acceptance of capitalism which fell considerably short of even the Webbs' expectations of political evolution:²⁵

Back and forth between the socialistic and anarchistic doctrines has the labour movement swung, according to periods, conditions, and leaders. By a kind of natural selection a more "pragmatic" or "opportunistic" philosophy, based on the more illogical variety of actual conditions and immediate necessities, has taken form in the American Federation of Labor, the railway brotherhoods, and industrial unionism, which is neither anarchism nor socialism but a species of protectionism combining both. . . .

As long as the wage-earning class accepts the existing order and merely attempts to secure better wage bargains, its goal must eventually be some form of the "trade agreement," which recognizes the equal bargaining rights of the organized employers. Its union is not "class conscious" in the revolutionary sense of socialism, but "wage-conscious" in the sense of separation from, but partnership with, the employing class.

Beyond that point, Commons, the scholar, refused to go. If the labor movement was the class struggle, the classes had somehow made a deal. American unionism was not revolutionary or class conscious, but was primarily "business" unionism, a term devised by Commons's contemporary and associate, Robert F. Hoxie.

Robert Franklin Hoxie (1868–1916), professor of economics at the University of Chicago. Like most of the early institutional economists in this country, Hoxie was strongly influenced by Veblen. He was a tireless investigator, with a toughness of intellect which enabled him to record his observa-

²⁴ *Ibid.*, p. 9.

²⁵ *Ibid.*, pp. 15, 17.

tions and generalize from them in spite of their apparent conflict with current dogmas. His career was cut short by ill health and overwork, complicated, according to Commons, by shock at the withdrawal of financial support from a research project he was carrying on, the results of which were displeasing to the sponsors. His principal published works were *Scientific Management and Labor* (1915) and *Trade Unionism in the United States* (1917), the latter published after his death from notes he had collected. His *Trade Unionism* is undeniably one of the great studies of organized labor in the English language.

Hoxie's Functional Classification of Trade Unions. Hoxie's greatest contribution to the theory of unionism was to establish the idea of *functional types* of labor organization and to identify the principal types to be found in this country. A "functional type" is the result of a "common interpretation of the social situation,"²⁶ which produces agreement among the group as to the problem facing its members and the kind of remedial program which will solve it. The result is a set of agreed aims, policies, and methods which distinguish a union or a set of unions from others which diagnose the social situation differently. The main types of unionism, according to Hoxie, were five: business, uplift, revolutionary, predatory, and dependent.²⁷

1. *Business unionism*, by all odds the most prevalent and influential in the United States, meant a form of labor organization that was trade conscious rather than class conscious, that represented the viewpoint of the employes of a given craft or industry rather than of the working class as a whole, and whose principal aims were the improvement of wages, hours, and working conditions of the immediate group, regardless of other workers or the general social and economic situation. Business unionism looks upon itself as a bargaining institution and its goal as an advantageous trade agreement. It tends to be exclusive, to limit membership, to be a high-fee, high-dues type of club, to emphasize discipline, and to develop autocratic leadership which can maintain itself as long as it can "deliver the goods" in the form of higher wages and greater security. In dealing with employers, business unions are generally temperate and cooperative, with an eye out for a profitable compromise, although noted for their blustering tactics at the conference table and their ability to hit and hit hard when conditions seem to call for direct action such as the strike or boycott. Typical examples, according to Hoxie, were the railway operating brotherhoods.

A modern illustration of business unionism on the Hoxie pattern would be the UMWA. However, both the mine workers and the railway unions have welfare functions which fit more into the classification of uplift

²⁶ *Trade Unionism in the United States*, p. 58 (New York: Appleton-Century-Crofts, Inc., 1921).

²⁷ See R. F. Hoxie, "Trade Unionism in the United States, General Character and Types," *Journal of Political Economy*, Vol. XXII (1914), pp. 203-216.

unionism. Hoxie emphasized that none of the functional types he described would ever be found in pure form, but would always combine characteristics of other groups. The identifying symbol that he used merely pointed to the dominant trait of that section of the labor movement.

2. *Uplift unionism* was most readily identified by its idealistic viewpoint. It placed emphasis upon the moral and social values of combination and their contribution to a better life in terms of personal dignity, leisure and culture, security, and better living standards. It could be found, according to Hoxie, in trade-conscious or class-conscious labor groups, and its most conspicuous marks were its techniques of action: mutual insurance, political action, producer and consumer cooperation, profit sharing, etc. Collective bargaining might be used, but it was less realistic, less determined, and therefore less productive of results in the hands of the uplifters. The Knights of Labor were exhibit A of this form of combination, although they departed in many respects from the pure type.

3. *Revolutionary unionism*, as its name implies, is the real Marxian McCoy. It is extremely radical in theory and in action, strongly class conscious, contemptuous of the existing social and economic order, and anxious to replace it with a brand new political setup. Revolutionary unionism has one central theme: the complete harmony of interests of all workers, regardless of differences in skills or living standards, and the opposition of these interests to the interests of their employers. Its objective is to unite all workmen into a single, unified, fighting organization; its methods—collective bargaining and political action (as intermediate steps), direct action (strike and boycott), sabotage, and violence. Examples were the Western Federation of Miners (led by "Big Bill" Haywood) and the Industrial Workers of the World (I.W.W.). Hoxie noted that revolutionary unionism had never represented more than a negligible fraction of the United States labor movement.

4. *Predatory unionism* is gangsterism in union form. Its chief characteristic is complete lack of principle (other than "look out for Number One") and concentration on short-run objectives. It operates by means of bribes, extortion, the sale of "protection," and monopoly combinations with employers. It has been most prevalent in the building trades, especially as exemplified in the operations of men like "Skinny" Madden of Chicago.

5. *Dependent unionism* is a parasitic form of labor organization which requires for its existence the support of other labor groups or of employers who find that the existence of a union means certain advantages for them. Examples of the latter were unions kept going by employers to give the latter the privilege of putting the union label on their goods. Unions of barbers have been supported and encouraged by barbershop proprietors in order to standardize hours of work, etc. Needless to say, dependent unionism

is an unimportant segment of the labor movement in the U.S. or elsewhere.

To Hoxie, trade unionism was a pragmatic, shifting, grass-roots movement. He rejected implicitly the assignment of a single basic cause, economic or political or historic, as the explanation of worker combination. This amounted to at least a partial denial of the environmental theory (of Commons and Marx) in favor of reliance upon a more subjective cause, which might be called "group psychology." In this respect, he was in line with the reasoning of another contemporary empiricist, Carleton H. Parker.

Carleton Hubbell Parker (1878–1918), miner, bond salesman, economist, and professor. His writing output is found in *The Casual Laborer, and Other Essays* (1920), published after his death in book form. Parker was almost a casual laborer himself, wandering through a variety of occupations before settling into a short but hectic career of 5 years as investigator, government official, university professor and dean, and wartime mediator of industrial disputes. His interest in labor problems grew out of a hop pickers' riot in the summer of 1913 which turned him to the study of labor psychology. He was strongly influenced by his field studies of migratory farm labor on the Pacific Coast.

Parker's Psychological Compensation Theory of Trade Unionism. To Parker's way of thinking, labor organization, strikes, picketing, and boycotts were symptoms of psychological maladjustment rather than agencies for the furtherance of programs. He was concerned with the "monotony, indignity, dirt and sexual apologies of . . . the unskilled worker's life" and the "fixations, [the] definite irrational, inferiority obsessions"²⁸ which resulted therefrom. The prime inferiority compensation, he noted, was the strike, which occurred when there was a satisfactory obsession in the mind of labor, along with a sufficient decay of the prestige of social norms "to allow the laborer to make those breaches of law and convention which a well run strike of today demands."²⁹

The balked laborer . . . follows one of two described lines of conduct: First, he either weakens, becomes inefficient, drifts away, loses interest in the quality of his work, drinks, deserts his family; or secondly, he indulges in a true type inferiority compensation, and in order to dignify himself, to eliminate for himself his inferiority in his own eyes, he strikes or brings on a strike; he commits violence, or he stays on the job and injures machinery, or mutilates the materials. He is fit food for dynamite conspiracies. He is ready to make sabotage a part of his regular habit scheme. His condition is one of mental stress and unfocused psychic unrest, and could in all accuracy be called a definite industrial psychosis. He is neither willful nor responsible, he is suffering from a stereotyped mental disease.

²⁸ *The Casual Laborer, and Other Essays*, pp. 51–52 (New York: Harcourt, Brace and Company, Inc., 1920), quoted in E. W. Bakke and Clark Kerr, *Unions, Management and the Public*, p. 40 (New York: Harcourt, Brace and Company, Inc., 1948).

²⁹ *Ibid.*, p. 163, cited in Bakke and Kerr, pp. 40–41.

There is little doubt that Parker's conclusions were extreme and his theorizing marked by generalizations drawn from a limited base of observation. Nonetheless, his fundamental thesis that employe combinations were reactions to the thwarting or blocking of the normal urges of workers for social expression and recognition in the status systems of industry and society was a contribution of prime importance. It is markedly similar to the findings of recent investigators into "human relations in industry" and may well have been a pioneer hypothesis in this respect.³⁰

George Douglas Howard Cole (1889–), Reader in Economics, Oxford University, Fellow of University and Nuffield Colleges, Oxford. Cole is a British academician of the pure type, who was educated at St. Paul's and Oxford, becoming a Fellow of Magdalen College immediately upon graduation. He has been a fabulously productive author, publishing some 42 books on economic matters and, with his wife, Margaret Isabel Cole, more than 30 detective stories between 1913 and 1943. Most of his economic writing is on labor problems.

Cole's Theory of Union Control of Industry. Cole's views of the proper function of organized labor and its role in the world of the future were most fully stated in his book *The World of Labour*, published in 1913.³¹ Cole is a Socialist, who has written extensively for the Fabian Research Department. In the Socialist state of the future he sees the responsibility of the trade unions as something more than the Webbs' representation of the interests of workers "against bureaucratic stupidity or official oppression," and something less than the Marxian labor dictatorship. It is the "control of industry" by the true producers, the workers, in partnership with the state. The theory of producer control, which Cole endorses with some qualifications, is the syndicalist dogma of ownership and direction of the means of production. The principal union development necessary to this end is *industrial unionism*, of which Cole has been one of the leading proponents.

Cole concedes that industrial unionism, with "all workers working under a single employer or group of employers . . . organized in a single Union,"³² is arguable only upon the assumption that trade unionism is regarded as a class movement based upon the class struggle. If that is not the meaning of the labor movement, then there is good reason for the skilled worker to hold aloof from those less advantageously situated than himself and so maintain his monopoly of jobs and pay. On the other hand, if the labor movement is a part of the class struggle, then mass formations of labor are needed to combat the mass formations of capital, and the requirements of unity deny sectional groupings based on class or craft.

³⁰ See B. B. Gardner, *Human Relations in Industry* (Chicago: Richard D. Irwin, Inc., 1945).

³¹ London: George Bell & Sons, Ltd.

³² *Ibid.*, pp. 212–213.

Cole himself has no doubts about the assumption. "Trade Unionism exists today to carry on the class struggle,"³³ he says:³⁴

The class-struggle is preached, not on the ground that it is desirable, but on the ground that it is a monstrous and irrefutable fact. The class-struggle is established in our social institutions, and it is only by means of the class-struggle that we can escape from it.

This in turn implies great power ("if the Unions are in future to co-operate with the State, they must be strong enough to stand up to the State on equal terms"), which can only be attained through universal membership of the laboring classes in labor organizations ("if the Unions are to bear any important part in the control of industry, they must stand not for a section, but for all the workers") and improved organization ("the enrollment of more members necessitates better organization. . . . The Unions must include all the workers in industry, and it must include them in as few Unions as possible").³⁵

The intermediate and ultimate stages of the class struggle are succinctly outlined in the following passage:³⁶

The "greater" Unions, as we have seen, will be in a far better position than the existing overlapping and rival unions for achieving the compulsory Trade Unionism which must come in time, if the control of industry is to be in any degree "syndicalised." At the same time, it will be realised that even the compulsory Trade Union of which "greater" Unionists dream is not the "Guild," the producing unit of which we are in search. It is still an organisation of employees, of dependent and, for the most part, manual workers, faced by the independent heads of production and their immediate staff of management, who remain outside the organisation. While the Union has the employer to fight, it is clear that this division must remain, that the "Union" cannot evolve into the "Guild," the association of dependent into that of independent producers. The position, however, will be changed when the State becomes the employer; for the State is not in the same sense a producer. The way will, then, be open, under nationalisation, for the evolution of the "Guild," the real "Industrial Union" embracing all the producers in any given industry.

Cole was pessimistic concerning union political action, even venturing the prediction that "the present Labour Party can never become a majority and would be sadly at a loss to know what to do if it did become one."³⁷ His final observation on the political functions of organized labor were dogmatic and explicit:³⁸

³³ *Ibid.*, p. 370.

³⁴ *Ibid.*, p. 21.

³⁵ *Ibid.*, pp. 373, 376, 377.

³⁶ *Ibid.*, p. 378.

³⁷ *Ibid.*, p. 15.

³⁸ *Ibid.*, p. 26.

If Trade Unionism is to fit itself for the control of industry, it must stick to its last, and, if it is to meddle with politics at all, it must create for that purpose a special organ with a separate existence. The control of industry may be the future destiny of the Trade Unions; the direct control of the whole national life is most emphatically not for them.

Frank Tannenbaum (1893–), American author and economist. Tannenbaum was born in Austria, came to the United States in 1905, and was educated at Columbia, the New School for Social Research, and the Brookings Institution, where he took the Ph.D. degree in 1927. He was a newspaper correspondent in Mexico for a number of years, worked on a number of commissions and surveys, mostly on Mexican problems, and since 1935 has been on the staff of Columbia University. A specialist on the problems of penal institutions, his principal work in labor economics is *The Labor Movement* (1921).

Tannenbaum's Theory of "Man versus the Machine." The dominant influence in modern society, according to Tannenbaum, is "the machine," which is "the center of gravity in the present-day industrial community.... What land did for the noble in the days of feudalism and what the competitive market and free bank connections do for the merchant, the factory does for the worker."³⁹ It focuses his energies, demands his constant attention, takes away his tools, destroys his skill, replaces craftsmanship with dull, monotonous, routine duties, regiments his working day, and forces him to live in crowded, unkempt quarters with little time or energy for personal interests. And the result? Insecurity.⁴⁰

If anyone undertakes to describe the last hundred years in terms of what it has meant to the individual man and woman he will have to tell a story of worry, doubt, hesitancy, sorrow and tribulation, centered around the fact of individual economic insecurity. That is *the* fact in the life of the individual. It is true of practically everyone, but it applies more generally and in its most trying form to the worker.

As for the labor movement, it is "the result, and the machine is the major cause." The main function of the labor movement is to overcome insecurity. To do this, it must control the machine. This need is not entirely economic, it is in part psychological: "The complexity of the machine, the noise, the dirt, the monotony, the consequent suppression of creative impulses... explain the discontent, the bitterness and the insistence on greater control, as much as economic need itself."⁴¹ The thing which keeps the labor movement from being purely constructive and creative is the fact that

³⁹ *The Labor Movement*, pp. 23, 28, 29 (New York: G. P. Putnam's Sons, The Knickerbocker Press, 1921).

⁴⁰ *Ibid.*, pp. 6–7.

⁴¹ *Ibid.*, p. 29.

it must fight for its existence, that it is opposed and blocked by employers who reject a collective adjustment to the problems posed by mechanical industry in favor of unilateral determination accomplished by themselves. The ultimate outcome, according to Tannenbaum, is inevitable: labor control of industry, complete security, elimination of the profit motive, and industrial democracy.⁴²

The labor movement which began as a defence against insecurity operates as a means of stabilizing a dynamic world without destroying its dynamic character and seems destined to achieve complete control of the industrial functions of the community by substituting service for profit in industrial enterprise—and with service, introducing democracy into industry.

In thus plumping for control of industry as the end of trade unionism, and for industrial unionism as the principal means,⁴³ Tannenbaum underwrites a number of Cole's conclusions. The class struggle, as such, however, is absent from Tannenbaum's premises, as he specifically defines insecurity to include everyone in the machine society.⁴⁴

Selig Perlman (1888–), professor of economics at the University of Wisconsin. Perlman was born in Bialystok, Poland, and came to the United States in 1908, becoming a naturalized citizen in 1913. He received the A.B. and Ph.D. degrees from the University of Wisconsin, joining the economics staff there in 1915. He has been a professor since 1927 and enjoys the distinction of being the chief disciple and the inheritor of Commons's intellectual leadership in labor economics at that school. He has written extensively on the labor movement, two of his more important books being *A History of Trade Unionism in the United States* (1922) and *A Theory of the Labor Movement* (1928).

Perlman's Theory of the "Scarcity Consciousness" of the Manual Worker. Few people have brought to the work of theorizing about the labor movement a better combination of personal experience, empirical institutional research, background of study, and capacity to generalize than Professor Perlman. In his early life and educational experience in Europe he became acquainted with the classic literature and doctrines of the class struggle abroad; under the direction of Commons, he turned to intensive investigation of the actual forms and processes of labor organizations themselves and the ideas of the people who led them; and he capped this preparation with an intensive review of the growth of labor movements in several different countries, reexamining the facts in the light of his greater familiar-

⁴² *Ibid.*, p. 42.

⁴³ *Ibid.*, pp. 135–136.

⁴⁴ "Insecurity is the dominant fact in the lives of every class in the community; no one escapes it. The rich and the poor, the professional and the artisan, the mechanic and the gambler, are all faced by it" (*ibid.*, p. 7).

ity with the institutions of practical trade unionism. The result, outlined in detail in his *Theory of the Labor Movement*, was his doctrine of the dominating influence of a consciousness of scarcity of opportunity on the part of the workingman as opposed to the consciousness of an abundance of opportunity which characterizes the self-confident businessman.

The theory rests on a special form of class struggle, but, like Webb and Cole before him, Perlman visualizes a more limited objective than the originators of the concept. The ultimate aim, whether in this country or abroad, under medieval or modern conditions, is "communism of opportunity." It is reached by solidarity and job control, through which there is a "rationing" of the existing job opportunities among the members of the group. To Perlman, this is the supreme constant, the fundamental axiom of working-class combination.⁴⁵

It is the author's contention that manual groups, whether peasants in Russia, modern wage earners, or medieval master workmen, have had their economic attitudes basically determined by a consciousness of scarcity of opportunity, which is characteristic of these groups, and stands out in contrast with the business men's "abundance consciousness," or consciousness of unlimited opportunity. Starting with this consciousness of scarcity, the "manualist" groups have been led to practising solidarity, to an insistence upon an "ownership" by the group as a whole of the totality of economic opportunity extant, to a "rationing" by the group of such opportunity among the individuals constituting it, to a control by the group over its members in relation to the conditions upon which they as individuals are permitted to occupy a portion of that opportunity—in brief, to a "communism of opportunity." This differs fundamentally from socialism or communism, which would "communize" not only "opportunity," but also production and distribution—just as it is far removed from "capitalism." . . . "Communism of opportunity" in the sense here employed existed in the medieval guilds before the merchant capitalists had subverted them to the purposes of a protected business men's oligarchy; in Russian peasant land communities with their periodic redivisions, among the several families, of the collectively owned land, the embodiment of the economic opportunity of a peasant group; and exists today in trade unions enforcing a "job control" through union "working rules."

One of the attractive features of Perlman's work is the sharpness of outline and clarity of expression found in his writing. The rationale of "communism of opportunity" is described as follows:⁴⁶

If . . . opportunity is believed to be limited, as in the experience of the manual worker, it then becomes the duty of the group to prevent the individual from appropriating more than his rightful share, while at the same time protecting him against oppressive bargains. *The group then asserts its collective*

⁴⁵ *Theory of the Labor Movement*, pp. 6-7 (New York: Augustus M. Kelley, 1949, reprint).

⁴⁶ *Ibid.*, p. 242, italics in the original.

ownership over the whole amount of opportunity, and, having determined who are entitled to claim a share in that opportunity, undertakes to parcel it out fairly, directly or indirectly, among its recognized members, permitting them to avail themselves of such opportunities, job or market, only on the basis of a "common rule." Free competition becomes a sin against one's fellows, anti-social, like a self-indulgent consumption of the stores of a beleaguered city, and obviously detrimental to the individual as well. A collective disposal of opportunity, including the power to keep out undesirables, and a "common rule" in making bargains are as natural to the manual group as "laissez-faire" is to the business man.

Perlman's theory, therefore, along with those of Hoxie and Parker, belongs in the group which places heavy reliance upon the psychological reactions of workingmen. Some men are born risktakers, others are not.

The typical manualist is aware of his lack of native capacity for availing himself of economic opportunities [in the]...complex and ever shifting situations of modern business.... Added to this is his conviction that for him the world has been rendered one of scarcity by an institutional order of things, which purposely reserved the best opportunities for landlords, capitalists and other privileged groups.

His refuge is in a fair distribution of available work among the "legitimate" contenders, exclusion of "outsiders," presentation of a solid bargaining front to both employers and customers—in a word, in combination and collective unity.

Harry Alvin Millis (1873–1948), American economist. Millis was educated at Indiana University and the University of Chicago, where he received the Ph.D. degree in 1899. During his school years and in later life he came under the influence of two of America's greatest institutionalists, Thorstein Veblen and John R. Commons. It was Commons who succeeded in diverting him from the study of mathematics to the field of economics while he was an undergraduate at Indiana. Both at Chicago, as a student, and later at Stanford, where he taught from 1903 to 1912 and where he shared an office with Veblen, Millis was subjected to the brilliant, iconoclastic prodding of the greatest institutionalist of them all. A lifelong, conscientious student of the theory and practice of trade unionism, he was an experienced investigator, a pioneer labor arbitrator, a member of the (first) National Labor Relations Board in 1934–35, and chairman of the permanent NLRB from 1940 to 1945. From 1916 to 1935, he was professor of economics at the University of Chicago. Millis was a great and inspirational teacher, and like Commons, his most important contribution is probably the subsequent influence of the large body of graduate students who studied under his direction. His major publication is the three-volume *Economics of Labor*, of which he was coauthor with a former student, Professor Royal E. Montgomery of Cornell University.

Millis's "*Union Theory of Collective Bargaining*." The "union theory of collective bargaining" was first outlined by Millis in his presidential address to the American Economic Association at its 1935 meeting,⁴⁷ and was subsequently included in modified form in *Organized Labor*.⁴⁸ The purposes of trade unionism, according to Millis, have passed through three stages, or shifts of emphasis. The first was the short-run necessity of equality of bargaining power with the employer, so graphically described by Mitchell and the Webbs. This is the "individual employer," or short-range view, typical of the average trade unionist, who thinks "largely in terms of the concrete instance, the personal factor, big business versus the economically small workman, and the short run."⁴⁹

The second important stage of union thinking, for which Millis thought the labor movement was indebted to the "intellectuals" like the Webbs, was the realization of the necessity of controlling entire industries and market areas, in order to avoid the effects of nonunion competition upon the labor market.⁵⁰

They [the union leaders] realize that the average employer, however appreciative he may be of the value of good working conditions and the needs of his workers, is under the necessity of reducing costs because of the money-saving, chiseling practices of his less socially minded competitors. Competition frequently prevents employers from doing what they would like to do in labor matters. Hence, nowadays, we hear not absolutely but relatively less of balancing bargaining power between the employer and his employees, and more of the need for standardization and control, of placing all firms in a market on pretty much the same plane of labor costs, and of having competitive success depend largely upon managerial ability, sound organization, and the like.

In its third stage, union thinking expanded to take in the distribution of gains from improved industrial efficiency and the part played by wages in the general welfare of the economy. As to the first, "wages must be increased in proportion to increases in industrial efficiency in order to balance consumption and production and to maintain the necessary market outlet for industrial products." On the second point, unions believe that "in depression maintaining or increasing wages is necessary to maintain or to effect an increase in purchasing power, which is the appropriate road to recovery."⁵¹

The above are the *aims* of organized labor, as they have evolved during a century or more of struggle for recognition in England and the United

⁴⁷ See "The Union in Industry: Some Observations on the Theory of Collective Bargaining," *American Economic Review*, Vol. XXV (1935), pp. 2-25.

⁴⁸ H. A. Millis and R. E. Montgomery, *The Economics of Labor*, Vol. III, *Organized Labor*, Chap. VIII (New York: McGraw-Hill Book Company, Inc., 1945).

⁴⁹ *Organized Labor*, p. 355.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, p. 356.

States. But what of their premises? Why do they organize into unions to achieve them, rather than, say, relying upon individual competition? According to Millis, although there have been shifts of emphasis in the purposes of unionism, the fundamental assumptions of collective bargaining have remained the same. There are three of them:⁵²

1. That the members of the worker group have an important common interest rather than conflicting, competitive interests;

2. That the interests of their employers, as seen and acted upon by them, and the interests of the workers of the group are frequently, if not generally, conflicting;

3. That wages, hours, and working conditions are largely a matter of the relative bargaining strength of the two sides; that without organization and concerted action there will be a tendency toward undesirable, if not the worst possible, conditions for the workers; that no adequate safeguard is found in the operation of the factors at work in the unorganized trade; that there is a flexible, changeable situation and that by means of organized effort positive improvement can be secured in wages, hours, and other important details of the labor contract and in their administration.

It is the class struggle (conflict of interests) again, plus the bargain theory of wages. Believing these two doctrines, employee combination to achieve better conditions is only rational. The way to equality of bargaining power, control of the market, greater security, and a constantly improved standard of living is through collective bargaining. Whether achievement of these purposes will greatly modify the social structure is not speculated upon. As a good institutionalist, Millis endorsed Commons's view that the conflict of interests had been compromised with no fundamental distortion of the political and economic fabric. What the future held, however, he did not say.

Some Recent Theories of Trade Unionism. The current trend in union theorizing is to regard the union as a political organization, an entity apart from its membership (which is heterogeneous, often chaotic, and constantly changing), with a sovereignty and survival value of its own. This is particularly the emphasis of the Berkeley group, centered in the Institute of Industrial Relations of the University of California, under the direction of Clark Kerr. One of the Berkeley writers that has stressed this conception of union function is Arthur M. Ross: "The trade union is a political institution which participates in the establishment of wage rates [among other things]."⁵³ Another is Lloyd H. Fisher, who has pointed out that "a modern union is not identical with its membership any more than a corporation is the simple sum of its stockholders. . . . Its membership is fugitive but the institution has

⁵² *Ibid.*

⁵³ In his *Trade Union Wage Policy*, p. 43 (Berkeley: University of California Press, 1948).

survival needs for which it requires continuity, security...[etc.],"⁵⁴ At least equal credit for development of this point of view must be given to E. Wight Bakke, Sterling professor of economics at Yale University and director of the Yale Labor and Management Center.⁵⁵

A strictly political view of union function is also held by Professor Frederick H. Harbison, executive officer of the Industrial Relations Center of the University of Chicago. In Harbison's terms, the union-management relationship is a naked struggle for power, the control of industry being the prize.⁵⁶ Harbison denies any unitary character of the labor movement, in the United States at least,⁵⁷ and finds a common element only in the characteristic struggle with employers for employee support and the privilege of dictating the terms of the working agreement.

Summary

What should the student believe?

There is a wide variety of doctrines to choose from. Happily, however, not all of them are in conflict. Some support others. Trade unionism is a complex, many-sided institution. It is more than probable that there are social, psychological, political, and economic impulses constantly at work throughout the labor movement. It might therefore be possible to form an eclectic theory of the labor movement, which would include the "higgling of the market," the influence of the machine upon society, the "scarcity consciousness" of the manual worker, the "business" function of Hoxie, Commons's historical stream of consciousness, and the class struggle, into a single doctrine, without any one concept being in direct conflict with another. However, it would probably turn out to be a profitless performance. In theory, as in cooking, including everything often means coming up with nothing.

It is well to remember Harbison's caution against thinking of the labor movement as a homogeneous, unified whole:⁵⁸

There is not now nor has there ever been a unified labor movement in this country. There is the obvious split between the American Federation of Labor and the Congress of Industrial Organizations; there are the less obvious but often more bitter cleavages between the unions within these camps. There are jurisdictional disputes and ideological controversies.... In many respects the American union movement is a sort of competitive system within itself.

⁵⁴ "The Price of Union Responsibility," *The New York Times Magazine*, Aug. 31, 1947.

⁵⁵ See his *Mutual Survival* (New Haven: Yale Labor and Management Center, 1946).

⁵⁶ Orally to the author in 1946.

⁵⁷ F. H. Harbison and R. Dubin, *Patterns of Union-Management Relations*, p. 6 (Chicago: Science Research Associates, 1947).

⁵⁸ *Ibid.*

These remarks could just as well be applied to British or Continental trade unionism. Hence, the assumptions, purposes, and policies of one union or set of unions may not be the same as those of another union or set of unions at the same time, or of themselves at an earlier or later date.

The theorists cited above have pointed to factors that they considered significant in the origin and growth of organized labor. Their observations have stood the test of time in that they are standard references for the study of the history and philosophy of the labor movement. No one of them, however, is regarded as so important as to make it unnecessary to be familiar with the contributions of others. In the final analysis, each student will decide for himself. He will retain and remember those arguments which seem to him to have validity and slough off and forget those which logic and common sense reject. If the problem is approached with an open mind and conclusions are based upon careful study and comparison, that is the road to understanding and agreement.

Some Questions to Test the Reader's Grasp of Union Theory

It would be overdoing things to suggest additional reading sources to supplement those mentioned in this chapter. The student who wants to go further in union theory can select any of the writers or publications cited and study them intensively. A few questions, however, would not be amiss. It is the purpose of a study of theory both to raise and, to some degree, to try to answer a few fundamental questions concerning the purpose and character of trade unionism. If the reader wants to test his understanding of the material in the preceding pages, let him consider the following questions:

1. Trade unionism is a fact. Why is it necessary or desirable to theorize about it?
2. To what extent do the principal theories of the labor movement seem to have been influenced by (a) economic theory, (b) political theory, (c) psychology (quantitative or social), (d) institutional analysis, (e) the growth of technology?
3. Who are the labor "intellectuals" or "intelligentsia," and how would you appraise their influence on the labor movement?
4. Can trade unionism be justified on grounds of economics? politics? ethics?
5. What explanations of trade unionism tend to show up most often in the theories outlined in this chapter?
6. What are the main value terms (moral standards of judgment) of the labor movement? How do they differ, if at all, from the value terms of: (a) economics, (b) politics, (c) social humanitarianism, (d) Christian ethics?
7. Would you say that the labor movement is essentially an economic or a political institution?

15. UNION MANAGEMENT

It may have been noticed by the reader that most of the theories of trade unionism have been produced by college professors, revolutionaries, or reformers, and that the theories of active trade unionists—with the exception of Mitchell, who was himself a most unusual labor leader—were noticeable by their absence in the preceding chapter. As a matter of fact, that is not too surprising. To the labor leaders themselves, running a union is a business proposition and leaves little time for speculation concerning ultimate ends. It is true that no labor leader would be very successful for very long without an efficient theory of human motivation. However, his use of it would be intensely practical, and the theory itself would have to be figured out from his statements, actions, and policies.¹

The job of managing a union is a cross between operating a business and running a political party. Unions are nonprofit organizations like political parties, and their officers get and hold their jobs by election, in which each constituent has one vote, no more, no less. On the other hand, unions are permanent associations with regular sources of income and a managerial structure set up to perform specific functions. In this respect, they resemble corporations more than political parties, and the resemblance becomes more definite when they bargain, negotiate, make contracts, and handle grievances with employers. They have all the problems of finance, personnel, policy, and operations commonly associated with business firms, and piled on top of that, most unions conduct annual elections in which the contest may be as bitterly fought as the struggle for municipal control in Chicago or New York.

Union management calls for a strong heart, a thick skin, a rugged constitution, and a high quality of mental agility—precisely the character-

¹ That is exactly what most of the theorists mentioned in Chap. 14 did. They interviewed labor leaders, examined their policies and strategy, analyzed trade agreements by the hundred, and reduced their findings to a set of principles which would fit most of the cases. This is particularly true of the Webbs, Hoxie, Perlman, and Millis, all of whom were investigators of long experience and great restraint in generalization.

istics which have long been associated with the pioneers of industry. It is a career job; the number of sons, sons-in-law, nephews, and wealthy contributors in important positions is negligible. If you are good, you can go up in union work, and fast. That fact, plus the competitive challenge and the conviction of most trade unionists that they are working for the underdog, helps to explain its growing popularity as a career for young men and women.

To get into the union business, you either take a job with a going concern and work your way up, or start your own. The first way is easier and less risky, but slower. The second avenue is still open to enterprising organizers, but there are fewer rich markets (or veins) to be tapped, with one-third of the nonagricultural labor force organized. And there is strong competition from the established organizations in the field, most of whom are actively searching for additions to their membership without too much concern over jurisdictional boundaries of "class or craft," or even industry. The most promising fields nowadays for new unions are the white-collar groups (clerical and sales forces) and the service industries. If you expect to make a full-time operation of it, it would be best to take a union job and learn the ropes on salary. New unions are usually started from the inside (by a member of the employe group) or by a paid organizer working for one of the national unions or the big federations (AFL or CIO). Except in unusual times—like 1937—or in special instances, when there is strong demand from a large group of workers, very few organizers can afford to finance themselves during the period required to get a new union under way.

The managerial problems of unions are those of any operating establishment: finance, personnel, organization, and a program. The first three, usually discussed under the heading of "union structure and government," are the subject of this chapter. The fourth comes later.² Union finances are almost entirely from fees, dues, and assessments paid by members;³ hence, a union's membership is its capital. This gives a clue to the importance of "union security," which means the closed shop, union shop, union preference in hiring and layoff, maintenance-of-membership agreements, etc. All are devices for making union membership a requirement or an advantage toward getting a job, or making it difficult for a union member to withdraw from the union, once he has joined. A solid, stable union membership means a regular income to the union treasury; a union which is low in funds is in just as bad a way as a business with its working capital gone. Therefore, union officials without exception stress union security and endeavor to strengthen it with the "checkoff" of union dues, which simply means that the dues are regularly deducted from the employe's pay check and paid over to the

² See Chaps. 16 and 17.

³ The principal exception is in employer contributions to welfare funds.

union by the employer. This eliminates irregularity of payment by members and the bad feeling produced by the union's "dunning" them for back dues.

Union Management at the Local Level

Recruitment. If membership is a union's capital, then the primary job is to get and keep enough members to make operations feasible. How is it done? A lot of people are working at this job, and the pattern of approach is fairly clear. It consists of selling employes constantly on the *advantages* of union membership and stressing the *disadvantages* of job hunting and job holding ("bargaining") as an individual.

The principal disadvantages of individual bargaining—low wages, lay-offs, the effect of competition between workers, exploitation by employers, etc.—as compared with the security of union affiliation, have been graphically outlined by a labor organization which still has a big recruitment job on its hands, the Retail Clerks International Association, AFL. In a pamphlet entitled "Unionism—Around the Clock,"⁴ it presents the illustrated story of Jim and Mary, in 29 installments, as follows:

1-3. When Mary graduated from high school, she wanted to go on to college. But those were the days when the Depression was hitting the nation hard. Mary's father lost his job—"too old" at 45! So she started the long hunt for a job, because she knew she must help support her family. For weeks she had no luck. Finally she got a chance—salesgirl in a dime store at \$12 a week, working from 9 until 6:30 with many hours of unpaid overtime.

4-7. Jim Brown was Mary's sweetheart. After months without work, one day he met her with good news. He'd found a job! "I'm a grocery clerk," he told her. "I'll make fifteen bucks a week. Maybe we can get married soon. I'll work hard and try to get a raise quickly." Jim knew his boss was exploiting him, but he didn't dare to complain. He and Mary were so anxious to get married and he knew he had to keep his job. When they broke the good news to Mary's jobless father he said "I hope you kids get a better break than I did. A workingman hasn't much of a chance these days."

8-12. But the breaks didn't come. It wasn't long before Jim was fired. His boss had found a man who would work just as hard for less pay. "A guy can't win," said Jim. "All I want is a chance to earn a decent living. Somehow, we've got to find a way working people can protect themselves." And for Jim, the long, hopeless hunt for a job again. In those Depression days there were ten men for every job. Instead of jobs, there were bread-lines. They haunted Jim. Mary's folks now had to depend on handouts like this. The struggle was too much for Mary. Too little food, too long hours affected her health and when she fell ill, she, too, lost her job.

13-15. Jim got a job, finally, in a large grocery. Now he was making \$17 a week. But it wasn't enough to meet the bills that had piled up. Finally in despera-

⁴ Retail Clerks International Association, AFL (Lafayette, Ind., undated).

tion and anger Jim asked his boss for a raise, pointing out the long hours of overtime, the hard work he was doing. "See those men," his boss replied (pointing out the window). "Any one of them would jump at the chance to get your job for what you are making or less. Why should I pay you more?"

16-19. Jim found that other clerks had the same troubles when he walked to work one morning with Tom Rogers, who worked beside him in the store. "There's only one answer," Tom said. "You'll never get any place alone. But if all of us get together the boss will have to listen." And he told him about the union. They'd heard bad things about unions. But here were people just like them. So they joined the union and agreed to work hard recruiting other new members. "The bigger we are, the greater our strength when we bargain with the boss."

20-25. The union grew fast. In those Depression days people were learning that they had to work and fight together. New locals were formed. Department store workers wanted a contract guaranteeing decent pay, overtime pay and regular lunch hours. A committee was appointed to present their demands. The boss turned them down with a lot of talk about "un-American" activities. He said he'd never recognize the union and they might as well give up. However, their efforts were backed up by the local Labor Council and a committee from many unions was formed to help them get their contract. This time the employers realized they'd either sign an agreement with the union or a strike would shut down their stores. Employers fear and respect solidarity. And so the new union had its first big victory. Mary and Jim felt strong. Salespeople had a new feeling of security, a new faith in the future.

26-29. So for the first time they were able to pay off their bills. And they knew that many other salespeople were doing the same thing. After a few years of steady work, Jim and Mary had a little money in the bank and felt they could plan for the future. They even talked about buying a little home of their own. The union had given them faith in the future. Mary had more good news for Jim. "We can raise a kid in a better world than we had—a world where working people protect themselves through organization," he said.

For those who prefer facts and figures rather than drama in their sales talk, the Clerks offer arguments, quotations, and statistics. They quote Mrs. Eleanor Roosevelt, who in 1943 answered the question, "How can a saleswoman get better wages today?" with the advice, printed in the *Ladies' Home Journal*: "The only answer to this problem is to join a union and bargain collectively for better wages." On where wage increases will come from, they cite profits figures on department and chain stores: "In 1943 department store profits increased from \$51,800,000.00 to \$593,800,000.00 or *over* 1,046% over the 1936-1939 period." As to the advantages obtainable through union action:⁵

The Retail Clerks Association is your union. . . . Twenty thousand men and women are members of its 42 affiliated local unions in California. . . . Just how

⁵ *Thousands of people LIKE YOU* (San Francisco: The California State Council of Retail Clerks, undated), p. 14.

much has been accomplished? Here are a few examples, taken from the many reports of the 42 organizations:

- Guaranteed work week
- Reduction of working hours
- Guaranteed time and a half pay for overtime
- Sick leave pay
- Seniority provisions in respect to promotion
- Holidays off with pay—or premium pay for holiday work
- Guaranteed vacations with pay
- Pro rata vacation pay
- Choice of vacation period
- Substantial wage increases

It would take a book to list the improvements that have been won nationally by this organization. But the few examples shown above give you a good picture of the day-by-day and year-by-year work.

Recognition. As indicated in the story of Jim and Mary, the first important step in union organization, the point where the union becomes a going concern, is when it is recognized by the employer. Recognition means that the employer accepts the union as the bargaining representative of its members, thereby eliminating individual negotiation and grievance handling. Recognition is a *must* for any union. Without it, the union is in the same position as a candidate for office who is not elected. The organization may continue to exist for a while, but it will be without power or influence, and its services to members will be restricted to mutual benefit programs of only marginal importance to working people.

Recognition may be obtained easily or with difficulty, but in the latter case a strike or threat of strike is almost certain, and the union and its members must be prepared to exert every ounce of strength to force the recalcitrant employer into bargaining negotiations. The history of labor disputes in this country shows plainly that unions regard recognition as a fundamental right, unarbitrable by third parties, a concession to be won at all costs. The question of recognition is the question of union survival; without it and its accompanying contract, a union tends to disintegrate rapidly. The bloodiest and most protracted battles between unions and management have been fought over this issue. It is now guaranteed by law to unions in interstate commerce that can show majority membership in the appropriate bargaining unit as defined by the National Labor Relations Board.⁶

The Union's Jurisdiction. But what is the "appropriate bargaining unit"? This and a number of other questions must be decided in the process of recruiting members and setting up an organization. Should it be the members of a particular "craft or class," which was the principle set forth by the founders of the AFL? Or should it be all the employes working for

⁶ Originally in the Wagner Act of 1935, continued in the Taft-Hartley Act.

a particular employer or in a specific industry, which is the principle followed by unions affiliated with the CIO? The Retail Clerks International Association, which is affiliated with the AFL, well illustrates the craft principle. Its counterpart in the CIO is the Retail, Wholesale and Department Store Union, which competes directly with the RCIA for members. The latter is obviously more inclusive, since it covers *all* employes in the stated industry (or industries) and not just retail clerks. Which is right?

There is probably no clear and definite answer for all cases in terms of right and wrong, or even of greater or less efficiency. In some cases, craft organization has proved best, in others, industrial unionism is the only possible method. However, there is a clear answer in terms of *trend*. The modern trend, as predicted by Cole and Tannenbaum, is definitely *away from* the principle of exclusive jurisdiction, based on a given craft, class, or trade, and *toward* an inclusive membership, with the industry as the proper basis of organization. Some of the oldest and most confirmed of the craft unions (such as the Carpenters and Teamsters) have already strained the principle of exclusive jurisdiction almost beyond recognition through extension, amalgamation, and just plain wildcat recruiting. A recent example of the swing to amalgamation is found in the ancient and exclusive independent railway operating brotherhoods, with the current (1949) plan to amalgamate the Brotherhood of Locomotive Engineers (founded 1863) and the Brotherhood of Locomotive Firemen and Enginemen (founded 1874).⁷ If we may believe the last 20 years, mass unionism is the direction the labor movement is taking. We may yet see the American Railway Union, which Debs tried to organize 60 years ago.

Organization and Affiliation. If you have started a local union, recruited members, decided on jurisdiction, set up an organization, and forced the employer to recognize you, your next decision may be as to affiliation. Will you stay independent or sign up with some of the national or international unions which will be sure to be "extending the hand of fellowship"? There are both advantages and disadvantages. If you stay independent, you are your own boss, nobody will interfere with your local policies or set limits to the amounts you can charge for initiation fees and dues or take away a third or a half of each member's monthly contribution to the local treasury or get control of the local machinery and toss you and your friends out of office. All of these things will be decided on the home grounds, without reference to any group of upstairs brass hats. You can run things to suit yourselves.

On the other hand, however, there are distinct disadvantages. The fundamental idea of unionism is "in union there is strength." Just how strong will you as an independent local union be, when you go up against

⁷ *Labor*, Apr. 9, 1949.

the employer at the bargaining table? Even if you have 100 per cent of all employees in the union, will you be in a position to talk tough and threaten a strike or boycott? Will you and the other local officials know as much about negotiating as the employer and his well-paid legal staff? This is where you may start considering the advantages of a national union's treasury, research staff, publicity and bargaining experts, and its over-all support, in case of a fight.

It is fun to run your own show, but a union must do some business or else it will dry up and blow away. And union "business" is usually measured in inches taken out of the hide of the employer, an operation which employers oppose strenuously. When it comes time to administer the anesthetic and decide on the size of the section to be removed, it is often comforting to have efficient, experienced specialists in from headquarters with the most recent information on the job market (often more recent and complete than the employer's or his assistants'), with a choice selection of expletives for describing "employer obstructionism," with no fear whatever of "the old man" or the toughest foreman or superintendent, with a positive taste for long hours in smoky conference rooms, and with an assurance produced by a multimillion-dollar treasury and the backing of a national membership perhaps running in the hundreds of thousands. It is at such times that the investment in national affiliation looks the best.

Nor is this all. National affiliation means prestige, services (literature, speakers, funds, strike assistance, etc.), career openings, and the subtle but powerful stimulation of identification with important and far-reaching causes. National affiliation usually means affiliation with one of the major federations, too, which also have state and local services, and still more prestige. The typical union organization in this country is the local, affiliated with a national or international union (synonymous terms, an "international" union being one with a few locals in either Canada or Mexico or both), which in turn is affiliated with one of the major federations, the American Federation of Labor or the Congress of Industrial Organizations. This typical form of organization may be pictured as a three-level affair (as shown in Fig. 8). In 1948, about 83 per cent (13 million) of all members in the United States were so organized. Most of the remainder were in locals affiliated with national unions which were independent of any federation, like the United Mine Workers of America or the railway brotherhoods. This two-level form of organization is shown below in Fig. 9a. A second type of two-level organization is the local federal or industrial union, affiliated directly with the top federation without intervening membership in any national or international union. It is illustrated in Fig. 9b.

The balance were in single-level, independent company unions at the

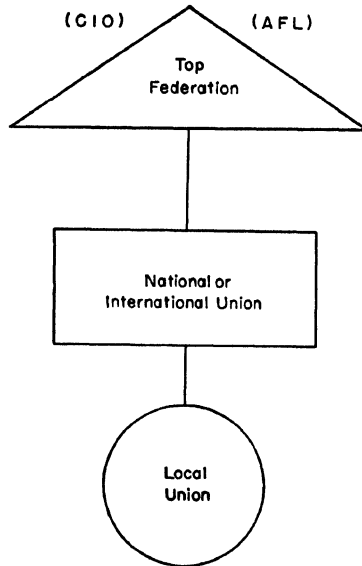


FIG. 8. Typical trade-union organization in the United States.

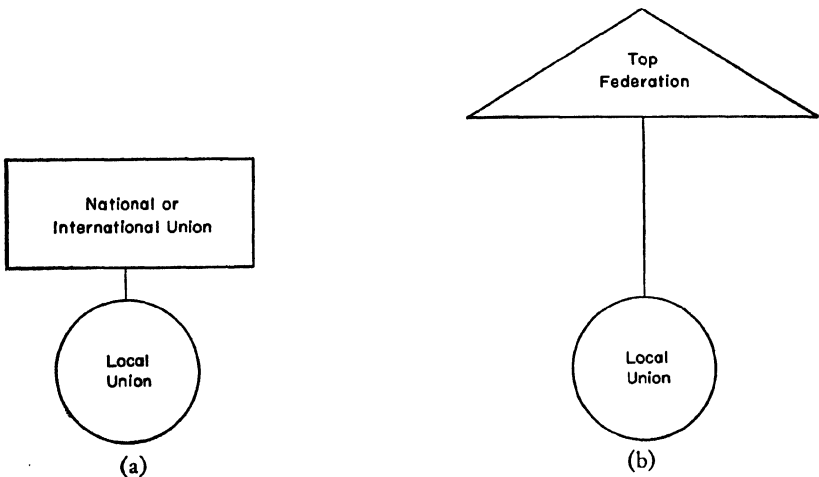


FIG. 9

local stage of organization, or else were in single-level national unions, with no local chapters, like the National Maritime Union. These single-level forms are illustrated below in Figs. 10*a* and 10*b*.

This does not by any means exhaust all the possibilities of affiliation. If the local is a member of a big national union, there will probably be a

joint council of all the locals in that union in a particular city for purposes of support and common action. Then there will be "regional" and "district" councils, organized for the same reason. There will also be local "trades" or "industrial" councils or "city central bodies," composed of locals from different unions in the same industry, like building construction. They have the same purpose, to present a united front to employers and support each other in common undertakings.

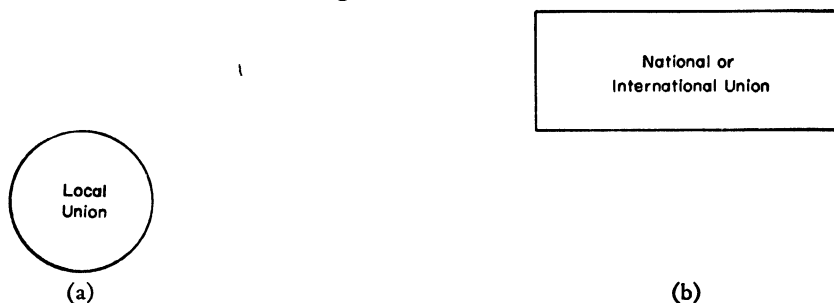


FIG. 10. (a) Independent local company union. (b) National union with no locals.

Relations between the Local and the National (International) Union.

If your local union is a member of a national, what is the relationship between the two? Are you a sovereign unit, federated with other locals to form a larger body, but ready to secede at any time that you disagree with the policies of the headquarters group? Or is your lodge just a branch outpost of the international, acting mainly as income collector and local contact representative with the employer or employers?

There may be some difference if you were organized entirely through the efforts of local employes or if most of the work of recruitment, etc., was done by an outside organizer sent in by an interested national union or one of the big federations. However, no matter what the assistance from the outside, local union affairs are largely left in the hands of local personnel, so the question of power or control is still open. What matters are decided at the local level and which ones are decided upstairs?

There is no hard-and-fast rule regarding this relationship which will hold in all cases. As a typical thing, relations between locals and their "parent" national or international bodies are very close. Trade unionists tend to think of themselves as members of the national (as a "Carpenter," or "Teamster," or "Steelworker"), although their legal membership is in a numbered local chapter, rather than in the bigger organization, and it is not uncommon for one local to refuse to accept new members transferring from another local due to a change of residence. As regards cooperation on policies set by the international union, however, there is considerable variation in the degree of autonomy exercised by local lodges.

The main factor influencing the autonomy of local unions is the character of the market for the goods or services the union members produce. If the market for the product is local, the local union will have considerable autonomy. An example is the building trades, where the local "building-trades council" is the genuine repository of decisions of policy, rather than the national headquarters of the various craft unions. If the market is national in scope, as in the case of automobiles, the local union's area of decision is much more limited and the national union makes the important policy decisions, which the local has little choice but to follow.

The reasons are fairly obvious. A local of the United Automobile Workers (CIO) can do little to influence the supply of automobiles as a whole, or to its own market area, no matter how powerful it may be with the employer or employers in that area. If it shuts down the output of the local manufacturers, autos are shipped in from the outside. On the other hand, a local or group of locals of bricklayers (or carpenters or plasterers) may completely control the supply of such services in a single area and can (and often do) shut off the production of new buildings in that locality until their demands are met or they decide to compromise. No substitute supply of buildings is available from the outside as in the case of automobiles. Hence, a local union in the building trades may carry on a very efficient strike without outside assistance, whereas the same action on the part of a local of automobile workers or rubber workers or steel workers would be unrealistic in the extreme. It would probably catch only branch plants of large employers and not seriously interfere with the operations of the major corporations in the industry.

Since the great majority of trade unionists are employed in industries with more than local markets, the great majority of local unions look to the nationals for policy decisions and assistance in dealing with employers. Local unions handle the day-to-day details of recruitment, membership, finance, bargaining, and grievance procedure, but their decisions tend to be standardized by definite national policies in all these matters. They are signatories to agreements with employers which are noticeably uniform in content, with standard clauses worked out by bargaining specialists on the staff of the national union, and they are usually limited by strict rules as to the calling of strikes or other forms of direct action which will require national assistance for success.

However, the cooperation between locals and nationals is not by any means a one-way affair. Strong locals are an absolute prerequisite for a strong national union, and any local has the ultimate right of secession, a right that has been exercised enough times to keep national officers concerned about morale on the grass-roots level. Nor is the income which locals pay into the national treasury a case of "taxation without representation." Local

officers are invariably delegates to district, regional, and national conventions and have a voice in arriving at the policy decisions which will govern their subsequent operations. Having had a hand in the formation of policy, and being familiar with the reasons for its adoption, they have a more proprietary attitude toward it and present it with conviction to their own membership at the local level.

Finances. You can't operate a union without money, any more than you can run a business or keep up a family or maintain a church without it. So somewhere along the line, you must decide what to charge the members for the privileges they will receive. These charges are mainly initiation fees and regular monthly dues. Now and then they are reinforced by assessments, but the latter are not as important as the others. If you are independent (not affiliated with a national union or federation), it is up to you. You can charge all the traffic will bear. However, if you have signed up with a national, the usual thing, you will probably find that the national has put some limitation on the amounts to be collected (like setting a maximum or a minimum or a range within which the local may choose), or has an established policy on the subject.⁸

There is a very wide range in the fees and dues charged by different union locals and great variety in the way in which the amounts collected are split between the local and the national. The charges reflect the differing policies of unions as to membership, organization, and services. For example, AFL unions have mostly been organized on a craft theory, with emphasis on the skilled trades. Such unions, being older and having a more complete line of member benefits (sickness, death, unemployment, and the like), have a consistently higher schedule of fees and dues than the CIO unions, with their *inclusive*, mass, lower paid membership. Members of industrial unions cannot afford as high dues as skilled craftsmen, and the mass nature of industrial unionism makes them less necessary. This discrepancy is particularly noticeable in the entrance fees, which in the skilled trades represent the price of admission to an exclusive society, while in the industrial unions they are more in the nature of registration payments for the exercise of a basic right.

In 1945, standard AFL initiation fees in 300 local unions ranged from \$5 to \$300 with the great majority of locals charging from \$25 to \$100 for the privilege of admission.⁹ Some go much higher. Initiation fees of \$500, \$1,000, and even more are on record. In contrast, the range of entrance fees to CIO unions in 1946 was from \$1 to \$50, with only two unions above the \$25 figure. The great majority of CIO unions charge less than \$10, with fees of

⁸ These limitations, along with others, may have influenced your choice of affiliation.

⁹ P. Taft, "Dues and Initiation Fees in Labor Unions," *Quarterly Journal of Economics*, Vol. LX (February, 1946), p. 222.

\$2, \$3, and \$5 very common as initial payments.¹⁰ Some CIO unions charge no initiation fee, letting the first month's dues take care of the formality.

The picture is the same in the matter of dues. The range of AFL dues in 250 locals in 1945 was from 50 cents (one union) to \$7 (also one union) a month, with the heaviest concentration in the range from \$1.50 to \$4.¹¹ However, there were 10 locals which charged \$5 a month, or \$60 a year. The customary range for CIO union dues at the same time was from \$1 to \$3 a month, with the majority at or near the bottom of the range.

Local unions are the sources of income, since they are usually the collecting agencies and the custodians of membership. The income of the national union is derived from a split of the local's receipts, part of which is forwarded as a "per capita tax." The size of the "tax" is set by the national, usually as a flat amount, like 75 cents or 40 cents a month per member, or it may be a percentage of the dues paid. In 1946, these charges in CIO unions ranged from 35 cents a month (United Electrical, Radio and Machine Workers) to \$1 a month (Transport Service Employees) per head, or from 40 per cent (Glass, Ceramic and Silica Sand Workers) to 50 per cent (Food, Tobacco and Agricultural Workers) of the monthly payment. Thus, the regular income of a union like the United Steelworkers of America, with more than 900,000 members, would be \$675,000 a month, or \$8.1 million a year, derived from a per capita tax of 75 cents monthly, out of membership dues ranging from \$1 to \$1.50, depending on the local. Quite enough, thank you, to pay more than \$500,000 annually to the Congress of Industrial Organizations, take care of Mr. Murray's salary of \$20,000 a year, the salaries of the USA's considerable staff, support its numerous activities, and leave a comfortable budget surplus for contingencies.

Things are hardly that juicy at the local level, however. It is a big chapter that has 500 members.¹² The monthly take of such a local, from dues of \$1.50 (with half going to the national) would be \$375, the yearly haul \$4,500, or about the salary of a couple of stenographers, with nothing left over to pay for office rent, stationery, supplies, or miscellaneous expenses like travel. Even when the dues are as abundant as in the United Mine Workers of America (see below), which charges \$4 monthly, only \$1 gets to stay with the local lodge. The district office gets another dollar, and the rest, or just half of the collection, goes to headquarters at Washington. So even a 500-member UMWA lodge would have to get by on \$6,000 a year from dues, plus what it could pick up in the way of initiation fees. This leaves little room for padding the payroll or providing expensive trips for the hired help.

At the local level, unions are like churches in that they rely heavily on

¹⁰ *CIO News*, Feb. 18, 1946.

¹¹ Taft, *op. cit.*, p. 221.

¹² The mammoth Ford Motor Co. Local 600 of the United Automobile Workers—the world's largest, with 60,000 members—is in a class all by itself.

the unpaid services of members. There are customarily two elected officials: a president and a secretary, who may also be treasurer or business manager. The latter is usually paid something for his work in keeping the books and records of the organization, and the president may get a token salary as a mark of respect or to cover his out-of-pocket expenses and partially reimburse him for the long hours he will surely put in, but it is a big and well-financed local that can afford either of these officers on full time, as a glance at the income figure above will make clear. In addition, the union appoints department or shop stewards to act as its representatives on the job and to handle grievances at the beginning stage. These positions carry prestige, allow great freedom of movement, embody top seniority, and give the holder the right to handle union business on company time, but they ordinarily pay no salary. Union work on the local plane is a labor of love, unremunerative in itself but indispensable training for advancement to positions of greater responsibility at the district or national level.

Local Government. You may have organized a local union, done most of the leg work, recruited members, collected dues, set up a temporary organization, forced recognition from the employer, and have come to feel that it is "your" union. However, you may discover that it is not as simple a matter to retain control as it would be if you had organized your own company to make and sell goods. The basis of all union government is *democratic procedure*. The chances are that if you have done all of the things described above, the members will pick you as the logical man to head it up and name you president. However, opposition may develop from unexpected quarters, and you may have a fight on your hands, and you may be beaten. Someone else may be elected, and you and your group of close friends and associates left outside the official family.

Three essentials of the democratic process are more consistently relied on in union management than anywhere else in our political or economic life. They are: (1) election of leaders, (2) the referendum, and (3) committee organization. At all levels of union organization, but especially at the local stage, the officers are chosen at open elections for short terms (usually one year), with every member having one vote and none more than one. The union official can never afford to forget his constituency, because he is certain to have to go before that constituency shortly to justify his performance. This has both good and bad effects. The period is pretty short for some kinds of policy decisions, and it may be that the necessity of standing for reelection will force the adoption of policies that are immediately popular but seem unwise over the longer run. Just as in municipal politics, more of the official's time may be given to electioneering than to doing his job.

On the other side of the picture, frequent submission to the electorate *is* democratic. Criticisms of it imply criticism of democracy as a mode of

operation. To many workers, trade unionism means industrial democracy and democracy means participation in the affairs in which they are materially interested. An official who has to stand for reelection once a year is, in their eyes, an official who must consider their opinions and defer to them if they are in the majority. The union is then run by the membership, not by a managerial group insulated from rank-and-file opinion, which is the very thing the union was organized to change.

The same criticism and defense are applied to the process of referendum. Few organizations of any kind submit as many policy decisions to the membership for ratification as trade unions. It is standard practice to require a majority vote of ratification before any contract is signed with an employer, and there are plenty of instances on record where the membership has sent its officials back to demand specific changes, after first rejecting the recommendations of its representatives that the proposals be accepted. Nor are trade agreements the only subjects for review. Membership policies, dues changes, assessments, grievance decisions, and many other choices are regularly put before local meetings for a majority vote before adoption. The practicing trade unionist is regularly schooled in the town-meeting form of government and the parliamentary method of threshing out agreement over issues.

The resolution of issues is frequently simplified by referral to committees. The committee form of organization, with a variety of viewpoints represented, is a standard method of reducing controversies to manageable form and of presenting partly digested proposals for approval, amendment, or rejection. It is used regularly at the local level, but particularly in district, regional, and national conventions.

Local Administration. It is one thing to organize a union and another to run it after it has become a going concern. The points of view, procedures, and problems are markedly different and call for such contrasting qualifications that it has been necessary for the big nationals and federations to keep separate staffs of organizers and to institute training courses in local administration, which emphasize discipline and cooperation. Organization is promotion, recruitment, stimulation, and excitement. Its language is "hell's fire and damn the employer," who is pictured as a chiseler who delights in exploiting the underprivileged worker and denying him his fundamental right to organize. Administration, on the other hand, is bargaining, negotiation, and day-to-day adjustment and interpretation of a complicated contract which seldom contains a clause which bears directly on a disputed point. Its purpose is *agreement and uninterrupted operation*, for in spite of reports to the contrary, neither unions nor their members like to lose time through strikes and lockouts.

The essence of administration is compromise and cooperation. The essential qualifications are tactfulness, responsibility, and a reputation for accuracy and fairness. The shop steward or president of a local who is constantly in hot water with the employer or employers the union has agreements with is just as much of a problem to the national officers as he is to the plant officials. On numerous occasions this type of local officer has been persuaded to relinquish his job in favor of someone who can get along with management.¹³

The actual job of the local administrator is worthy of a good salary. It is the local leader who must turn a complicated, formal agreement into a mutually satisfactory working relationship between his own membership and a managerial staff of foremen, superintendents, and front-office executives, many of whom may be thoroughly hostile to the idea of submitting to "outside dictation" in running the affairs of the company. The bargaining experts from national headquarters, if there were any, are long since gone. The agreed statement of principles which they left behind looks fine on paper. But what does it mean, when applied to the constantly changing panorama of production operations? Here, in contract interpretation, is where the test of collective bargaining takes place. And that test calls for conference after conference, explanation after explanation, and hours of just plain hard study.

To begin with, the local officers must be thoroughly familiar with the agreement itself, which may be anything from a one-page declaration of principles to a complete covenant of more than a hundred pages of fine print. Local leaders inevitably become experts in "industrial jurisprudence,"¹⁴ or the application of principles to cases to produce workable decisions. But no one becomes even competent at such a job without long hours of careful concentration and a familiarity with existing precedents. Then, both as a supplement to the handling of grievances and for the conduct of union meetings, the local officials must also know the constitution and bylaws of the national union, especially the sections which bear on the rights, privileges, and responsibilities of the local chapters. This is no small chore in itself. For example, the *Constitution of the Grand Lodge, District and Local Lodges of the International Association of Machinists* (Independent)¹⁵ consists of 95 pages of small print in a pocket-sized pamphlet, with 11 articles and 32 pages in the section on local lodges alone.

¹³ See Clinton S. Golden and Harold J. Ruttenberg, *The Dynamics of Industrial Democracy*, Chap. III, "Development of Leadership" (New York: Harper & Brothers, 1942), for comments on this problem.

¹⁴ A term coined by Sumner H. Slichter, in his *Union Policies and Industrial Management*, Chap. I (Washington: Brookings Institution, 1941).

¹⁵ Washington: Grand Lodge, International Association of Machinists, 1946.

The above is just the homework. Knowing the provisions is one thing, applying them quite a different matter. What happens when a union member is disciplined for smoking in the washroom or reporting late for work and protests to his steward? How will a man's seniority be affected by his transfer from one department to another? What is the proper way of figuring overtime through the lunch hour? What does "insubordination," a standard ground for discharge, consist of? What is an "apprentice," a "part-time employee," or an "experienced employee," and how do the stated provisions apply to them? What evidence is required to prove that an employee is "called out" and therefore eligible for reporting pay? How does the discontinuance of a department or a job affect the right of the employee or employees affected?

There is plenty of work for the grievance committee, no matter how explicit the agreement is on every possible contingency. The shop steward (at the foreman's level) and the president of the local (at the next level above in the grievance procedure) must not only know the working rules (union terminology for the "agreement"), but must also know the exigencies of plant operation and the individual peculiarities of their members and the managerial staff. All will enter into the decisions they make. In view of the multiplicity of problems and the formality of the agreements, disputes are not surprising. The surprising thing is that so many agreements work so well, with so little actual hindrance to the output of goods and services.

In all of this work, the local official is the advocate of the union member, but he cannot afford to be an unreasoning defender of all causes brought to him. Much of his time will be spent in explaining why he must reject complaints as unjustified, and in outlining the meaning of the contract terms to employees who are unable or who have not troubled to learn the provisions of the compact. If he goes too far in this, he will lose the respect and support of his associates. If he swings too much the other way, management will distrust his judgment and a heavy load of grievances will be carried beyond him to the higher officials and arbitration. It is harassing, time-consuming, exacting work, and he does much of it for nothing or for very little, other than as a contribution to his union.

In addition to their regular dealings with management, local union officials must also keep in mind recruitment, the handling of finances, the conduct of meetings, cooperation with other locals in matters of common concern, district and national conventions with their accompanying election of officers and ratification of policy proposals, and, nowadays, a regular program of political action. It is no job for the unconvinced, the short of wind, or the slow of mind or action. Throughout the country, there are thousands of persons maintaining, on a consistent schedule, a program of activities like that described above, often in addition to a regular job at the

bench or on the assembly line. Since their pay is not in money, it must come at least in part from a conviction of service in a good cause.

Union Management at the National Level

A "national" union is not necessarily national in its scope and coverage, any more than an "international" is necessarily a world-wide organization. A union customarily becomes a national when it consists of more than one local; the term "national" is a convention denoting a secondary stage in organization involving the delegating of authority beyond the limits of the local officials. When a union calls itself a "national" or "international," it is in effect laying claim to all the employes in the country or the world who come within the jurisdiction it has laid out for itself. This claim is often disputed. Many "nationals" are actually district or regional organizations, like the "National" Maritime Union (CIO), which controls the Gulf and East Coasts and the Great Lakes, but has practically no members on the Pacific Coast, where the Seafarers' "International" Union of North America (AFL) and its principal subsidiary, the Seamen's Union of the Pacific, represent most sailors.

Unions tend to add "international" to their names when they establish a branch or branches in Canada. No American "internationals" have branches outside of North America and few of them anywhere else but across the northern border.

Notwithstanding the limitations mentioned above, many national unions are truly nationwide in scope, with locals and members in all or most states, or at least in those states where there are industries employing workmen who come within the union's jurisdiction. The United Mine Workers of America blankets the coal mining areas in the United States from Alabama to Colorado to Pennsylvania and West Virginia. The railway operating brotherhoods go anywhere the railroads go. The big building-trades unions (the Carpenters, the Plumbers, the Bricklayers, the Plasterers, etc.) have local lodges from the Atlantic to the Pacific and from the Mexican to the Canadian borders and on north. The Teamsters will be found anywhere nonrail land transportation is used. The term "national" may be (and often is) a convention denoting hardly more than two levels of organization, but the genuinely *national* union, with a perspective and organization and membership of equivalent scope, is an established fact in American economic life. Economically and politically, the national union is the dominant unit in the labor movement today.

Official Pay and Perquisites. The good jobs in trade unionism are on the national and federation levels. The outstanding plum is probably the presidency of the United Mine Workers of America, with a salary of \$50,000 a year, or the vice presidency or secretary-treasurership of the same union,

Table 56. Annual Salary of Highest Paid Officers in CIO Unions, 1946*

Union	Salary	Membership (1948)
Steelworkers	\$20,000	929,000
Amalgamated Clothing Workers	15,000	365,000
Retail, Wholesale and Department Store Employees	10,000	145,000
Textile Workers Union	10,000	390,000
Automobile Workers	9,000	921,000
Marine and Shipbuilding Workers	8,000	Unavailable
National Maritime Union	7,800	75,000
Office and Professional Workers	7,800	70,000
Marine Engineers' Beneficial Association	7,500	19,000
Newspaper Guild	6,750	25,000
Oil Workers	6,600	74,000
Mine, Mill and Smelter Workers	6,000	109,000
International Longshoremen and Warehousemen	5,980	75,000
Furniture Workers	5,720	44,000
Glass, Ceramic and Silica Sand Workers	5,600	35,000
United Electrical, Radio and Machine Workers	5,200	450,000
Fur and Leather Workers	5,200	Unavailable
Playthings, Jewelry and Novelty Workers	5,200	16,000
Shoeworkers	5,200	60,000
Transport Workers Union	5,200	Unavailable
Woodworkers	5,200	85,000
State, County and Municipal Workers	5,000	Unavailable
Federal Workers	5,000	Unavailable
Farm Equipment and Metal Workers	5,000	Unavailable
Food, Tobacco and Agricultural Workers	4,940	Unavailable
Marine Cooks and Stewards	4,840	7,000
Architects, Engineers, Chemists and Technicians	4,680	Unavailable
Barbers and Beauty Culturists	4,680	Unavailable
Communications Association	4,680	Unavailable
Packinghouse Workers	4,500	Unavailable
Rubber Workers	4,500	209,000
Fishermen and Allied Workers	4,160	25,000
Transport Service Employees	4,000	Unavailable
Gas, Coke and Chemical Workers	3,600	54,000
Stone and Allied Products Workers	3,000	Unavailable

* SOURCE: *CIO News*, Feb. 18, 1946.

which go at \$40,000 per annum.¹⁶ William Green receives \$25,000 as president of the American Federation of Labor, a figure which just matches Dave Beck's salary as vice president of the Teamsters. In 1946, the pay of top officers in CIO unions ranged from \$3,000 to \$20,000. (The way they lined up is shown in Table 56.)

¹⁶ The high salaries in the UMWA date from the 1948 Convention (see *United Mine Workers Journal*, Oct. 15, 1948). Lewis's salary may be surpassed by Petrillo's pay and allowances as head of the Musicians. His income has been reported as \$60,000 a year, plus a large expense allowance and the provision of a bulletproof car.

The salary of the "highest paid officer" (usually the president) is not the whole picture. For an illustration of career opportunities in one of the larger trade unions, let us consider the case of the International Association of Machinists. The IAM, for example, pays the international president of the Grand Lodge, Harvey W. Brown, "an annual salary of \$12,000 payable in 52 equal weekly installments." The constitution also makes him chief organizer of the Grand Lodge and authorizes him to appoint an unspecified number of "Grand Lodge representatives" (organizers) and assign them to "such localities and for such particular terms and duties as shall be for the best interests of the Organization," subject only to the approval of the executive council. Such representatives will be paid "at the rate of \$5,000 per year for the first six (6) months of service, \$5,500 per year for the second six (6) months of service, and \$6,000 per year thereafter."

The IAM also has a general secretary-treasurer, Mr. Eric Peterson, whose annual salary is \$10,000; and in 1947 it had nine general vice presidents, who received salaries of \$8,000 each, except that the general vice president "assigned to Grand Lodge Headquarters" received \$9,000. There was an editor of the union's publication, the *Machinists' Monthly Journal*, who received \$8,000 a year, an assistant to the general secretary-treasurer who received \$6,500, and an unspecified number of Grand Lodge auditors, who were paid on the same basis as the organizers: at rates of \$6,000 a year after a probationary period of 12 months at lower salary.¹⁷

Officers of national unions customarily have generous expense allowances for travel, entertainment, and the like. The big national unions and the federations also have extensive staffs of professional and technical employees: lawyers, economists, research experts, publicists, etc. All of these come high, and the unions do not hesitate to pay for top-grade service, which they expect to match the quality of performance of corporation experts.

Functions of Officers of National Unions. What do Mr. Harvey Brown and Mr. Eric Peterson and the nine general vice presidents of the IAM do to earn their pay? In other words, what do union officials at the national level do? Like corporation executives, they must concentrate on policy, promotion (which means extension of organization), finances, and publicity. Unlike corporation managers, union officers must also keep in mind their political responsibilities. These latter (as well as the former) are considerable in a union the size of the IAM, with its 624,000 members distributed across the country in 1,800 local lodges.

Policy. The principal recurring problems of union policy are *wage demands* and *union security*, and the methods to be used in realizing them. It is an exceptional union nowadays that does not have a wage policy, formu-

¹⁷ *Constitution of the Grand Lodge, District and Local Lodges*, effective Apr. 1, 1946, pp. 13-37, Washington: International Association of Machinists.

lated in convention after extensive study and recommendations by officials and technical experts from the home office. This policy may or may not be binding on the local unions, depending on the degree of autonomy the latter enjoy. In some cases, as, for example, the Steelworkers and Autoworkers, the pattern of increase (or decrease) is set nationally by bargaining between the national union officials and one or more major firms, and the entire industry falls into line with only minor variations here and there. In other cases, like the building-trades unions, a national policy is a guide and nothing more, to be used as an indication of what the leaders think is proper but which may be departed from in local situations with complete freedom.

The advantage of a national policy is obvious. It is only from the vantage point of national perspective that over-all conditions in the country and the industry can be appraised and the favorable and unfavorable factors balanced against one another. Some recent examples of very inclusive national wage policy were the first-, second-, and third-round "patterns" of wage increase after the end of the Second World War, each of which was set after a period of prolonged negotiation, including strikes, between the national union officers and representatives of some of the leading firms in the country's biggest industries. Another example was the shift from emphasis on basic wage rates to emphasis on pension and welfare funds in 1949. The standard union objective is at least maintenance and if possible improvement of the wage position of its members, but there are many roads to the one end: basic rates, "fringe items," reduction of hours, welfare funds, etc. It is the job of the national officers to estimate a feasible target, devise an appropriate wage "package" to be asked for, and to put into its members' hands the arguments (cost of living, rise in labor productivity, profits of the employer, comparable wages in other industries, etc.) which will have the most telling effect at the bargaining table.

Union security is a question of getting and keeping members. The union has two great enemies in its struggle for survival. One is the employer, who competes for the loyalty of members and potential members. The other is apathy, the tendency for members to take the union and its benefits for granted and to backslide in attendance and dues. Outright "union busting" by the employer has been prohibited for firms in interstate commerce since 1935 by the Wagner Act and subsequent legislation, but employers still have the right to point out to employees which side their bread is buttered on and to present reasons why, in their opinion, a union is unnecessary.¹⁸ Since the employers pay the wages and control the future of employees through work assignments and promotion, they have some heavy artillery in the

¹⁸ They have this right only if their arguments are not coupled with threats, expressed or implied.

dual for worker loyalties. And if the union is careless, the employer's naturally strategic position may be reinforced by the members' boredom and the steady drain of dues.

To counteract backsliding, the union uses persuasion, coercion (now and then), and formal agreements which make union membership necessary or advantageous in holding a job: closed- and union-shop contracts, preference agreements, and maintenance-of-membership clauses. Combined with these where possible is the checkoff of union dues, to make the extraction of the monthly payment as painless as possible. The type of union-security agreement to be sought, the argument in its favor, and the actual bargaining to get it are considered by all national unions as a major responsibility, and no local issue excites their support more readily. Regular contact with local chapters to keep up morale and emphasize the benefits of membership are also on every national officer's schedule. A threat to security at any point is a threat to the union itself and is met with every weapon that the union can lay hands on.

Promotion. One phase of the problem of security is *extension of organization*. A union is like other organisms; it either goes ahead or goes backward. A union standing still is a union on the decline. It is a prime job of the national officers to see to it, first, that all or most of the workers in the industry or craft are enrolled, and, second, that organizing efforts are extended to workers in related fields who are eligible for inclusion in the union's jurisdiction. This calls for a permanent program of increase of membership through the creation of new locals. The major fields for such action today are the Old South, which is still only partially organized, and the white-collar workers in clerical and sales employment. Several of the major unions and the big federations are at work south of the Mason-Dixon line, and a number of new and old labor organizations are plugging away steadily at office and store personnel.

Finance. Extension of organization calls for a campaign, which in turn means a staff of organizers and financial support. Big unions today have little trouble in putting their hands on either men or money for such important work. The organizing staff of the national body is the customary career route for promising local workers; established unions have more candidates than they can use. The financial picture is equally encouraging during the present prosperous era in union growth. The basic income figures (from "per capita taxes," the national union's split of regular monthly dues) for some of the largest unions is shown below in Table 57.

Table 57 understates the income of the unions listed since it does not include initiation fees, reinstatement fees, assessments, gifts, earnings from property and investments, or other miscellaneous sources open to labor

organizations, some of which are sizable. It is misleading in another way, as there is little doubt that the income figures of AFL unions of comparable size would be higher, since the average scale of fees and dues in the older

Table 57. Annual Income from Dues of Selected Unions *

Union	Per capita tax		Member- ship	Annual income
	Monthly	Yearly		
Mine Workers (Ind.).....	\$2.00	\$24.00	600,000	\$14,400,000
Steelworkers (CIO).....	0.75	9.00	930,000	8,370,000
Machinists (Ind.).....	1.05	12.60	624,000	7,862,000
Autoworkers (CIO).....	0.40	4.80	920,000	4,416,000
Textile Workers (CIO).....	0.75	9.00	390,000	3,510,000
Amalgamated Clothing Workers (CIO)....	0.70	8.40	365,000	3,066,000
Rubber Workers (CIO).....	0.45	5.40	209,000	1,128,000

* SOURCE: *United Mine Workers Journal*, Nov. 1, 1948; *CIO News*, Feb. 18, 1946; BLS Bulletin 937, *Directory of Labor Unions in the U. S.*, June, 1948; *Constitution* of the International Association of Machinists.

federation is above that of CIO unions. The AFL affiliates would also run far ahead of the CIO member unions in the matter of general financial resources. A study by Mr. Nathan Belfer showed the following distribution of "net worth" among 53 unions in 1948.

Table 58. Net Worth of Fifty-three Unions, 1948*

<i>Net Worth</i>	<i>Number of Unions</i>
Less than \$50,000.....	4
\$50,000-\$99,999.....	6
100,000-499,999.....	10
500,000-999,999.....	5
1,000,000-2,999,999.....	8
3,000,000-4,999,999.....	5
5,000,000-7,999,999.....	7
8,000,000-9,999,999.....	2
10,000,000-19,999,999.....	3
20,000,000-49,999,999.....	2
Over \$50,000,000.....	1
Total.....	53

* SOURCE: Belfer, "Financial Resources of Trade Unions," *Journal of Political Economy*, Vol. LVII (April, 1949), pp. 157-161.

Net worth consists mainly of cash, investments, and property. The Brotherhood of Locomotive Engineers, for example, owns the Park Lane Villa Hotel in Cleveland, while the Carpenters have a rest home in Lakeland, Fla., which cost \$1.5 million. Real estate, however, is not a major item

in union assets. According to Belfer, the principal forms of union property are cash and government bonds, with real estate, furniture, and fixtures a poor third. The total net worth disclosed by the 53 unions came to \$265 million, which averaged out at \$5 million each. However, the distribution was too uneven for such a method of averaging to mean anything. For example, the Autoworkers (CIO) showed a net worth of only \$2 million, the Steelworkers, \$5 million, while the Order of Railway Conductors, with only 38,000 members, had a net worth of \$9 million, and the Brotherhood of Railroad Trainmen, with 216,000 members, claimed assets in the neighborhood of \$50 million. Among the activities of the BRT was a life insurance program, with \$350 million in policies outstanding as long ago as 1925.

Assets and annual income running in the millions (or even the hundreds of thousands) call for financial management a good deal above the level of the corner grocery store. They involve collection and disbursement procedures, a program of accounting and auditing of funds, banking and investment practices, protective devices (bonding), and responsibility. All of these are among the functions of union officials at the national level. In addition, they elect or are asked to assume a number of fiscal duties for their district and local organizations, such as auditing the books and reporting to the membership. The administration of large welfare and pension funds is a recent and growing activity, which adds to the fiduciary responsibilities of union officers.

Publicity. Few kinds of organizations have more compelling reasons for good publicity than trade unions. Relations with members call for a strong and persistent selling program. Relations with employers in many cases demand a powerful propaganda line. Relations with the general public and governmental agencies may affect the outcome of bargaining negotiations, disputes with management, and membership drives. If the union wants the protection of the National Labor Relations Board, it is compelled to furnish complete reports about itself and its financial activities annually to the Secretary of Labor and its members.¹⁰ Direct political action has added another publicity job to the many already assumed. Publicity is therefore a major function of the big national unions and the federations.

The principal organ of publicity is the union journal, which is a "must" with the larger unions. Many of the union magazines are full-scale weekly and monthly periodicals, containing news, official reports, technical articles, propaganda, cartoons, and comic strips of interest to members. Subsidiary items on the printed publicity schedule are pamphlets and releases on special problems like housing, the cost of living, and legislation, and the standard union output of instructions and exhortation to new members.

¹⁰ Under the Taft-Hartley Act.

Publicity also includes platform speeches by union leaders, radio programs, mass meetings, appearances before Congressional and state legislative committees, and appeals to governmental executives from the President of the United States on down. An exceptional example of union publicity was President Philip Murray's invitation to prosecution under the Taft-Hartley Act for support of a political candidate in the 1948 elections, which resulted in a lawsuit carried to the Supreme Court of the United States.

Union Politics. Union officers cannot afford to forget that they are constantly running for office. One of their functions is, therefore, to build a personal political machine within the union. This is the time-honored method of ensuring continuance in elective office, where there is competition for the job, and the jobholder who neglects his political fences may find himself on the outside looking in while others fashion organization policy and direct its affairs. Machine building is accomplished by the standardized methods of distribution of patronage (appointment of friends and political supporters to influential positions), campaigning for programs and policies associated with official sponsorship, and monopoly of the organs of publicity to promote personal reputations and the myth of indispensability.

Sometimes more direct methods are used, like the personal appointment (in lieu of election) of a workable minority of the representatives to the national convention, control of the vote-counting apparatus, and packing election meetings with supporters to the exclusion of opponents. It is standard procedure in some conventions to permit no opposition measures or criticism of the current administration to arise from the floor, even to the point of physical violence against the critics. Union politics is for keeps, just like the competition for public office in city, state, and Federal jurisdictions.

The extent to which real democracy, in terms of convention discussion and voting, is relied upon varies among unions, but the patronage and publicity aspects of machine politics are almost never absent. Their success is obvious in the long and uninterrupted terms of office of national and federation leaders. For example, the AFL has had two presidents in 63 years—Gompers and Green—if the one year that Gompers was out of office in 1894 is excluded. Lewis has been president of the UMWA since 1920, Hutcheson of Carpenters since before that, and the terms of office of Whitney of the Trainmen, Johnston of the Locomotive Engineers, Harrison of the Railway Clerks, Dubinsky of the International Ladies' Garment Workers Union, Hillman of the Amalgamated Clothing Workers, Tobin of the Teamsters, Bates of the Bricklayers, and many others, are plain evidence of the security of union officialdom. The service records of union officers compare favorably with those of corporation executives and far exceed the average time in office of chief executives in public jurisdictions.

Union Management at the Federation Level

Still another career level open to trade unionists is staff (or line) work for one of the big federations: the American Federation of Labor or the Congress of Industrial Organizations. Salaries and perquisites are about on a par with those in the big national and international unions, although sometimes exceeding the latter. Some of the jobs in the federations are filled by officers of the nationals without additional salary, whereas others are full-time positions in which the incumbent is paid from the federation's budget. President Green of the AFL has no important union connection, since his original membership was in the Mineworkers, a union which has been outside the Federation most of the time in the past 15 years. On the other hand, Murray receives no pay from the CIO, but serves without salary as president, relying on his stipend as leader of the Steelworkers to cover his personal expenses. The secretary-treasurership of both organizations is a full-time job, with the incumbents (George Meany of the AFL and James B. Carey of the CIO) holding no other important union offices. The remaining top jobs in the federations are: general counsel, editor of publications, and director of research.

Functions of the Federations. It should be distinctly understood that the federations do not stand in any such paternal relationship to their affiliated national and international unions as the nationals do to their local chapters. The federations are service organizations. Their main jobs are defensive and facilitating: to guarantee the autonomy of their members and perform such general functions as will be of assistance to the sovereign and independent national unions or which they cannot do conveniently for themselves. The federations can and do set policies which tend to be followed by their members, but they cannot enforce conformity on them, and it is extremely rare for the federation as such to mix into the internal affairs of any union, no matter how far it strays from the beaten path. The slightest indication of any such intent usually results in the union's withdrawal from the federation, and secession (like that of the Mineworkers and Machinists from the AFL) may occur simply from dissatisfaction with a policy adopted in convention.

Nevertheless, the activities of the big federations are extremely important and with the growing political consciousness of the labor movement in this country cannot fail to become more so. This results from the fact that trade unionism *is* a movement. The federations and their officers are the only spokesmen that can represent organized labor as a whole, or in large blocs. Hence, no spokesman for labor can go before a Congressional committee with more authority than Green or Murray, and when the two are united in their views, their remarks become very emphatic. The legislative activities of the AFL and the CIO (on Federal, state, and local levels) have long

been among their foremost responsibilities, and the recent added emphasis on direct political action has only two important channels: the CIO's Political Action Committee and the AFL's Labor's League for Political Education. The location of both federation headquarters in Washington, D.C., is a clue to the importance of this function. A catalogue of federation activities would therefore have to give an important place to *representation*, but it would not stop there. Both the AFL and the CIO give a great deal of attention to *interunion relations* (principally through the annual convention), the *extension of organization, publicity and research*.

Representation. Both the CIO and the AFL employ "legislative representatives" (lobbyists), whose job it is to follow the work of Congress and bring pressure to bear in favor of bills that the federation favors, while opposing antilabor measures. They are reinforced regularly by personal appearances of Green, Murray, Carey, and Meany, as well as by important leaders of national unions, especially the vice presidents of the CIO and members of the AFL's executive board. The federations introduce witnesses at hearings, produce factual information for congressmen, organize mass invasions of Washington during the consideration of critical measures, fill their own papers with arguments, and provide handouts for the press. The federations buy radio time and provide platform speakers to present labor's side of the case on important issues. This work is duplicated at the level of the state legislatures and municipal councils by the state federations.

Labor leaders call personally on the President of the United States, governors, and mayors, to request support of their program, and through Federal and state departments of labor are often enlisted to assist in the drafting of bills and the writing of vetoes. The "labor lobby" is an active and powerful force among the organized special interests in America. It is directed primarily from the offices of the American Federation of Labor, at 901 Massachusetts Ave. NW, and the Congress of Industrial Organizations, at 718 Jackson Place NW., Washington, D.C.

Representation does not stop with lobbying. It has at least two other important methods: legal action and politics. For more than half a century it has been the job of the top labor organizations to support labor causes in court, wherever they may arise, and to institute test actions to question the constitutionality of legislation inimical to the interests of trade unions. From the time of the celebrated Danbury Hatters' case (*Loewe v. Lawlor*), decided in 1908, on up to the present, there has been hardly a term of the Supreme Court without one or more appearances by the general counsel of the AFL or (since 1938) of the CIO, attacking what labor considered bad laws or defending labor's constitutional rights. The long-time general counsel of the AFL, Joseph Padway, and the CIO's able Lee Pressman were both noted for their success in gaining favorable decisions of this sort. Federation officials

also institute test actions, like that of R. J. Thomas, vice president of the CIO, who deliberately violated a Texas statute requiring the registration of union organizers, submitted to arrest, and then succeeded in having the law declared unconstitutional.²⁰

Political action is the most recent extension of the representation function of the federations. Both the CIO and the AFL now have permanent political structures, with a director in charge, a budget, a general staff, an elaborate network of organization on a national basis, and a continuing program of publicity and electioneering. The Political Action Committee (CIO) and Labor's League for Political Education (AFL) endorse candidates, support measures, carry on door-to-door campaigns, carry voters to the polls on election day, and in every respect match the work of the older formal political parties. In some instances, they have presented their own candidates and taken over local party and governmental machinery. Prominent leaders in the federations have openly threatened the formation of a third (labor) party if the wishes of the labor electorate are disregarded.

The Annual Convention. The oldest and most consistent activity of the federation is the holding of the annual convention. These are organized labor's top legislative sessions, comparable to the meetings of the U.S. Congress. They are matched by state, regional, and local conventions for the same purpose in more restricted areas.

On the face of things, little of a tangible nature is accomplished at the convention. Elected delegates from the affiliated national unions and a variety of miscellaneous organizations (state and local federations or industrial councils, city central bodies, trade councils, federal labor unions, etc.) meet for a number of days, elect officers, listen to speeches of officers and guest celebrities, argue issues from the floor, adopt policy recommendations, renew acquaintances, and discuss problems informally among themselves. Much of what goes on is cut and dried. The officers are almost invariably reelected. The policy proposals of the executive council (the main policy committee) are usually adopted with slight protest. The speeches are the usual time-consuming, tiresome orations. It is seldom that a real division of opinion appears, and it often seems that the expense of the meeting could have been saved and the time of the delegates put to better advantage at their regular duties.

The conviction of experienced observers of the labor movement, however, is to the contrary. Just as in the legislative sessions of public bodies, a nucleus of leaders works around the clock to hammer out organized labor's "line" for the coming year. Policy recommendations *are* promptly ratified on the floor as a usual thing, but it is because the members of the council have carefully weighed competing suggestions and worked out compromises acceptable

²⁰ See *Thomas v. Collins*, 323 U.S. 516 (1944).

to the great majority of the delegates. The convention is an important sounding board. Its deliberations and the record of its proceedings are studied carefully by labor leaders throughout the country, by management groups, and by public officials. The policies it adopts are likely to be guides to action for labor groups from one end of the country to the other, in bargaining with employers, in support of political candidates and measures, and in promotion and extension of organization.

The convention brings together many leaders of diverse union groups, right-wing, left-wing, and middle-of-the-road. These men are normally immersed in their own affairs, forced to concentrate on immediate issues of concern principally to them and their unions. In the convention, they find that their own problems are in some cases common to all, in some cases exceptional and limited to their own trade or industry. They find how others have met and solved problems, what the trends are in organization, bargaining, and legislation in other parts of the country, and what developments constitute threats or cause for gratification. And they find out in a way which would be impossible through reliance upon correspondence or printed reports. Organized labor has its trade secrets, like commercial and business operations, which are not ventilated in print. In the privacy of conversation, however, ideas are exchanged freely and often agreement is reached on issues which would create powerful dissension in an open forum or in printed form. The convention is a great leveler and unifier. It was rightly regarded by Gompers and his associates as indispensable to an effective labor movement.

The convention also brings to the surface leadership and potential leadership. The essence of leadership in union affairs, as in other forms of activity, is the ability to influence others in face-to-face negotiations, to contribute new ideas which catch the imagination of associates, and to show the conviction and drive necessary to carry through programs. These qualities are demonstrated in group activities, of which the annual convention is an important example and the only one on a national and at the same time a multiunion basis. Election to an important position in the federation is a high honor for the man and his union, a testimonial to his standing among his colleagues. It may lead to national honor (Gompers, Hillman) and is almost certain to strengthen the recipient within his own union.

Federation Finances and Organizing Drives. The federation, like the national unions, is financed mainly by a per capita tax, levied on the affiliated member unions according to the membership they claim as a voting base in the convention. The per capita tax is a monthly charge, of 3 cents per member in the AFL and 5 cents per member in the CIO. Thus, the former, with a membership of 7.2 million in 1948, would receive \$216,000 per month

(7.2 million $\times$ 3 cents) or \$2,592,000 per year from this source. The CIO's comparable income would be \$300,000 per month (6 million $\times$ 5 cents), or \$3.6 million per year.

These figures are in the nature of minimums, rather than precisely accurate, since there are variations in the charges—for example, federal labor unions in the AFL (with more than 240,000 members in 1947) pay 37.5 cents per month per member, instead of 3 cents—and the federations also have other sources of revenue, such as the right to levy assessments of a certain amount for a maximum number of weeks, and income from property and investments. A union like the Carpenters, however, with 738,000 members, would pay approximately \$265,000 a year to the AFL for the privilege of affiliation. The bill for the Autoworkers and the Steelworkers (CIO), with more than 900,000 members each, would be in the neighborhood of \$550,000 annually. It may be noted that the income of the great federations is considerably below that of its more important member unions individually. This is one reason, among others, for the preeminence of the national unions in the organized labor picture.

Nonetheless, a gross, nontaxable income of \$2.5 million or \$3.5 million a year is not to be sneezed at. It will support a wide variety of activities. One of the more important burdens on the federation budgets is the promotion of membership drives into unorganized territory. Both the AFL and the CIO have complete staffs devoted to recruitment, organization of new locals, invasion of open-shop industries, and assistance to established unions.

This type of operation is simpler for the CIO than the AFL, due to the out-of-date jurisdictional status of the unions affiliated with the latter. In the nature of things, a drive for recruitment and recognition is more effective if directed at a given employer or group of employers in a single industry than if it must be spread across a larger territory or a number of firms in different industries. For one thing, the chances of winning an election are much greater. However, if an AFL drive is successful against a single firm, it often turns out that there are not enough workers within the firm who come under the jurisdiction of any single national union to support a local chapter. This is where the federal labor unions come in. All the new recruits are thereupon lumped into what is often in effect a local industrial union, but which the AFL calls a "federal labor union," meaning a local directly affiliated with the AFL and not with any intervening national or international union. The miscellaneous workers in the federal locals are suspended in this form of halfway station until there are enough of any given kind to assign to the appropriate national union as a local chapter able to stand on its own feet. In 1947, there were more than 240,000 employees in this classification, waiting for an extension of membership which would

enable the various craft and amalgamated worker groups to separate into homogeneous local lodges.

The organization work of the big federations is, as a general thing, more important than that of any of the big nationals, due to the fact that the latter are inhibited to some extent by their jurisdictional rules from working new fields. Either of the federations, on the other hand, can openly attack any unorganized group in the name of an existing union or a new union which may be created out of whole cloth, or in the name of no national union, but with affiliation direct to the federation itself. Established unions which jump the fence to get at new classes of employes, like the UMWA's District 50, or the Teamsters in recent years, run the risk of the charge of "cannibalism," with its accompanying retaliation and ostracism. The risk is much less for the federation, so most new organizing drives are carried on under its flag and led by its personnel.

Research and Publicity. Both the CIO and the AFL represent many small unions as well as the large and powerful ones most frequently mentioned here and elsewhere. A tiny labor organization like the International Glove Workers' Union of America (AFL), with 3,800 members and 37 locals, or even a "small" one like the United Paperworkers of America (CIO), with 34,000 members, is not in a position to support a research staff and carry on extensive publicity, any more than it is in a good position to employ lobbyists or finance a fight with employers. The services of the federation are far more vital to its small and medium-sized unions than to the huge organizations with hundreds of thousands of members and revenues exceeding those of the federation itself. It carries the brunt of the battle for them, in the form of general and special services that they cannot afford on their own.

And however matter-of-factly the struggle between management and labor is described by businessmen and union leaders, it is at bottom a contest of ideas. The side which neglects its arguments, its public relations, its diplomatic connections, or its facts is very likely to come out second best, whether the issue be a grievance, a bargaining conference, a strike, or the passage of legislation. Hence, there has been a steady growth of emphasis on research and publicity by the federations and the big unions. This emphasis has taken the form of employment of complete staffs of technical specialists: economists, statisticians, public relations specialists, and lawyers; demands for extension of labor education; the assignment of union men to university training programs in labor economics; the development of programs of "worker education" by both the federations and individual unions; the support of federation and union journals and newspapers; and a multitude of publicity activities both inside and outside the membership to influence attitudes on the labor question.

Union Management

The running of unions today is big business, calling for the employment of tens of thousands of people and the collection and distribution of hundreds of millions of dollars annually. The men in charge of the really big unions exercise what is in some respects the most concentrated decision-making power in private life in this country. Their judgments directly affect the fortunes of millions of people and literally thousands of businesses. It is unquestionably an exhilarating as well as a sobering responsibility. They must be businessmen for purposes of administration, politicians in order to retain control of their organizations, and statesmen if they sincerely wish to further the good of their own members and of the country. Considering the variety of capabilities that they must display, the rapidity with which the labor movement has grown, and the disorder of the times during the past two decades, it might very well be argued that the record is better than could be expected. For the future, it most certainly will hold, as Slichter has said, that:²¹

their policies from now on will be a major determinant of the prosperity of the country. If their policies are farsighted . . . unions will make a major contribution toward building a greater civilization in America. If unions are narrow, uninformed, and shortsighted in their policies, they will be as great a problem for the community as was the parochialism of the towns and the small principalities of the later Middle Ages.

Readings

The trouble with the literature on trade unionism is that there is so much of it. It pours out from all sources—public, private, union, management, and academic—until the reader who tries conscientiously to keep up with what is going on may begin to feel swamped. When he gets to the subject of union management, however, he will find some relief. There is relatively much less authoritative writing on the subject of how unions are run, and some of the best of it is “fugitive,” that is, in pamphlet or leaflet form for quick use and not bound for permanent shelving. A widely used book with the union point of view is Robert R. Brooks’s *When Labor Organizes*,²² and another is C. S. Golden’s and H. J. Rutenbergs’s *The Dynamics of Industrial Democracy*,²³ which describes a number of union problems as seen by experienced officials. There is also a considerable amount of union-training materials available, of which an excellent sample is the *Handbook of Trade Union Methods*, of the International Ladies’ Garment Workers’ Union, published in 1937. A number of the larger unions prepare “how to” books of this type and will furnish them to inquirers upon request.

²¹ Sumner H. Slichter, *The Challenge of Industrial Relations*, p. vi (Ithaca, N. Y.: Cornell University Press, 1947).

²² New Haven: Yale University Press, 1937.

²³ New York: Harper & Brothers, 1942.

The foremost academic researcher into internal union affairs is Professor Philip Taft, whose series of articles on union finances and administrative procedure is recognized as the authoritative source for this kind of information. See, for example, his "Understanding Union Administration," in the *Harvard Business Review*, Winter, 1946; "Dues and Initiation Fees in Labor Unions," *Quarterly Journal of Economics*, February, 1946; "Opposition to Union Officers in Elections," *Quarterly Journal of Economics*, February, 1944; and "Democracy in Trade Unions," in the *American Economic Review* (Proceedings), May, 1946.

Exercises

An excellent form of exercise for students at this stage in the study of labor problems is to interview either a member or an official of a union upon some phase of union management. The questions may be informational or analytical, depending upon the willingness of the interviewee to talk freely. Since most unions are publicity conscious, it will ordinarily not be too difficult to arrange a discussion, especially if the purpose is made clear. A group project can be worked out, with different students interviewing representatives of several unions and comparing notes after the data are in.

16. THE UNION PROGRAM

Union business—finance, personnel, and organization—takes up a large part of the time of union officials. However, the routines of filling jobs, collecting dues, holding conventions, and recruiting members would be meaningless apart from a program. The union's program is its reason for being,¹ its justification for the consumption of the time and energy and money of its members and officers; without it, the union would be a fraternal organization, like a lodge, with little power and less influence.² And although the locals of some unions today are called "lodges," in deference to their fraternal origin, any resemblance to the Masons, Knights of Columbus, or the Odd Fellows from that point on is pure coincidence. Unions have political, economic, and social *ends* in view and carefully organized programs of action designed to bring about their attainment. As seems natural enough, the most important part of their program is aimed at employers.

What do unions want from employers?

This question could be answered in part, certainly, by anyone who reads a daily newspaper. Union "demands" have been front-page news of steadily increasing importance for more than a generation in this country, and even the casual reader would surmise that union "security," wages, seniority provisions, and better grievance procedures would be on the list. They are. Unions want from employers:

1. Recognition
2. Security
3. A good contract

4. Consultation on all issues which arise between management and its employees

Given these objectives, most unions would quiet down and behave in a manner that even employers would describe as cooperative. What is more,

¹ Unless, as seems implied by some, the union can be regarded as an end in itself.

² Many unions, in fact, originated in precisely this fashion as fraternal lodges which gradually took on social and economic functions (mutual benefit programs, etc.) and eventually achieved the power to challenge employers for the control of working conditions.

many unions have substantially achieved these objectives and their relations with the employers they deal with are so businesslike and regular that they never make the newspapers at all.

The extent of *peaceful* union-management negotiations is the thing which surprises the student of industrial relations, who is accustomed to reading of the annual threat of John L. Lewis and his coal miners, which arrives with the robins in spring, or who follows the reports of the latest strikes, from which some newspapers and radio commentators try to wring the last ounce of drama.

After reading the latest outburst of Westbrook Pegler, it often comes as a surprise to discover that more than 100,000 labor management agreements, covering the work of more than 15,000,000 employees, are signed, amended, or renewed each year; that some of the larger unions have as many as 10,000 agreements with different employers; and that it has been estimated officially that more than 95 per cent of all contracts are renegotiated annually without a work stoppage. Probably the outstanding example of peaceful labor relations in the United States is the West Coast pulp and paper industry, where the National Planning Association has reported that "not a single man-day had been lost [for 14 years] because of authorized strikes." The only work stoppage at all, in one plant, was a jurisdictional dispute between rival unions. This remarkable record was not "news," and it took an official research organization to dig it up and publicize it.³

There are many instances of peaceful, cooperative union-management relations in the United States. Nonetheless, every plank in the union platform for dealing with employers is still open to dispute, with lengthy arguments pro and con as to the business and economic effects of the proposals recommended. If there is any part of the subject of trade unionism which distinguishes the trained student of labor economics from others, it is his grasp of union policies toward employers and the issues that they provoke. These policies will therefore be outlined briefly in the pages which follow, and appended to each will be a résumé of the issues raised and the union and management positions relative to each.

Recognition

Recognition means that the employer accepts the union as the official representative of certain stipulated employees and agrees to deal with the union instead of the employees individually concerning matters of employment. With recognition, the union moves into the position of responsible economic agent in a contractual relationship. The recognition clause is customarily the opening section of the article on union security in the formal

³ *Labor Information Bulletin*, December, 1948.

agreement. For example, Sec. A of "Article 1—Union Security" of a typical Retail Clerks agreement reads as follows:

The Employer recognizes the Union as the exclusive bargaining agency for all employees employed as clerks in its retail stores within the area which is presently under the jurisdiction of Retail Clerks Union, local —, so long as such recognition shall not be in violation of any statute, law or ordinance.

The statement may be simple or detailed. The Inland Steel Company (Chicago) is more specific in its contract with the Steelworkers union (CIO):⁴

The Company recognizes the Union as the exclusive representative for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment of the hourly paid production, transportation, construction and maintenance employees on the payroll of the Company at its Indiana Harbor Works and its Chicago Heights Works, excluding superintendents, assistant superintendents, foremen, assistant foremen, office employees, salaried employees, technical engineers, technicians, draftsmen, chemists, bricklayers, timekeepers, watchmen and nurses.

The Issue of Recognition. Recognition interposes a third party (the union) between the employer and his employees and for that reason was, and still is, opposed by many employers. The issue which is raised is fundamental; an argument over recognition is really an argument over unionism itself. Both unions and management have realized this in the past and, as noted previously, disputes over recognition have been among the bloodiest and most uncompromising on record, including such famous battles as the Ludlow (Colorado Fuel and Iron), Homestead, Coronado, Herrin, and Republic Steel conflicts. The issue is now academic if the employer is in interstate commerce and the union can enroll a majority of the employees in the bargaining unit, since the employer is then required by law to recognize the union. If, as Mr. Justice Oliver Wendell Holmes has said, "law is the crystallized moral sentiments of the people," then it is the ethical conclusion of the people of America that unions deserve to be recognized. However, not all employers are converted, and trade unionists are skeptical of the sincerity of some of those with whom they have contracts and negotiate regularly.

The union position in the matter is obvious. If trade unionism is worth while, then recognition is a fundamental right, since trade unionism without recognition is unimaginable. The issue is basic and unarbitrable. Employers who must be forced into recognizing the union or who advise employees against union membership or who criticize the Wagner Act for requiring

⁴ *Classified Provisions of Thirty-seven Collective Bargaining Agreements for Wage Earners in the Iron and Steel Industry*, p. 31 (New York: American Iron and Steel Institute, 1948). Cited hereafter as *Classified Provisions*.

recognition are enemies of the union and of the workingman, untrustworthy, and bad citizens. They deny a privilege to others (organization) which they enjoy themselves (in the form of the corporation) and profess motives of brotherhood and concern for the workers whereas their real aim is exploitation and the maintenance of a preferred position.

The employer's argument is that union recognition separates the managerial staff from the rank and file, with resultant complications in the chain of command, and that there is a loss of morale due to the employee being put in a position of divided loyalty or "opposition" to management, rather than cooperation with him, which is the natural relationship. Recognition of the union means that the employer may no longer deal directly on a man-to-man basis with the employees so represented. The employer may contend that organized labor performs no useful function which is not already provided for in the managerial setup. When the union comes in, it lowers productivity, establishes inflexible working rules, produces endless dispute, and induces the employees to soldier (the slowdown), to haggle over imaginary dissatisfactions (grievances), and to engage in strikes and boycotts. The union is notoriously careless of the rights of the owners of the business (stockholders), to whom management is responsible, and of the public, which demands uninterrupted service and low prices. It is a parasitic, troublemaking device, usually led by a group of "outside agitators."

Union Security

This is one of the biggest and liveliest issues in industrial relations today. Union security means a number of things, but the primary factor is *a stable and established membership*. It is achieved by contract clauses which make union membership a necessary condition of employment, by persuasion (which sometimes reaches the proportions of coercion), and by union services such as good contracts and efficient grievance handling, which carry obvious advantages to the workers who pay the dues. Union security is sometimes threatened by other unions, which may claim jobs or employees that the first union has established a right to. This results in a "jurisdictional" dispute, which may prove as bitter and long-drawn-out as any struggle between labor and management.

The direct route to union security is "job control." The most secure form of union security, in the eyes of trade unionists in this country, has always been some form of contract clause which gives members of the union the inside track on jobs. The ultimate in union security is the union closed shop. However, there are many variations of the same principle. For example, the Bureau of Labor Statistics lists and describes seven degrees of contractual security:⁵

⁵ BLS, *Handbook of Labor Statistics*, 1947, p. 131, italics supplied.

1. Under the *closed shop*, all employees must be members of the union at the time of hiring and they must remain members in good standing during their period of employment. Hiring through the union (unless the union is unable to supply the required number of workers within a given period) is required under most of the closed-shop agreements and those employees who are hired through other procedures must join the union before they start to work.

2. Workers employed under a *union-shop* agreement need not be union members when hired, but they must join the union within a specified time, usually 30 to 60 days, and remain members during the period of employment. When the union-shop agreements specify that union members shall be given preference in hiring or that the hiring shall be done through the union, the effect is very much the same as the closed-shop agreement. . . . In some cases, the union shop is modified so that those who were employed before the union shop was established are not required to become union members.

3. *Maintenance of membership*, as a general rule, requires that all employees who are members of the union a specified time after the agreement is signed and all who later join the union must remain members in good standing for the duration of the agreement. Following the pattern of the maintenance-of-membership clause established by the National War Labor Board, most of the agreements with this type of union-security clause provide for a 15-day period during which members may withdraw from the union if they do not wish to remain members during the life of the agreement.

4. Under *preferential hiring* no union membership is required but union members must be hired, if available. When the union cannot supply workers, the employer may hire non-members and they are not required to join the union as a condition of employment.

5. *Sole bargaining* exists under some agreements which have no requirement for union membership or for hiring through the union. The union is the sole bargaining agent for all employees and negotiates the agreement covering all workers in the bargaining unit whether they are members of the union or not.

6. During 1946, a few agreements covering workers employed by large companies, which had specified maintenance of membership in 1945, were modified to provide *sole bargaining with the check-off of union dues* for all union members, as a condition of employment.

7. A few agreements stipulate that the union shall act as *bargaining agent for its members only*, and the agreement does not cover other workers.

Extent of Union Security. The next question is: How many unions enjoy contractual security? Are the closed shop, the union shop, maintenance of membership, or preferential hiring (which customarily ends about the same as the closed shop), the typical thing, or are they the exception? The answer is in the affirmative. According to the record up to 1946, contractual security of some sort was definitely typical of American trade unionism, and developments since then (which will be reviewed below) have probably not weakened organized labor's position. The evidence is shown in Table 59, which presents the proportion of employees eligible for trade-union membership

who were under contract in the period 1942-1946, and the distribution of those under contract according to union-security clauses.

This table requires a little explaining. Employees "eligible" for union-agreement coverage were found by excluding "all self-employed, domestic workers, agricultural wage earners on farms employing fewer than 6 persons, and Federal and State government employees, teachers, and elected and appointed officials of local governments." What was left was the "organizable" labor force. By 1946, roughly half of those considered organizable were either union members or nonmembers under union agreements. There were just

Table 59. Extent of Union-agreement Coverage and Contract Security, 1942-1946*
(In thousands)

	1942	Per cent	1944	Per cent	1946	Per cent
Union-agreement coverage:						
Employees eligible.....	31,000	...	30,250	...	31,200	
Employees under agreement....	12,400	40	14,220	47	14,976	48
Type of contract security:						
Closed and union shop.....	5,580	45	6,541	46	7,488	50
Maintenance of membership..	1,860	15	3,839	27	3,744	25
Preferential hiring.....	620	5	284	2	449	3
Other.....	4,340	35	3,555	25	3,295	22
	12,400	100	14,219	100	14,976	100

* SOURCE: BLS, *Handbook of Labor Statistics*, 1947, p. 133.

short of 15 million of them. Then, of those under union contracts, roughly half were working in closed or union shops, a quarter were under maintenance-of-membership agreements, and another quarter were under either preferential hiring, sole bargaining, or bargaining for members only. In conclusion, by 1946, about *three out of four* employees under union agreements (a total of 11.5 million workers) were covered by rather strict union-security clauses. The number and proportion under agreements prescribing union membership as a condition of employment had risen steadily, along with the growth of union membership. At the same time, the number and proportion in the "Other" classification had consistently dropped.

The Taft-Hartley Act of 1947 changed this picture somewhat. For one thing, it outlawed the closed shop and required an affirmative majority vote of all the employees affected before a union shop could be agreed to. At the same time, it had a 60-day "escape clause" (extending from June 23, 1947, the date of the passage of the act, to Aug. 22, 1947) during which any closed- or union-shop agreements negotiated between management and labor would be valid up to one year. Closed- or union-shop agreements made prior to June 23, 1947, could be extended indefinitely into the future so long as both parties agreed to them. So, while apparently knocking out the most desirable of union-security provisions—the closed shop—and making the next most

desirable—the union shop—harder to get, the “slave labor law” (as organized labor labeled the Taft-Hartley Act) really handled union security with great tenderness.

The majority-vote-of-all-employees-affected requirement for union-shop agreements did not seem to slow down organized labor, although it was freely predicted at the time of passage of the law that it would make the winning of elections much harder.⁶ However, the results were different. In the first 4 months of operation under the new law, the unions won 660 out of 664 union-shop elections, with nine out of ten employees voting for “security.” A sample election was that of the New York Shipbuilding Corporation of Camden, N. J. Of 3,652 employees eligible to vote, 3,516 went to the polls and 3,307 put an “X” in the square authorizing the Industrial Union of Marine and Shipbuilding Workers of America (CIO) to sign a union-shop contract. Only 199 voted against, 10 votes were thrown out, and 136 employees did not vote.⁷ Since this election was typical, it is unlikely that the distribution shown in Table 59 has changed for the worse since August, 1947. In all probability, subsequent reports by the Bureau of Labor Statistics will show a still higher proportion of those under union agreements in the category of “closed or union shop,” in either of which, membership in a labor organization is necessary for employment. At the same time, union membership has continued to climb, reaching an estimated 16 million by 1949.

The Issue of Union Security. What are the issues of union security? There are a number of them, depending on the form the “security” takes. The ultimate in security, the closed shop, is demanded by unions as a guarantee that employers will make no attempt, either openly or behind the scenes, to “bust” the union. In a sense, this is a carry-over from the past. Long before unions were protected by the Wagner Act, a Norris-LaGuardia Act, and a sympathetic public opinion, their only real defense against aggressive open-shop employers was to control the supply of employees and force the employers to take men from the union or not at all. This eliminated the firing of active union men and their replacement with “scabs,” “stool pigeons,” and other types of antiunion personnel. Today, all such practices on the part of employers in interstate commerce are outlawed by the National Labor Relations Act (retained practically intact in the Taft-Hartley Act) and have been for more than 15 years, but the memory of many a trade-union official goes back of 1935 to the labor-spying, black-listing, and open-shop drives of the 1920’s and early 1930’s. To these men, there can be no such thing as too much security. As a result, some of the loudest opposition to the Taft-Hartley Act was on the closed-shop issue.

⁶ The basis of this prediction was the observed fact that often less than a majority of the employees in a given bargaining unit even attended elections to vote, just as in public elections. If less than a majority voted, even a 100 per cent return would not qualify for a union shop.

⁷ *Labor Information Bulletin*, March, 1948.

On the employer's side, the question of the closed shop is one of the right of management to choose its personnel. If it must take them from a union hiring hall, the choice is narrowed and the right to pick and choose may be restricted or eliminated completely. With the closed shop, a man must be a union member before he can be hired. Some unions restrict their own membership, keeping out large numbers of qualified workmen by means of high initiation fees or just a simple "closing of the books" to any but the sons of members or other applicants equally well sponsored. In such cases, the employer may be offered poorly qualified job applicants when well qualified ones are walking the streets in search of jobs.

There is a public-interest angle to the question, too, which employers are fond of presenting. If a union has closed-shop agreements with all the employers in a labor market and the union itself is a "closed" organization, then what becomes of the workmen who are denied membership in the union? The issue is this: Should membership in a labor organization be a prerequisite to the holding of a job if the labor organization is to pass on who will and who will not be admitted to membership? The Taft-Hartley Act recognized this difficulty by making it an unfair labor practice for a union with a union-shop agreement to charge "unreasonable" initiation fees or dues or to bounce a member for any reason other than his failure to pay his dues.

The more modern arguments for union-security clauses play down the danger of employer union busting and stress "positive" reasons for requiring all employees to take out cards. One is the elimination of "free riders," employees who get the benefits of union activity but refuse to help support the organization. There are many such, due to the requirement in the Wagner Act that a union which has signed up a majority of the employees in a given bargaining unit must be recognized as the "sole bargaining" agent for all employees in the unit. It is the union view that free riders should be forced to shoulder their share of the costs, at least. Another argument is "union-management cooperation." Given a closed or union shop, say union officials, the necessity of continuous recruitment and organizing effort will be greatly reduced and the union will no longer have to periodically call management names and think up grievances, real or imaginary, to persuade employees to join. The union can then get down to brass tacks with management and throw its influence in the direction of greater efficiency, cost reduction, and other firm objectives. It can even side *with* management, in some cases, if it thinks conditions warrant, an action that would be unthinkable if it were hustling for votes to win a representation election or trying to round up a few more members to strengthen its budget and bargaining position.

Management's reply is that the arguments are plausible but specious. Given a closed shop, union officials are more likely to press every possible advantage in bargaining and grievance procedure, to become dogmatic and

arbitrary in consultations, with a "take it or leave it" attitude, to progressively increase both entrance fees and dues to exorbitant heights, and to shut out qualified nonmembers upon one pretext or another. A closed shop is a complete monopoly, says management, and will have the same effect upon union leaders as upon anyone else. It will make them fat, lazy, careless of duty and service, and unreasonable to deal with. They should be kept on their toes, as most businessmen are by competition and by the necessity of demonstrating that they deserve the support of members. "Free rider" is just another name for the unconvinced nonmember of a union. The free rider in a shop is just as desirable as the shopper who goes from store to store comparing price and quality. He keeps both union and management in line and makes them look to their policies and performance.

The Union Shop. Each modification of the closed shop presents some issues of its own. The union shop is a great improvement over the closed shop in two respects, from the viewpoint of management. First, it permits the employer to hunt up and hire his own employes, regardless of union affiliation at the time. This widens the employer's market and frees him of bureaucratic union restrictions in his selection of personnel. Second, it eliminates the "closed" union shop, since the union is practically committed to taking in men the employer hires, and the devices of "closed books," high fees, etc., are at least forced into the open where they have a harder time flourishing.

However, the union has something to say about these "improvements." Letting the employer do the hiring makes him in effect the recruiting agent for the union. That is all right if the union is willing to take anybody and if it can be assumed that all those hired are ready and willing to become good union members. But can that be assumed? What if the employer hires stool pigeons and labor spies for the express purpose of weakening the union and eventually breaking it down? Trade unionists remember well the report on *Industrial Espionage*, of the subcommittee (the La Follette Committee) of the Senate Committee on Education and Labor of the Seventy-fifth Congress.⁸ An excerpt reads as follows:

Of the 304 Pinkerton industrial operatives [detectives] who were acknowledged members of unions, 100, or almost a third, held offices of varying importance. The offices held by these 100 spies were as follows:

National vice president.....	1	Organizer	3
Local president.....	14	Delegate	3
Local vice president.....	8	Shop chairman	1
Local treasurer	2	Committeemen	6
Local secretary	20	Financial secretary	4
Recording secretary	14	Member, executive board.....	4
Trustee	14	Division chairman	1
Business agent	3	Local chairman	1

⁸ Sen. Rep. 46, Part 3, 75th Cong., 2d Sess. (1937), p. 28.

The question is: Can this happen again? It is now unlawful, but laws are transient things and a simple amendment of the Federal statutes would leave the way open for this sort of infiltration in the future. The union shop, with its "open front door" and the present legal restrictions upon disciplinary action for anything other than nonpayment of dues, seems to many of the union Old Guard an invitation to disaster.

It is perhaps incorrect to speak of a single attitude toward anything like the closed or union shop on the part of all organized labor. A union which has grown up in the tradition of exclusiveness, with the closed shop, high fees and dues, and a restricted membership, will fear and resent the requirement of an "open front door." An example is the International Typographical Union, which was still on strike in Chicago in 1949, months after employers refused to extend its traditional closed-shop agreements, although the strike was clearly for an objective (continuation of the closed shop, in form if not in name) which was illegal. Industrial unions, on the other hand, were much less critical of the statutory restrictions on admission and membership. Many of them, in fact, were reported as favoring the union-shop agreement coupled with the checkoff as the ideal form of union security. This type of contract made the employer the recruiting and fiscal agent of the union, with a consequent saving of time and energy on the part of union officials. The industrial union, in turn, feels much less reluctance to admit indiscriminately anyone the employer may hire, since its policy is to take in everyone, regardless of craft or class.

Preferential Hiring and Maintenance of Membership. Preferential hiring is an informal type of closed shop. If the union can produce qualified workmen, they will be hired; if it cannot, the employer is free to recruit as he chooses. Union preference is often extended to job assignments, layoff, and rehiring. The effect is to grant the union full control of jobs under the agreement so long as it services its obligations adequately. The weakness of preferential hiring, and probably the explanation of why it has never been more widely used, is the flexibility of the service standard and the fear on the part of unions that the employer will use pretexts to hire nonunion men. Employers, in turn, have expressed dissatisfaction with it because it may require the union to keep up a continuous recruiting program, with all the shouting and name-calling that that implies. To work, preferential hiring calls for a high degree of mutual trust on the part of labor and management. Its limited use is some evidence of the absence of such an atmosphere in the United States.

Maintenance of membership was a wartime compromise which satisfied neither union nor employers, a halfway point between the union shop and sole bargaining. A number of strikes arose immediately following the end of the Second World War over its continuance or discontinuance, and it

probably has a modest future in a peacetime economy. Since successful maintenance of membership, from the union viewpoint, produces something hardly distinguishable from the union shop, labor's objective has been to get an outright union-shop contract. Management, for its part, has frequently been just as glad to get away from the constant union drive to enroll 100 per cent of the workers under its provisions. Since the "escape clauses" have been used very little, if at all, and the wartime environment which made it useful has disappeared there seems little reason for continuing such relatively clumsy provisions.

Union Security against Other Unions: The Jurisdictional Dispute. The union's security may be jeopardized by other unions, with or without the collusion of the employer, but the employer will always be involved, sometimes disastrously. The following news item illustrates a typical case:⁹

UNION JURISDICTION CLASH SHUTS UP SUPERMARKET

Teamsters Stocking Shelves Brings Feud as
Hollywood Clerks Walk Out in Protest

Two rival AFL unions' jurisdictional clash yesterday caught a big San Vicente food market in their crossfire, idled 60 workers and kept thousands of shoppers from their week-end marketing. The closed store was Ralphs Grocery Co.'s place at W. 3d st. and San Vicente Blvd. Its shutdown was occasioned by a dispute of long standing between Los Angeles locals of the AFL Retail Clerks Union and the AFL Teamsters Union. The clerks walked out of the store when Teamster Union members went into it and began stacking some of the deliveries on grocery sales shelves.

Clerks' officials hold that the teamsters have jurisdiction only to deliver wares to the establishment, not to stack them on the sale shelves. Teamster officials hold that they have this jurisdiction. . . . The shutdown will not be ended, it was stated at the clerks' hall, until the merchandise placed on the sale shelves by the "invading" teamsters has been removed to the store's warehouse. Then the clerks will put it back on the shelves and the store can be reopened.

Teamster officials refused to comment on what the clerks branded as raiding. . . . The clerks customarily and traditionally shelve and sell the goods after the teamsters have delivered them to the store. But . . . during the war when man power was scarce the clerks raised no objection to teamsters helping out by shelving wares. Now . . . the teamsters refuse to give up their gains procured during the emergency and many clerks are unemployed. So the clerks want back the work that they claim is theirs by precedent and practice.

The argument outlined above was a dispute over work jurisdiction. Another type of jurisdictional dispute is over the right to organize and sign up as union members the employees in a given occupation or industry. The

⁹ *Los Angeles Times*, Apr. 23, 1949.

real issue is the same in both cases, the control of a given class of jobs by a given labor organization. Two unions which are noted for their aggressive raiding tactics (known as "cannibalism" in union circles) are the UMW's District 50 and the Teamsters. The split between the AFL and the CIO has greatly aggravated the problem of raiding, since both federations frequently have member unions claiming jurisdiction over identical groups of employes. The Retail Clerks (AFL) and the Retail, Wholesale and Department Store Union (CIO) are examples.

No type of labor dispute has received less sympathy from employers and the public than the disagreement over jurisdiction. To outsiders it looks like petty bickering over matters which should be beneath the dignity of grown men, as for example, the right to put groceries on shelves. And since the union's only real weapon is the strike, the penalty is visited directly on the employer and his customers and only indirectly on the cause of it all, the other union. The AFL, among whose members most jurisdictional disputes arise, has recognized this by trying for years to settle the arguments within the family. The AFL's major departments (of the building and construction trades, the metal trades, the railway employes, and the maritime trades) have had as one of their major duties the resolution of jurisdictional disputes among member unions. In 1947, the Taft-Hartley Act flatly banned work stoppages as a result of jurisdictional disputes, making them an unfair labor practice, controllable by injunctions, cease-and-desist orders, and suits for damages.

Within the CIO, the problem is much less serious. The dispute over jurisdiction is directly associated with the principle of exclusive, craft unionism, according to which the limits of a given labor organization are defined in terms of the kind of work done. These limits are much more easily drawn between industries in modern industrial society than between crafts or trades, since the latter are undergoing constant revision due to technological advances and the substitution of machinery for manpower. Hence, CIO unions, operating on the principle of inclusive, mass membership, are much less liable to find themselves "encroaching" on the preserves of another industrial organization. The traditional locale of the jurisdictional dispute is in the building trades, where bricklayers, carpenters, electrical workers, hod carriers, lathers, painters, plasterers, plumbers, roofers, and sheet-metal workers may be engaged on the same construction job and frequent opportunities arise for dispute over the right to do a particular job. One of the few positive suggestions received from labor leaders during the hearings over the Taft-Hartley Act was the suggestion of Philip Murray, president of the CIO, that limitations might be placed on jurisdictional disputes.

However, notwithstanding the general attitude toward jurisdictional disagreements, they continue to arise and present very thorny problems of

settlement. To the union actually involved, an "encroachment" or "invasion" by another union is just as serious a threat to its security as the union-breaking tactics of an employer and must be resisted at all costs. A union is a going concern, a quasi-corporate body with a constitution, bylaws, an official structure, and a treasury. A union represents a body of vested interests of both officers and members. A loss of jurisdiction to another union means a loss of jobs for its membership, a drop in prestige, and a reduction in income.

Nor is the employer entirely neutral in such disputes. Many employers have preferences among unions, and there are large numbers of cases on record where recognition has been freely extended to one labor organization at the same time that it was being denied to another which claimed an equal or superior right to be considered the bargaining representative of the employees. A considerable number of NLRB decisions have required the employer to discontinue dealing with one union and substitute a contract with another which has proved a wider membership among the employees. Jurisdictional disputes will continue to arise as long as several hundred autonomous, sovereign trade unions compete for employees and jobs within an active industrial society. The principal policy question is how to settle them. On this score, the case seems good for arbitration by a public body, to avoid subjecting employers and the public to stoppage of service.

✓ **The Checkoff.** Union security is founded upon a stable and established membership, the road to which is union job control. Membership means bargaining power and support. And support means money. It would be wrong to overemphasize the importance of financial support, as though that were all the union wanted from its members. There is no substitute for high morale, which shows itself in the solid backing of union policies, the disciplined execution of necessary but unpleasant duties such as strikes, and the willing performance of the many detailed and minor tasks incident to union operation such as committee work and shop stewardship. Nonetheless, in the present advanced state of union organization, the treasury is a vital factor in success or failure.

The source of union funds is the membership, but the assumption that a given membership *automatically* produces the income expected of it is an error. Union dues are assessed like taxes, in small amounts from large numbers of people, to be paid periodically, month by month. Their collection is a job in itself, and union members, being much like anyone else, are negligent, forgetful, short of cash, and likely to fall in arrears. Once in arrears, the sum owed grows rapidly and may soon assume the proportions of a problem to the workingman who is trying to spread his pay over the current expenses of a family and payments on a car, a radio, or a house. It does not improve his relations with his union to be dunned for the back payments. At the same time, it takes a great deal of time, energy, and tact on the part

of local officials to keep all members in good standing and the treasury in the black. The obvious solution, just as in the case of income taxes, is a payroll deduction to be paid over to the union by the employer. This deduction is called "the checkoff."

An advantage of the checkoff, from the standpoint of the national union, is that the payment is often made to the international headquarters, rather than to the local, with the national remitting the balance due to the local union. This frees the national officers from what could be an embarrassing financial dependence upon the local chapters of the union. A typical contract provision dealing with the payment of fees, dues, and assessments is the following excerpt from the agreement between the Carnegie-Illinois Steel Corporation and the Steelworkers union:¹⁰

The Company, for said employees, shall deduct from the first pay of each month the Union dues (not to exceed \$2.00), for the preceding month and promptly remit the same to the International Secretary-Treasurer of the Union. The initiation fee of the Union (not to exceed \$3.00) and assessments (not to exceed \$2.00 per year), as designated to the Company by the International Secretary-Treasurer of the Union, shall be deducted by the Company and remitted to the International Secretary-Treasurer of the Union in the same manner as dues collection.

The arguments against the checkoff are that it is, in effect, a form of taxation by a private body, and where the agreement is entered into between the union and the company without individual employee ratification, it may result in a pay deduction contrary to the wishes of the employee. This is particularly true where the agreement makes the checkoff "irrevocable." The union member is then in no position to withhold his dues and assessments in protest against union policy or action with which he disagrees or which he considers detrimental to his own rights or interest. The Taft-Hartley Act took these criticisms into account by making the ratification in writing by the individual employee a prerequisite to the checkoff as applied to him and making one year the maximum length of time that such a ratification could be irrevocable.

The checkoff also, of course, is clearly a case of assistance to the union from the employer, at the latter's trouble and expense. This might seem to come under the prohibition of the second employer unfair labor practice of the Wagner and Taft-Hartley acts (any form of assistance, financial or otherwise, to the union is an unfair labor practice), but the National Labor Relations Board has ruled otherwise. Some employers, however, resist it on these grounds and charge the union at cost for the service so rendered.

Union Security in General. The student of labor economics should make a clear distinction in his own mind between arrangements for *union* security

¹⁰ *Classified Provisions*, p. 48.

and contract provisions which protect the security of *union members*. They are two different things, and of the two, union security comes first. "Union security" means the protection of the organization, its contractual status with the employers, its right to control and allocate jobs, its permanent sovereignty within a given jurisdiction, regardless of the welfare of its members or of the employing unit. It is on these grounds that the union calls upon its members to impoverish themselves and the employer (and perhaps the community) through strikes and boycotts, giving up more in loss of wages than they can possibly recoup in the foreseeable future, whenever the security of the organization itself is threatened. The argument is simple: Without a union, the employe has no security and so should be ready to make any sacrifice in the short run to strengthen the interests of the institution which permanently represents his interests and the interests of others like him.

This is not to imply, of course, that the union is uninterested in the security of its members. Far from it. Every union wants a good contract, and no contract is good unless it carries a number of provisions designed to protect the security of the individuals that have named the union as their bargaining representative. It is a different kind of security, of a lower order than that of the union itself, but still high on the list of the union's requirements. The principal member-security provisions of union contracts have to do with seniority, severance pay, and grievance procedure. An important element of member security, which is seldom referred to in the contract but on which unions have very definite attitudes, is the introduction of technological improvements, or the use of machinery and improved work processes to reduce the number of employes required.

A Good Contract

The most important institutional change that unions have brought about in modern society is to formalize the employment agreement. In the absence of unions, few contracts of employment are even discussed at any length and still fewer are reduced to writing. A typical hiring on an individual bargaining basis consists of an employer's announcement of the wage rate and the authorization of an applicant to report to work. Sometimes even the wage rate is not mentioned. The employer may or may not subsequently tell the employe the firm's policies regarding work assignments, overtime, transfer, promotion, demotion, discharge, layoff, vacation, sick leave, seniority rights, and discipline. The employer may not even have any such policies, relying rather on *ad hoc* decisions as problems arise. For the new employe without union representation, the customary source of information on such matters is the grapevine, supplemented now and then (in the case of pro-

gressive firms) by a manual of instructions telling *him* what he should do and expect, but with little emphasis on the reciprocal obligations of the employer in the policy areas listed above.

These obligations come to light in successive stages as situations arise and the employee is notified of management's decision. *In the customary case, under individual bargaining*, there is no consultation of the employee's wishes, no request for his opinion, no interest in his reaction, and no opportunity for him to protest. Both policy and administration in personnel matters are strictly unilateral, authoritative, and often arbitrary.¹¹

Unionization makes two big changes in this picture. First, there is a full and complete exploration of the employer's policies, conducted by an independent and suspicious third party (the union) representing the interests of the workmen. Second, the employer's personnel policies are made explicit, in writing, with emphasis on the *privileges of the employees*—the subject matter which was formerly omitted in even the rare cases that employers furnished manuals of information. The second of these, the contract, is the subject of this section. The first, the tactics of collective bargaining, will be described in the next chapter.

The Union Contract. The new employee who is hired under a "trade agreement"¹² nowadays is relatively well informed as to his rights and privileges on the job. Before he goes to work or even applies, he may look over the union's contract with the employer and get a detailed picture of the situation from the "working rules" covering: wages; hours of work and scheduling; the treatment of tardiness, absenteeism, and other rule violations; the handling of overtime, holidays, call-outs, and vacations; his seniority rights; the reasons for suspension and discharge; how layoffs will be handled; the grievance procedure; and many special items such as lunch periods, insurance, medical service, and training programs. It is all down in black and white in a pocket-sized pamphlet which the union (and the employer) will urge him to study and which his union representative will be glad to explain to him if he has any questions.

¹¹ In case this description should be considered excessively severe, the reader is challenged to interview a series of rank-and-file employees of nonunionized firms regarding the policies of those companies in the "preunion" days of the 1920's or the early 1930's. The statements above fairly represent the author's experience as a rank-and-file employee in a variety of large industrial corporations over a period of several years. They are thoroughly accurate, for example, when applied to a large automobile manufacturer, employer of more than 100,000 workers, for whom the author worked 5 years in both plant and office jobs. The standard grievance procedure of this firm, for example, was for the supervisor to ask the employee: "Are you dissatisfied?" If the employee wanted to continue in his job, there was only one answer to the question.

¹² Means the same thing as "union contract." There are a number of such terms—"labor agreement," "union-management agreement," "collective agreement," "working rules," etc.—all of which stand for the written agreement reached through collective bargaining between management and a union.

Nor is the protection afforded by his contract a remote and nebulous affair to the union member. It is a dynamic, living set of principles governing every minute of his working time, with an official representative of the union (the shop steward) stationed close by to carry a protest to management whenever the employer's obligations are not carried out. This is in startling contrast to the positive, one-sided treatment of preunion days, especially in the case of the relatively defenseless unskilled and semiskilled workmen of many large firms. To such men, it may well seem that they have acquired industrial citizenship for the first time. It is no wonder that they support their union with a zeal bordering on fanaticism, often without regard to logic or personal consequences. No understanding of the spirit of trade unionism or of the typical union man's regard for the "rules" is possible without an appreciation of this fundamental change in his position relative to management. It is unlikely that this status will be readily given up by anyone who has sampled both.

Union contracts are by no means uniform in size or content. Since they are collections of working rules, governing the relations of the employer, the union, and the union members, they necessarily vary according to the industries or occupations to which they apply. Since they deal with problems which arise in employment relations, they develop over time and new provisions are negotiated as new problems appear. The typical union agreement is rather lengthy, detailed, and complicated. It has two aspects: reciprocal rights and obligations between management and the union, *as an organization* (union-security clauses, no-strike obligations, etc.), and reciprocal rights and obligations between management and the employees covered by the agreement, *as individuals*.

What is a good contract?

A good union contract is one which (1) has an adequate coverage (sets up rules establishing the reciprocal obligations of management, the union, and the employees in all areas where controversy is most likely to arise), (2) provides security for the union and its members, (3) establishes high standards of employment (wages, hours, and working conditions) (4) outlines a judicial procedure for interpreting and applying the contract to actual work situations (the grievance procedure), and (5) provides for its own modification, renewal, or termination. Let us see how the contracts of one union, the United Steelworkers of America (CIO), meet this test.¹⁸

¹⁸ The illustrations which follow will be taken from union agreements negotiated by the United Steelworkers of America (CIO) with the foremost employers in the steel industry, which are set forth in *Classified Provisions*, June, 1948. Both the union and the industry are among the leaders in power and influence in this country, and their bargaining helps to set the national pattern of industrial relations. Their contract provisions are thus of great significance and are often used as models by negotiators in other fields.

1. *Adequate Coverage.* What are the subjects that must be dealt with in a trade agreement to ensure coverage of the major issues arising between management and the workers? One way to find out is to see what a representative and influential union includes in its contracts. The provisions of agreements between the Steelworkers and 36 of the more important employers in the steel industry have been catalogued and classified by the American Iron and Steel Institute,¹⁴ under the following topic headings.

Outline of Provisions of Contracts of the United Steelworkers of America (CIO) with 36 Major Employers¹⁵

1. *The agreement*

Purpose and intent

Definitions, employee and bargaining units

Guards, inclusion within the agreement

Recognition of union

Regular meetings of the parties

Maintenance of membership

Checkoff

Management, rights and functions

Bulletin boards, union use of

Government regulations, limitations upon agreement

Prior agreements

Local agreements

Termination of agreement

Termination date

Negotiating a new agreement

Address for written notice

Successors or assigns

Signatures

2. *Local working conditions, changes of*

3. *Wages*

Standard hourly scale

New or changed jobs

Apprentice rates and learners

Conversion of existing rates

Incentives

Inspection of scales

Correction of errors

Paydays

Obsolete practices

¹⁴ One of the agreements in the collection was with a federal labor union (AFL), the remainder with the Steelworkers (CIO).

¹⁵ The arrangement of topics has been changed slightly from the order adopted by the American Iron and Steel Institute.

- Inequity grievances
- Completion of inequity program
- Shift differential
- Women

- Portal-to-portal pay

4. *Hours of work*

- Normal hours
- Scheduling of work
- Absenteeism and lateness
- Overtime
- Reporting allowance and other allowed time
- Lunch periods and in-plant feeding

5. *Holidays and vacations*

- Vacations
- Eligibility and length
- Effect of holidays
- Part-time employees
- Scheduling
- Vacation pay
- Time of payment
- Allowance in lieu of
- Loss of vacation
- Military service, vacations

6. *Severance allowance*

- Conditions of allowance
- Eligibility
- Scale of allowance
- Calculation of allowance
- Payment of allowance
- Nonduplication of allowance

7. *Seniority*

- General
- Study of
- Seniority units
- Calculation of continuous service
- Decrease in force and rehiring
- Reduction in hours
- Committeemen and union officers
- Temporary vacancies
- Posting of job openings
- Contracting of work in plants
- Promotions and demotions
- Transfers
- Probationary, part-time and temporary employees
- Loss of seniority
- Leave of absence

- Supervisor and others not in unit
- Military service, reemployment
- 8. *Apprentice training program*
 - Apprenticeship committee
- 9. *Safety and health*
 - Safety committee
 - Insurance and medical service
- 10. *Suspension and discharge*
 - Rules and regulations
- 11. *Grievance procedure*
 - Purpose
 - Discussion of request or complaint
 - Definition of grievance
 - Filing of grievance
 - Processing of grievance
 - General provisions applying to appeals
 - Company and union grievances
 - Suspension of procedure
 - Waiver of procedure
 - Access to plant
 - Committeemen
 - Step 1
 - Step 2
 - Step 3
 - Step 4
 - Arbitration

It will be seen immediately that information on even a few of the items listed above is a far cry from the almost total ignorance of the employe under individual bargaining as to his own status. It is of perhaps equal significance to the workingman that he has a *right to know* the terms of his employment and may at any time ask to have a provision clarified or explained. This, however, brings up one of the big issues of which employers have complained. The contract is down in writing, while working conditions in an industrial plant are a very fluid thing. Adjustment and interpretation of the meaning of contract provisions are required constantly. It is true in some cases—perhaps, as employers have argued, in many cases—that informing employes of their rights tends to produce a group of “sea lawyers,” workmen who are more concerned over their privileges than their performance, to the detriment of the cooperation necessary to produce efficiently.

There is no doubt that operating under a union contract, with its explicit statement of the mutual rights and obligations of the employer and the employes, provides a natural forum for the troublemaker, or that troublemakers do exist. The alternative, however, as the union is quick to

point out, is authoritarian direction by management and the assumption that employes cannot be trusted to know the terms under which they work. This is the real test of joint relations, and the answer is to be found in day-to-day administration of the agreement, which comes to a focus in the relations between first-line supervisors (foremen) and the union agents in the shop or on the job. If they can cooperate amicably and sensibly on a practical basis, there is little to fear from troublemakers, whether of the boss or the worker variety. It is a fact that such cooperation is in effect in literally thousands of industrial, commercial, and construction operations all the time.

It will be noted that the Steelworkers' agreements are very comprehensive. Relations between the employer and the union are covered in the provisions listed under Sec. 1, "The Agreement." They include such vital matters as recognition and union security, the rights and functions reserved to management, the standing of prior and local agreements, arrangements for the parties to meet and consult, and explicit understandings with regard to termination and renegotiation of the contract. The balance of the contract is concerned with the rights and obligations of employes: wages, hours, and working conditions (Secs. 2-5, and 9); the apprenticeship program (Sec. 8); discipline (Sec. 10); and employe security (Secs. 6, 7, and 11). This by no means exhausts the possibilities of contract coverage. The railway-operating brotherhoods, for example, have much more extensive agreements, with many variations in seniority procedure and extensive definitions of the working day. The special problems of building construction, in turn, call for contract provisions which are unnecessary in work-places where employment is more regular and routine. And so it goes. However, few union-management agreements would be considered complete without some statement of the rights and obligations described under the 11 major headings listed above.

2. *Union and Employe Security.* The Steelworkers believe in security. For the union, the typical reliance is upon maintenance of membership. The standard clause is as follows:¹⁶

All Employees who, 15 days after [date] are members of the Union in good standing in accordance with its constitution and by-laws and all Employees who become members after that date shall, as a condition of employment, maintain their membership in the Union in good standing for the duration of this Agreement.

Security for the employes, on the other hand, is more complicated. It is protected mainly by a schedule of severance allowances (dismissal pay), contractual enforcement of seniority clauses, and a very complete grievance

¹⁶ *Classified Provisions*, p. 41. Used by Bethlehem, Carnegie-Illinois, Colorado Fuel and Iron, Inland, Jones and Laughlin, Republic, and Youngstown Sheet and Tube companies, among others.

procedure. The employee is therefore given financial protection against loss of his job, has explicit seniority rights to opportunities for promotion, and the same provisions establish his position in the scheduling of layoffs and rehiring. A typical seniority provision is the following:¹⁷

The parties recognize that promotional opportunity and job security in event of promotions, decrease of forces and rehiring after layoffs should increase in proportion to length of continuous service, and that in the administration of this Section the intent will be that wherever practicable full consideration shall be given continuous service in such cases.

Seniority is still a very live issue between unions and management. To the union and the long-service workman, it represents security through job control. It rules out the elimination of older employees through the casual method of the general layoff and failure to rehire those above a certain age, and it forces recognition of the "service" factor, which is objective, measurable, and easily ascertainable, relative to the "efficiency" factor, which is (to employees, at least) often subjective, arbitrary, and whimsical in application. Above all, it establishes *certainly* of employee status, rather than the harrassing fear of being "next" on management's list in time of retrenchment.

The employer's argument is equally valid, from the standpoint of managerial responsibility. Who can say what the shifts of consumer demand and technological improvement are going to bring? A machine, a process, a department, which yesterday was essential, may tomorrow be rendered obsolete. The employees affected may be well trained, efficient, with long service records. On the other hand, they may also be specialized and incapable of retraining into work anything like as valuable as what they have been doing. If they must be kept and converted to new jobs, while the occupiers of those jobs are let go, what happens to efficiency and output and cost and price? The first two go down and the last two go up. It is management's obligation to the customers and owners to produce at the most efficient level possible, and achievement of that aim is in the long run the most beneficial to the employees.

The above is the retrenchment argument; it is even stronger on promotions. Promotional seniority implies that ability increases in direct ratio to experience, a thesis which even union officials do not try to defend. Yet many unions want an uncompromising seniority rule for promotions as well as layoffs and rehiring. The result of the argument is very often a compromise like that quoted above, with management promising to give full consideration to length of service and to make seniority the basis of decision if other things are equal

As a supplement to seniority provisions regarding layoff, the Steel-

¹⁷ *Ibid.*, p. 345.

workers often negotiate a schedule of dismissal-pay allowances which protect the long-service worker who loses his job due to permanent curtailment of operations. The standard clauses are as follows:¹⁸

When, in the sole judgment of the Company, it decides to close permanently a plant or discontinue permanently a department of a plant or substantial portion thereof and terminate the employment of individuals, an employee whose employment is terminated either directly or indirectly as a result thereof because he was not entitled to other employment with the company . . . shall be entitled to a severance allowance in accordance with and subject to the following provisions. . . .

An eligible individual shall receive severance allowance based upon the following weeks for the corresponding continuous Company service:

<i>Continuous Company Service</i>	<i>Weeks of Severance Allowance</i>
3 years but less than 5 years	4
5 years but less than 7 years	6
7 years but less than 10 years	7
10 years or more	8

No particular issue is raised by severance allowances, other than the adequacy of the payment. The employer's position is that he can provide for them if asked to do so, but the establishment of the necessary reserves will inevitably force a reduction in the wages payable currently. The result will be lower pay, spread over a longer period of time. The union's angle, on the other hand, is that the maximum payment (8 weeks' pay) is inadequate for the lifetime employee who may be forced out after 15, 20, or 25 years of service. For this group of workmen, unions are now bargaining for pensions and some of them—the United Mine Workers, notably—are successful. The issue here is primarily whether the retirement allowance should be publicly or privately financed, *i.e.*, be paid through tax-supported social security or an industry tax, like the royalty on coal tonnage mined by UMW members.

The severance allowance is one form of attack upon a very fundamental form of employee insecurity—the inroads of machine technology upon jobs.¹⁹ The issue of technological unemployment, as was pointed out in Chap. 7, calls for different answers in the long and the short run, in times of full and of low employment, and in the case of industries with elastic demand for their products and those with inelastic demand. The union view is less complicated. Machines (in fact, any type of improvement of process or organization) cut down the number of jobs, thereby reducing the support base of the union's membership. There is no gain to the union if it loses 10 jobs while 20 more are being gained in another industry in another location under another union's jurisdiction or outside the jurisdiction of any

¹⁸ *Ibid.*, pp. 663, 674.

¹⁹ It will be recalled that one theorist, Frank Tannenbaum, has held this to be basic as a cause of worker insecurity and the prime reason for union organization (see above, pp. 385-386).

union. It did not take Keynes's observation to teach trade unionists that "in the long run we are all dead." So the union traditionally opposes technological improvements.²⁰

This opposition, ranging all the way from last-ditch resistance to semi-cooperation (in which the union agrees to permit the change if its members are guaranteed against discharge and given job rights on the new equipment against all comers), is regarded by employers and by many outsiders ordinarily sympathetic to the aims of organized labor, as the blackest mark on the union record. It appears to be a selfish and unenlightened attempt to block the main stream of progress in modern times, which is the application of science to the production of goods and services. The effort has seemed the more unenlightened because it has usually failed.²¹ When it succeeds, the result is "featherbedding" or "make-work" policies, which are so conspicuously wasteful as to alienate almost any third party standing in judgment on their social usefulness.

Examples of these practices are: the Musicians' "stand-bys" (union players who "stand by" and receive pay for putting in their time while nonunion musicians perform); the Typographers' rule that "boilerplate" (syndicated material cast in column sections so as not to call for linotyping or hand setting in the shop) can be used if a union member is assigned the work of resetting the entire material by hand at union wages; and so on. Featherbedding is a term applied to some rules of the railway operating unions which require more men on a train crew than are needed to do the work, or of collecting pay for doing nothing, due to a jurisdictional encroachment by the members of another union upon instructions from management. Neither make-work nor featherbedding is pretty. They are as unpleasant to the eye and to the nose as some of the practices of "blue-sky" securities salesmen, stock-market operators and "pool riggers," wartime profiteers, merchants and manufacturers who short-weight customers and adulterate their goods with shoddy materials, and loan sharks that take

²⁰ An example of the typical union attitude is found in *Labor*, Mar. 26, 1949. It is a news item headed "'Belt Conveyor' Called Threat to Rail Jobs in Ohio." It continues: "Thousands of railroad jobs in Ohio are facing a new threat which may be even more serious than the Lake Erie-Ohio River canal which has long been opposed by Standard Railroad Labor Organizations. H. B. Stewart, Jr., president of the Akron, Canton and Youngstown Railroad, announced that the Ohio State legislature is being asked to charter a new private corporation to build and operate a 103-mile conveyor belt system between Lorain on Lake Erie and East Liverpool on the Ohio River. Branches of the system would run to Cleveland and Youngstown. . . . After preliminary study, the Cooperative Legislative Committee of the Railroad Brotherhoods in Ohio issued a statement saying that 15,000 rail employees will lose their jobs if the conveyor project goes through. The carriers are also fighting the project."

²¹ See Sumner H. Slichter, *Union Policies and Industrial Management*, Chaps. VII-IX (Washington: Brookings Institution, 1941), for a detailed and understanding discussion of the union policies, which are applied to the problems of technological change.

advantage of customer need to charge excessive interest rates. Happily, the extremes of make-work and featherbedding are no more typical of trade unionism in general than are the business practices just mentioned typical of the entire business world. It is different, however, with resistance to technological change. Union resistance is standard and traditional, and trade unionists think they have a point.

The union angle on substitution of machines for men is that the change will not be made if it does not improve the employer's earnings position, and since the impact of the change is very severe on, typically, a

Standard Hourly Wage Scale*

The following standard hourly wage scale of rates for the respective job classes shall become effective Apr. 1, 1947, and remain in effect for the duration of this Agreement.

Job class	Standard hourly wage rate	Job class	Standard hourly wage rate
0-1	1.09	16	1.69
2	1.13	17	1.73
3	1.17	18	1.77
4	1.21	19	1.81
5	1.25	20	1.85
6	1.29	21	1.89
7	1.33	22	1.93
8	1.37	23	1.97
9	1.41	24	2.01
10	1.45	25	2.05
11	1.49	26	2.09
12	1.53	27	2.13
13	1.57	28	2.17
14	1.61	29	2.21
15	1.65	30	2.25

* *Classified Provisions*, p. 88. The "scale" was identical for a number of companies, reflecting the effect of centralized bargaining by the national union.

small number of workmen, a part of the gain might well be shared with those employes through a security guarantee. The union may also point out that these changes take place most often in large establishments, which have a regular turnover. All the employer needs to do, then, is to stop hiring and rearrange his present staff until the slack is taken up and the displaced employes are comfortably settled in new jobs. The union argues that employes are not alone in putting personal security above advancement of the race and that if there is a gain in efficiency, some of its advantages may well be applied to the point of greatest cost, the loss of employment by displaced workmen.

3. *Wages, Hours, and Working Conditions.* These provisions are the heart of any collective agreement and the most common subjects of collective negotiation. A good contract calls for high wages, short hours, holiday and vacation allowances, good working conditions, and a number of protective devices to ensure these benefits to the covered employees. The basic data on wages are found in the "standard hourly wage scale." A sample scale is shown above.

The scale, in turn, is supplemented by a complete listing of all jobs covered by the agreement, classified according to the job class into which they fall. The balance of the clauses under the wage headings are concerned with special or exceptional cases (apprentices, learners, women, shift differentials, etc.), problems arising when rates are changed as a result of the addition of new duties to a job (conversion of existing rates), and the correction of errors, inequitable differentials between jobs or classes, etc. It is therefore possible for any moderately literate workman to consult the "rules" and find out the rate applicable to his own job and any special exceptions which might apply and see just what his position is relative to all others in the organization.

Hours-of-work clauses are primarily another dimension of the pay problem, since the normal hours of work are essentially the base period during which the standard hourly wage scale is in effect, before overtime pay starts. They may also contain guarantees of the number of consecutive hours of rest in the work week, and may or may not include a definition of overtime and the scale of overtime pay. A set of sample clauses, used by U.S. Steel subsidiaries, is given below:²²

1. *Scope*

This Section defines the normal hours of work and shall not be construed as a guarantee of hours of work per day or per week. This Section shall not be considered as any basis for the calculation or payment of overtime which is covered solely by Section 11—Overtime.

2. *Normal workday*

The normal workday shall be 8 hours of work in a 24-hour period. The hours of work shall be consecutive except when an unpaid lunch period is provided in accordance with prevailing practices.

3. *Normal work pattern*

- a. The normal work pattern shall be 5 consecutive workdays beginning on the first day of any 7-consecutive-day period. The 7-consecutive-day period is a period of 168 consecutive hours and may begin on any day of the calendar week and extend into the next calendar week. On shift changes, the 168 consecutive hours may become 152 consecutive hours depending upon the change in the shift.

²² *Classified Provisions*, p. 213.

- b.* A work pattern of less or more than 5 workdays in the 7-consecutive-day period shall not be considered as deviating from the normal work pattern provided the workdays are consecutive.

The above is the "normal" pattern; what of the irregularities which must necessarily arise in a complex industrial operation? One example is the "reporting allowance," or "call-out" time. In the Big Steel subsidiaries, a call-out is handled as follows:²³

4. *Reporting Allowance*

- a.* An employee who is scheduled or notified to report and who does report for work shall be provided with and assigned to a minimum of 4 hours of work on the job for which he was scheduled or notified to report or, in the event such work is not available, shall be assigned or reassigned to another job of at least equal job class for which he is qualified. In the event, when he reports for work, no work is available, he shall be released from duty and credited with a reporting allowance of 4 times the standard hourly wage rate of the job for which he was scheduled or notified to report. When an employee, who starts to work, is released from duty before he works a minimum of 4 hours, he shall be paid for the hours worked in accordance with Section 9—Rates of Pay—and credited with a reporting allowance equal to the standard hourly wage rate of the job for which he was scheduled or notified to report multiplied by the unutilized portion of the 4-hour minimum.

There are other problems—lunch periods, unusual work schedules, the treatment of absence and tardiness, etc.—and for them there are other provisions. As little as possible is left to chance, and where it is, there is consultation between the representatives of management and the union.

As was indicated above, overtime may be handled separately. It often is, for the simple reason that overtime provisions become very complicated and take up more space than that used to describe the basic hours formulae. The standard rate for overtime in the steel industry is time and one-half. The overtime clauses related to the hours-of-work provisions above list the following circumstances as entitling the employee to extra pay:²⁴

1. Hours worked in excess of 8 hours in a workday
2. Hours worked in excess of 40 hours in a payroll week
3. Hours worked on the sixth or seventh workday in a payroll week during which work was performed on 5 other workdays
4. Hours worked on the sixth or seventh workday of a seven (7) consecutive-day period during which the first five (5) days were worked, whether or not all of such days fall within the same payroll week [with some exceptions]
5. Hours worked on January 1, Memorial Day, July 4, Labor Day, Thanksgiving day, Christmas Day.

²³ *Ibid.*, p. 271.

²⁴ *Ibid.*, p. 247.

Another element of the wages and hours problem is the handling of holidays and vacations. In the steel industry, vacation allowances are quite uniform. The standard provisions, in effect in 32 of the 36 contracts analyzed by the Institute, were as follows:²⁵

1. Subject to the conditions hereinafter provided, employees shall be entitled to vacations with pay in each calendar year during the term of this Agreement contingent upon their individual length of service in such year as follows:

Less than 1 year.....	None
1 year but less than 5 years.....	1 week
5 years but less than 25 years.....	2 weeks
25 years or more.....	3 weeks

The foregoing does not settle the matter entirely, however. What about part-time employees, the scheduling of individual time off, cases where employees would prefer to have the money as a bonus and continue at work, time off for military service in reserve units, and the like? All are covered by specific provisions, the purpose of which is to reduce the area of misunderstanding and ensure a meeting of minds in the application of the agreement to the tens and hundreds of thousands of individuals whose rights are thus outlined.

"Working conditions," a rather general term, is given more general treatment than wages and hours. One way to handle this problem is to guarantee that local working conditions will not deprive employees of any of the benefits awarded them under the agreement. The reciprocal of this is to guarantee the continuance of local practices more beneficial than those set forth in the contract, as in the following:²⁶

Section 6. Local Conditions and Practices. This agreement shall not be deemed to deprive employees of the benefit of any local conditions or practices consistent with this agreement which may be in effect at the time it is executed and which are more beneficial to the employees than the terms and conditions of this agreement.

A more specific angle of the problem of working conditions is safety and health. Most steel contracts contain definite guarantees of maintenance of safe workplaces and the furnishing of protective equipment. A sample provision (with Continental Steel Corporation) is the following:²⁷

1. The Corporation shall continue to make reasonable provisions for the safety and health of its employees at the plant during the hours of their employment. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury shall be provided by the Corporation in accordance with the practice now prevailing in each separate plant.

²⁵ *Ibid.*, p. 287. The quotation is from the contract with the American Rolling Mill Company.

²⁶ *Ibid.*, p. 16, from the Inland Steel Company contract.

²⁷ *Ibid.*, p. 474.

The data set forth in the preceding pages describe high wages, short hours, generous overtime and holiday allowances, and good working conditions, in short, high standards of employment. What are the issues involved?

The basic issue is that of pay, which includes many other factors beside basic rates, as will be explained a few pages farther on. Wage demands outnumber all others in collective bargaining negotiations, and a variety of arguments have been developed to support requests for wage increases. Slichter has listed "seven principal criteria [which are] . . . used in negotiating wage changes":²⁸

1. The minimum necessities of workers
2. Changes in the cost of living
3. The maintenance of take-home pay in the face of reductions in hours
4. Changes in the productivity of labor
5. The ability (or inability) of the employer to pay
6. The alleged effect of higher or lower wages upon consumer purchasing power and employment
7. The wages paid in other industries or places

The first and third of the above are union arguments solely, while the rest are employed by either party when the data are advantageous to its side. Items 1, 2, and 3 above are all based on the cost-of-living issue. The union supports its arguments by comparing minimum or average earnings of its members with standard budgets prepared by public and private research agencies, and by presenting as exhibits the cases of "typical" wage earners and their families. The budget-versus-earnings problem is strictly one of which budget and which earnings. For example, the Heller Committee for Research in Social Economics at the University of California (Berkeley) works out a series of budgets each year, based on prices in San Francisco. In 1945, the Heller "subsistence" budget for a family of four was \$1,528.92, but the "wage earner" budget (equivalent to the usual social-service "minimum health and decency" budget) for the same family was \$3,075.72. The former would be covered rather easily by the earnings of practically any union worker, but the latter would run above some union take-home pay, since it was equal to 52 weeks' earnings at \$59.15 a week, or a full year without loss of time at \$1.48 an hour.

If these comparisons are not striking enough, the union may present some individual cases as exhibits. CIO unions, with their relatively low-paid memberships, have been especially prolific with illustrations of this sort. The exhibits are rarely "typical" families of four; more likely they are families of seven or eight, and the question is raised how all of them are to be fed

²⁸ Sumner H. Slichter, *Basic Criteria Used in Wage Negotiations*, pp. 8-9 (Chicago: Chicago Association of Commerce and Industry, 1947).

and clothed on earnings of \$50 a week, or whatever the rate is that is under discussion.

The employer's counter to the union budget figures may be budgets of his own selection, or disagreement over which budget should be used, or general criticism of the budget method of estimating living standards. There is plenty of room for such criticism, *e.g.*, regional and local differences in costs; varying efficiency of household management; consumer production of food, clothing, housing, and recreation in the home, and so forth. To the individual cases, the employer cites the number of instances where more than one wage earner contributes to the family budget, especially in large families. Or the management representatives may turn to one of the other wage criteria which is in their favor.

Item 4, changes in labor productivity (and cost), is used more by employers than by unions for two reasons. (1) Improvements in labor cost are rarely as large or as dramatic as wage demands, and their introduction gives a factual and statistical basis to discussions that employers like. (2) The data on labor costs are in management's hands and customarily are not available to the union. This issue, however, has a definite cyclical flavor. In boom times, the argument tends to be favorable to employers. Wage demands are sizable and labor efficiency relatively low. In recession, the reverse is true. Labor efficiency rises, and wage demands are damped down by unemployment, curtailed operations, and the fall of prices.

Item 5, the ability of the employer to pay, was about the hottest issue raised in union-management circles at the end of the Second World War. It was used with good effect by Walter Reuther, president of the United Automobile Workers, in negotiations with General Motors in the big strike of 1945-46, and supplemented his demand to "look at the books" of the corporation. The company refused point-blank, in this case, contending that the over-all cost and profit picture of the company was no business of the union, so long as wages were equal to or better than any others in the industry or in comparable occupations elsewhere. The management view is that basing wages on the employer's ability to pay would create grave inequities for workers, since it would mean large discrepancies between the wages of employees doing equivalent work in well and poorly managed companies. It is also pointed out that several groups contribute to the productive process, among which are owners and the management staff, and that some of the fruits of success should go to them, as well as to the rank-and-file workers who are union members.

Item 6, the effect of higher or lower wages upon consumer purchasing power and employment, introduces the "new economics" into the bargaining picture. At a superficial first glance, the Keynesian economics seems

to give unions an unanswerable argument in favor of a constant upward thrust of wages. However, a more careful examination of Keynes's wage proposals might serve to dampen such enthusiasm. It is true that Keynes left no provision for wage reductions in his suggestions of a stable level of wages in the short run, with a steadily rising wage level in the long run, geared to increasing productivity. However, that last point should be noted. Wage increases geared to increased man-hour productivity might fail to satisfy John L. Lewis, Philip Murray, or Dave Beck, if they found that the average increase over the years is in the neighborhood of 2 to 4 per cent.

Another aspect of the proposal is its generality. Keynes was talking about the *general* level of wages, and to provide equivalent increases to unions in progressive industries, it might be necessary to hold back or even reduce the rates in declining industries. A final point is the meaning of "stable," which rightly interpreted would stand for "frozen." The Keynesian proposals call for strict control of the general level of wages in the short run, on the upside as well as the downside. All in all, the total picture is not one calculated to fill a present-day union leader with glee, certainly not in a fully employed, prosperous economy, where most of the controls would be devoted to the problem of holding wages down.

Item 7, the wages paid in other industries or localities, is a standard basis for argument. It is almost always possible to show that wages for equal work in other firms, other industries, or other parts of the country are either higher or lower than those under discussion. Arriving at agreement would be difficult enough if the controversy was concerned solely with basic rates. However, the pay picture is much more complicated than that. Standard hourly rates may be a very inadequate measure of earnings, which are arrived at by multiplying the rate by the hours worked (or pieces produced) and adding a number of incidentals, or "fringe" items.

Union demands nowadays are customarily prepared in the form of a wage "package," which may include: (1) a guarantee of number of hours to be worked (the guaranteed wage: daily, weekly, or yearly), (2) special overtime pay provisions (an increase in rate or a more rigid definition of the normal working day or week), (3) reporting allowances, (4) dismissal pay, (5) additional vacation time or holidays off, (6) shift differentials, (7) welfare funds, (8) pensions, or any feasible combination of such benefits. All bear directly on the question of earnings, in the short or the long run, and all are considered by unions to be reasonable objectives in their negotiations with management. It is easy to see that the mere problem of comparison with "wages paid" in other places may become highly involved, even if the parties are agreed on reaching equality. To simplify matters, it has become customary in some industries to bargain for a single figure of so

much an hour and then distribute it in line with the union's preference: a certain percentage addition to basic rates, another percentage to pensions or welfare funds, another to the reduction of "inequities," etc.

These are the principal issues and the principal arguments used in bargaining over wages and hours of work. Neither the list of issues nor that of arguments is exhaustive. Ingenious union representatives and equally ingenious agents of management are constantly dreaming up new proposals and new reasons why these or the older, more customary proposals should be accepted or rejected. Nor is it necessary or even usual for bargaining to be confined to the opposing sides of a single issue. In the tactics of collective bargaining, a smash through the line may be countered by an end run, and the ball can change hands rapidly during conference hours. However, familiarity with the above issues and with the logic supporting their pros and cons will be a long step toward understanding what underlies the union contract and its accompanying "industrial jurisprudence," which is becoming so important in this country.

4. *Interpreting the Contract: The Grievance Procedure.* Union contracts are eventually printed up in pocket-sized pamphlets, approximately 4 by 6 inches in size, and every union member is urged to keep a copy with him at all times. They vary in length and number of provisions. For example, the 37 Steelworkers' contracts which have been used for purposes of illustration ranged from 19 to 92 pages in length, with the average about 59. However, even an average agreement, 50 or 60 pages in length, might call for considerable study and interpretation. It is one thing to set down "rules" for the guidance of employer-employee relations and often quite another thing to apply them to actual situations. It is axiomatic and final that no union contract is complete without a clear statement of the method to be followed in settling disputes over the meaning of its clauses. This method is called the "grievance procedure."

"Grievances" are employee complaints or "gripes." Since management is boss, management of necessity interprets the contract in the first place by making work assignments, scheduling operations, directing employes to do certain things, issuing pay checks, etc. If it seems to a union member that managerial actions are running counter to the rules, he may report a "grievance" to his shop steward or his business agent, and if the latter agrees that it is a valid complaint, the grievance procedure is set in motion. The big difference between this and individual bargaining procedure is that in the absence of a union, the complaint is reported to the foreman, who is often the author of the orders or actions complained of. Probably no phase of employee relations has been more neglected, under individual bargaining, than the grievances of workers. Certainly no privilege is more highly prized by union men than the right to a full consideration of their grievances, with

successive appeals to higher and higher ranks of authority in the company and a final decision by an impartial arbitrator selected by the two parties.

Grievances may or may not be restricted to interpretation of the existing contract. Most contract terminology is broad enough to cover any dispute over wages, hours, or working conditions which may arise and threaten to interrupt operations. However, the huge majority of complaints are with respect to interpretation, and this type of dispute is customarily so designated. The main idea is to keep operations going without interruption. A typical statement of purpose of the grievance procedure is the following (from the contract of the Granite City Steel Company):²⁰

Should any differences arise between the Company and the Union, or its members employed by the Company, as to the interpretation or application of, or compliance with, the provisions of this agreement regarding working conditions or other matters, or should any local trouble of any kind arise, there shall be no interruptions or impeding of the work, work stoppages, strikes or lock-outs on account of such differences, but an earnest effort shall be made by the Company and the Union to settle such differences orderly and promptly in accordance with the procedure hereinafter set forth in this Section.

The steps in the grievance procedure are customarily laid out from start to finish in the most explicit fashion in the agreement in order to safeguard the rights of all parties: management, workers, and the union. Interpretation of the contract is the proof of the pudding. If the "rules" are considered the legal framework of employment relations, then the decisions over grievances are the final verdicts which determine the rights of parties. Hence, both management and the union keep a close watch on proceedings and are quick to challenge any act which is out of order.

One of the biggest issues in the grievance procedure arises in the very first step, the reporting of the complaint by the employee. The union would like to have every grievance reported in the first instance to the union representative (shop steward or business agent) and to him only. The union representative would then report the complaint to the first-line supervisor, as the first step in the process of settling the dispute. Management insists, with vehemence, that the employee have the right to take up any grievance directly with his supervisor, in the presence of the union representative or not, as he may choose, with the right to appeal to the union if not satisfied with the foreman's decision. The union's argument is that the shop committeeman is the employee representative on the grounds and he should know all instances of contract violation if he is to render good service. Management answers that many so-called "grievances" are merely cases of misunderstanding and can be settled promptly and satisfactorily on an informal basis, without resort to the machinery of a union-management conference. Denying

²⁰ *Classified Provisions*, p. 509.

the employe the right to approach the foreman, it is claimed, would unnecessarily complicate the exchange of information between the two and make the coordination of work at the operating level difficult and inflexible.

What is really at stake is the loyalty of the individual worker, who is at one and the same time an employe of the company and a member of the union. What management is demanding is that supervisors be permitted to compete on an equal basis with union representatives for the respect of union members by having a chance to correct misunderstandings or errors without "going to court." The typical steel contract gives the employe the right to choose.³⁰

Any employee who believes that he has a justifiable request or complaint shall discuss the request or complaint with his foreman, with or without the grievance or assistant grievance committeeman being present, as he may elect, in an attempt to settle same.

Then follow rules concerning the definition, filing, and processing of grievances. The principal stipulations are the form in which filing is to be done (in writing, usually) and the time periods in which filing, answer, and processing must take place. There may also be provisions for suspension or waiver of the procedure, access to the plant by outside (nonemploye) union representatives working on grievance questions, and the composition and personnel of the standing grievance committees.

The heart of the procedure, however, is found in the clauses of the agreement which describe the successive "steps" toward dispute settlement. These steps establish the hierarchy of appeals, through bipartisan (union-management) committees to a final point of decision by an impartial umpire. There is considerable variation, both as to the number of steps and the manner of referral to an arbitrator for a final decision, in different unions and different industries. The general pattern, however, is standard, and the provisions in the Steelworkers' agreements are thoroughly typical of the way disputes over contract interpretation are settled throughout the union-management world. Likewise, the procedure described below, taken from the Jones and Laughlin contract,³¹ is thoroughly typical of the settlement process in the steel industry, with its 1,000,000 or more employes.

First Step

Any employe who believes he has a grievance shall discuss same with his foreman. At the option of the employe, his grievance or assistant grievance committeeman may be present. If the employe is dissatisfied with the answer given by the foreman, he may request his grievance committeeman to enter a formal grievance. Should the grievance committeeman decide that the employe's(') grievance

³⁰ *Ibid.*, p. 513: Carnegie-Illinois and other U.S. Steel subsidiaries.

³¹ *Ibid.*, pp. 576, 589, 603, 617, 633.

is proper, he may appeal the alleged grievance to the superintendent of the department. Grievances will set forth the following minimum information:

1. Local Union Number
2. Name and check number of employee(s) involved
3. Approximate date of alleged violation
4. Date on which employee discussed the grievance with his foreman
5. Name of the foreman with whom grievance was discussed
6. Decision of the foreman
7. Facts of the case
8. Remedy sought
9. Section and/or Sub-section of Agreement under which grievance is entered
10. Date of presentation of written grievance
11. Signature of grievance committeeman

Second Step

Grievances properly presented in this step of the grievance procedure may, at the request of either party, be discussed between the departmental grievance committeeman and the superintendent of the department. Written answer from the superintendent to the grievance committeeman shall occur not more than ten (10) days subsequent to the date that the superintendent of the department was presented the grievance. Any discussion between the grievance committeeman and the superintendent of the department shall be confined to the grievance as presented.

Upon reasonable notice to and approval by his immediate supervisor, a recognized grievance committeeman will be granted, without pay, time off his job for the purpose of presenting, investigating, hearing or settling alleged grievances.

Third Step

In the event no settlement of the grievance is arrived at in Step two (2) of this procedure, the general grievance committeeman may appeal the employee's alleged grievance to the General Superintendent's representative not later than five (5) days, subsequent to the date of receipt of answer by the superintendent of the department. The written appeal to this Step shall set forth exceptions taken to previous disposition and the contractual and factual justification thereof. Such appeal may also set forth evidence not previously discussed in the preceding steps. On receipt of such an appeal, the Corporation will, in writing, notify the General Grievance Committeeman of the time, date and place of the hearing on the grievance, which shall not be later than nine (9) days subsequent to date of receipt of the appeal unless otherwise agreed in writing.

Disposition of a grievance in this Step shall occur not later than ten (10) days, subsequent to the last date of hearing, unless otherwise mutually agreed.

Fourth Step

Grievances not settled in Step three (3) may be appealed to representatives of the National Organization of the Union and the representatives of the executives of the Corporation.

It shall be the purpose of the fourth step to review cases for application of the basic Agreement.

Notice of appeal shall set forth the objection to previous disposition of the grievance in relation to the section of the Agreement under which the grievance was filed in Step two (2). Said appeal shall be filed not later than five (5) days, subsequent to the date of receipt of the third step answer and shall set forth whether or not the appealing party desires a hearing. Disposition of the grievance in this Step shall be concluded in not more than ten (10) days, subsequent to the date of appeal or discussion, whichever is later.

Fifth Step

In the event settlement of the grievance is not reached in Step four (4) the matter may be appealed to the arbitration proceeding hereinafter established. [The arbitration procedure is outlined in very complete detail, providing for: (1) 10-day notice in writing, (2) outlawing of grievances not appealed within the time limits, (3) a Tri-partite Board of Arbitration, located in Pittsburgh, composed of one union and one company member and a Chairman, selected by mutual agreement of the other two, (4) the impartial Chairman to be engaged on an annual retainer and fee-per-case basis and expenses, with the cost divided between the union and the company, (5) rules for preparation of appeals and handling of documents by the Chairman, (6) stipulations concerning the introduction of new evidence, (7) restriction of the Board's jurisdiction to matters included in the Agreement, (8) decisions of a majority of the Board to be final and binding on the union, the Corporation, and the employees concerned.]

As will be seen from the above, the full grievance procedure is complicated, impressive, time-consuming, and expensive. Both the union and management think twice before taking positions which will force a dispute to the next higher level, and only matters of the utmost significance to the two parties are carried forward to arbitration. Nonetheless, it is there, available to every union member without cost, backed up by the weight and prestige of the staff of the national union, if his contractual rights are violated by a careless management. It is a far cry from the tentative requests for hearings and the passive acceptance of one-way decisions which characterized the preunion shop. It unquestionably adds to costs. It also unquestionably adds to the dignity of the rank-and-file employee. The testimony of union men is emphatic on its importance: the grievance procedure is at the top of the list of cherished prerogatives under collective bargaining.

5. Termination and Renewal of the Agreement. Union agreements may either run to a certain date or continue in effect indefinitely until one party or the other requests a change. Agreements between the carriers and the railway-operating brotherhoods are of the latter kind, with no termination date specified in the rules and with all provisions remaining in effect until changed by agreement of the two parties or declared in abeyance as a result

of a deadlock in negotiations. The opposite arrangement holds in coal mining, where a new set of contracts is negotiated each year by the union, and where the standard rule of "no contract, no work" makes an announcement of absence of contract equivalent to a strike call.

The Steelworkers' contracts are for a definite term and, in accordance with good practice, contain explicit provisions for preexpiration conferences dedicated to renewal of the agreement. The following is a typical set of provisions (from the contract of the Youngstown Sheet and Tube Company):³²

The terms and conditions of this Agreement shall continue in effect until Midnight April 30, 1949, provided, however, that either party may, on April 1, 1948, give written notice to the other party of its desire to negotiate a general and uniform change in rates of pay. Within 5 days after the giving of such notice, the parties shall meet for the purpose of negotiating such issue. Failing agreement on such issue on or before April 30, 1948, this Agreement shall remain in effect until Midnight, April 30, 1949. Forty-five days prior to May 1, 1949, the parties shall meet in conference in Youngstown, Ohio, unless otherwise mutually agreed for the purpose of negotiating the terms and conditions of a new agreement.

Management-Union Consultation

A union can have recognition, security, and a good contract and still not be satisfied. Its final request is for union-management consultation on all issues which arise between the company and the employees, whether within or without the agreement. What the union wants is *acceptance*, in the full sense of the word, as the agent of the employees in the productive process. In a sense, that is what unions have been forcing on management over the years, but legal recognition is one thing, "acceptance" another. The latter implies *informal* acknowledgment of the importance of the union's function and consideration of its point of view in all appropriate situations, regardless of contractual stipulations. It implies regard for the feelings of union representatives, who are just as sensitive of their prerogatives as corporation vice presidents and factory superintendents, and a comprehension of the fact that the union has a definite place in the social system of the factory, shop, or job. Acceptance is the only possible basis for union-management cooperation, about which so much is said and written and so little done.

Notwithstanding their apparent similarity, union "acceptance" is a long, long jump from union "recognition and security." It means that management thinks of the union as an integral part of the total operating structure and calls upon the union in the solution of personnel problems as casually

³² *Ibid.*, pp. 707, 712.

as, for example, it would refer a legal problem to its general counsel. Since management, as a function, is primarily the management of men, this implies a theory of joint administrative responsibility. It is joint, because the union is not responsible to and does not report to management. The difficulty of arriving at any such state of mutual trust between two organizations, both of which tend to consider themselves sovereign in their respective spheres, should not be minimized, particularly when the joint relations must be the basis for many quick decisions affecting operations.

The issue here is the fundamental one of a division of union and management prerogatives and the effect of such assignment upon individual firms and the society as a whole. For one thing, the result will probably never be as *orderly* as operations upon an authoritarian basis, and the outcome may appear to be—and may be in fact—a reduction of efficiency. However, there are many intangibles involved, not least among which is the morale of the working force. Disorder—at least, surface disorder—is always a characteristic of democracy and recognition of the rights of individuals.³³ Is the result necessarily less efficient? If so, the performance of national economies is a surprising contradiction to the general rule. What authoritarian system has outproduced the United States?

Several subissues of great importance and very high controversial voltage are raised by the primary riddle of union-management prerogatives. One is the extent to which unions are willing to assume management *responsibilities* of the same order of magnitude as the *authority* they actually exercise in entering into contracts with employers and helping to interpret the contracts. An example of this is the question of union discipline and observance of contract commitments, particularly “no-strike” clauses which prohibit work stoppages during the life of the agreement. Employers have repeatedly charged that unions are both unwilling and unable to impose adequate penalties upon their members to stop contract violations and have asked for legal authority to penalize breaches of the agreement. The Taft-Hartley Act met this complaint by establishing union agreements as contracts at law and making both employers and unions legally responsible for their proper observance.

Another subissue raised by the question of union-management prerogatives is the extent to which union representatives are to be taken into the confidence of management. This comes close to the heart of the whole question of union “acceptance” and union-management cooperation. On the one

³³ It may, of course, be argued that trade unionism does not mean democracy in industry, but rather that it means regimentation of workers by “labor bosses” in mass organizations far larger than any employing units, where their individuality has even less chance for expression than in their dealings with management. However, this argument is almost sure to fail if a check is made of the individual worker’s *opportunities* for expressing an opinion (casting a vote) on policies and leadership in both his union and his company.

hand, without some knowledge of company policies and problems, no union man can be expected to assume responsibility for making decisions which will advance the company's well-being. On the other hand, the union man has other loyalties than to the company, and the organization which he represents may have contractual relations with other, and perhaps competing, firms. Can management assume that data on prices, sales, costs, profits, and accounting practices will be kept confidential and not used as a bargaining lever for forcing concessions or even be disclosed to rivals? It is not an easy question to answer, and union spokesmen have not been able to clarify the situation much. Some have even indicated that they preferred to be excluded from managerial discussions and to stay in the role of outside "watchdog" over the interests of members.

The desire for "acceptance," however, still stands. No matter what the decision on relative prerogatives, the existence of a union agreement implies the assignment of some area of authority to the bargaining representative of the employees. In this general area, the union feels that it should be taken into account as a natural and normal part of the operating organization and not treated as an outsider. In this area, decisions should not be unilateral and authoritative, whether covered by contract or not. They should be arrived at through consultation and conference, just as high policy judgments are processed through executive committees or boards of directors. Nor should the process be one of strict, legalistic fulfillment of contract obligations and nothing more. The proper basis of good union-management relations is a belief in mutual sincerity, fairness, and understanding. At this point, so the union contends, joint administration can be directed to the mutual advancement of common ends.

The Union Program outside of Collective Bargaining

The major emphasis of trade unionism in this country has always been on relations with employers; on wages, hours, and working conditions; on union security and good contracts; and on establishment of the union as agent of the employees at all points of contact with the employer. No successful union here has put revolution, reform, or even uplift activities ahead of the bread-and-butter problems of its members.

Nonetheless, unions do have other and broader interests than wages and hours, as a quick survey of the program of any AFL or CIO convention will prove. For example, the resolutions committee of the CIO, at its Tenth Annual Convention, in Portland, Ore., Nov. 22-26, 1948, presented motions on the following topics, among others, for consideration by the delegates: Foreign Policy of the United States, World Federation of Trade Unions, Political Action, Israel, Civil Rights and Protection of Democracy, Farmer-

Labor Unity, Inflation, Tax Policy, Fair Labor Standards Act, Social-security Legislation, United States Aid to Education, the U.S. Department of Labor, Tidelands Oil, Organization of the Congress (of the United States), etc.³⁴ The AFL's 1948 Convention, held in Cincinnati, Ohio, a week earlier, was equally broad in its coverage.³⁵

The principal public issues with which unions concern themselves are those with a rather close and direct relationship to the well-being of employees. They include, for example, the cost of living, unemployment, and civil rights. The CIO has a "full-employment committee," headed by Emil Rieve, president of the Textile Workers Union, and the committee and Philip Murray are prompt to warn the country, Congress, and the President of the United States that "Swift corrective action [is] needed to avoid depression."³⁶ In their 1948 conventions, both the CIO and the AFL supported a proposal to raise the national minimum wage from 40 to 75 cents. And the most imaginative labor leader of them all, Walter Reuther, periodically gets a big spread in the newspapers with the latest "Reuther plan."³⁷

Both federations keep a close eye on Congress, with the CIO carrying a schedule of current bills of interest to labor in a box score on the last page of each issue of the *CIO News*. The schedule informs readers of each bill's number and title, tells what it does, where it is at the time of publication (in committee, on the floor, etc.), and advises what the readers should do to support or oppose it (write or wire congressmen, etc.).

Another angle of union activity is the "uplift" side, consisting of benefits for members in the form of death, unemployment, and sickness payments; free or low-cost medical clinics; education and recreational activities, etc. In some unions, as, for example, the clothing workers (Amalgamated Clothing Workers and International Ladies' Garment Workers Union), these group aids are very extensive and very valuable; the railway-operating brotherhoods, for instance, carry on large banking and insurance operations for the benefit of members. In other unions, such activities are negligible in amount, with no apparent indication of any increase in their importance in the future.

Union uplift and reform activity receives a good deal of attention, probably more than it deserves in actual importance. The fundamental purpose of organized labor in this country has always been collective bargaining and so it remains up to now. The basic union program is directed at employers, and 90 per cent of all union time and energy is devoted to it. There

³⁴ *Daily Proceedings of the Tenth Constitutional Convention of the Congress of Industrial Organizations, passim.*

³⁵ See reports on the convention in the *American Federationist*, December, 1948; January, 1949.

³⁶ *CIO News*, Apr. 11, 1949.

³⁷ *The New York Times Magazine*, Mar. 20, 1949.

may be a change of direction in the future, but there is little sign of such as yet.

Some Test Questions

1. Describe several varieties of "union security" and indicate the advantages and disadvantages of each to the union.
 - a. If you were a labor leader, which do you think you would prefer? Why?
 - b. Would it make any difference if you were running a national or a local union? a craft or an industrial union?
2. What is the difference between "union" and "member" security?
 - a. Which comes first and why?
 - b. What three or four sections of the labor contract would you say are most important for member security? Explain why you think so.
3. From the standpoint of management, what problems are raised by union and member security rules?
 - a. Are any of management's problems solved or simplified by such rules?
 - b. Are there any issues of public policy in the question of union (or member) security? If so, describe them, giving the pros and cons.
4. What is the exact legal basis of union recognition in industries in interstate commerce in this country?
 - a. What does "recognition" mean? Is it important to the union? Why or why not?
5. Outline the essentials of a good trade agreement (union contract) from the union point of view. Make your outline complete enough to show that you know what is meant by each of the main points.
6. If you were the superintendent of a factory, what problems do you think the introduction of a complete grievance procedure, all in one piece, would bring?
 - a. What problems would it tend to simplify or solve?
 - b. During the process of negotiating, what primary issue of *procedure* would you stand firm on?

17. UNION TACTICS

Union tactics are the methods the unions use to put over their program. Since the program of organized labor in the United States has been overwhelmingly one of "business" unionism, most union tactics are related to collective bargaining. They consist of strikes, picketing, boycotts, newspaper and other propaganda, strategic moves in employer-employee negotiations, member rallies, and political action. They are the activities with which everyone is familiar, the dramatic occurrences that are played up in the news and made the subject of radio discussion, magazine articles, and popular novels.

Union tactics highlight conflict; they appear at times when the *diversity* of interest of employers and employees is being stressed. They are countered by employer tactics of equal variety and determination, and the result naturally draws the interest of bystanders. In a country where so much emphasis is put upon rivalry and competition, the annual round of union-management contests belongs—and is found—in the center ring under the big tent. It is overshadowed in public interest only by such superior engagements as the quadrennial election of a President of the United States or a war. To the union, however, its tactics are a dead serious matter, with a direct relationship to its other activities. The relationship between union *management*, the union *program*, and union *tactics* is as follows:

1. The union program is the final, long-range objective. It is what the union was created for and exists for, its reason for being.

2. Union tactics are the intermediate objectives, by means of which the union can advance toward its real goal of security, a good contract, and acceptance as agent of the employees. In military terminology, the union program is the campaign, the tactical moves (such as strikes, boycotts, etc.) are the individual battles which collectively make up the prosecution of the war.

3. Union management, in turn, is the housekeeping and administration which keeps the union in trim to mount an offensive in the direction of its

long-range objectives. Union tactics may be used to strengthen the union internally, as when a strike is called to solidify morale; however, there is a clear line of demarcation between the two. Union tactics are relations with the enemy (employers); they are primarily external in character. Union management, on the other hand, is primarily an internal affair, composed of relations with members and colleagues.

In light of the above, it is clear that the nature of the union program will dictate the tactics to be used. It does. Most union tactics in this country are pointed at employers and related in some way to strengthening the union in its collective bargaining.

The essence of collective bargaining is dispute settlement: the resolution of conflicting views into a workable compromise. Such a brief definition, however, gives little hint of the tremendous range of methods which may be employed to persuade an opponent to agree. It is collective bargaining, for example, to win a point through tact and politeness at the conference table. It is also collective bargaining to take over an employer's plant, bar the owner and police from the property, sabotage the machinery, and threaten violence to nonunion workmen who try to return to their jobs. In between may come an infinite variety of tactics designed to impress, persuade, influence, bluff, startle, frighten, or force the other party into agreement. No current issue of employer-employee relations raises more questions of policy, public and private, than the permissible limits of union and employer action in the settlement of disputes.

The reason is, of course, that the effects of union-management conflict cannot be isolated to the parties themselves. Management and union members between them produce a large portion of the goods and services which are consumed by a modern society. It happens that the production of some of the most necessary products and crucial services in this country are completely dependent upon the efforts of unionized workmen (*e.g.*, railroad transportation, coal mining, trucking, the manufacturing of iron and steel, etc.). Notwithstanding the public's excited interest in all phases of the union-management struggle, there eventually comes a time when some third party's toes get stepped on, either because he comes in the line of fire at a moment of high tension or, more often, because he must do without something that he wants or needs because the dispute between labor and management has shut off the supply. This last can be pretty serious when the "supply" is the total railroad service in the United States, as in May, 1946, or the supply of coal with winter coming on, as in November, 1946. At such times, the excitement runs high and public officials get apprehensive.

One of the big public-policy problems confronting the American people today, therefore, is a code of industrial relations which will provide a mutually satisfactory method of dispute settlement, such as that contained in

the Railway Labor Act for the last 25 years. However, before a policy decision can be arrived at, there must be some understanding of the way in which unions and management try to gain an advantage over each other. Some of the most ill-advised legislation on labor relations in this country has sprung from ignorance of the nature of employer-employee disputes or the methods used by the parties to resolve them. An example is the Smith-Connally War Labor Disputes Act of 1943, which turned out to provide *more* leverage to John L. Lewis, the act's real target, than he had had before. The purpose of this chapter, then, will be to outline the tactics which unions use in trying to impose their program on employers. As in the preceding chapters, emphasis will be placed on the issues raised by the various methods.

The Strike Problem

Theory of the Strike. The ultimate union reliance in dealing with employers is upon the strike. A strike, according to the Bureau of Labor Statistics, is a "temporary stoppage of work by a group of employees in order to express a grievance or to enforce a demand."¹ This definition of a strike, however, raises an important issue, since it is not acceptable to many people, especially employers. It implies that the employees have not left (given up) their jobs, but have merely temporarily suspended working at them. According to this theory, therefore, the employee on strike is still in full possession of all job rights, including his seniority, the privilege of voting on questions of union representation, etc. But what if the employer has replaced the striking employees with nonstrikers who are willing to accept the rates of pay, hours, and conditions of work which are in dispute? What, if any, are the rights of the new employees?

The union answer, of course, is that the newcomers are "scabs" (strike-breakers), with no rights to consideration of any kind. This is the traditional and universal view of organized labor, but hardly one on which there is

¹ BLS, *Handbook of Labor Statistics*, 1947, p. 134. The counterpart to the right to strike is the right to lock out, which is correspondingly defined as "a temporary withholding of work from a group of employees by an employer (or group of employers) in order to coerce them into accepting the employer's terms." The employer, of course, exercises the same prerogative of "refusal to deal," but he has a more limited range of objectives permitted him than the union has. He may not, for instance, lock out his employees to prevent the organization of a union, because this is interference with the right to organize, which is proscribed by the National Labor Relations Act. (The union, on the other hand, may call a strike for the express purpose of strengthening its position with the employees, and the walkout is perfectly legal.) The employer's purpose must be "economic," that is, concerned with pay, hours, conditions of work, or a grievance against the union, and the lockout must come within the requirements of "bargaining collectively in good faith," also a requirement of the National Labor Relations Act. All in all, the employer's use of the lockout has been trimmed down to a fraction of its former versatility.

universal agreement outside trade unions. The employer's position is that if he can fill the jobs with qualified men willing to work on the terms rejected by the union and its members, he should be permitted to go ahead and operate and the new employes to hold their jobs, exactly as he (or anyone else) is permitted to buy and sell in the best markets he can find.

Which is right?

It is doubtful that any categorical reply can be given to the question. For a number of years, the National Labor Relations Board interpreted strikes according to the union definition (which is that used by the Bureau of Labor Statistics), permitting strikers to vote on questions of representation, etc., and denying that privilege to the employes hired to replace them. The policy was changed under the Taft-Hartley Act, with job rights given to the newcomers and exclusion from voting of workers engaged in an "economic" strike (over wages, hours, etc.). The really fundamental issue in the case is the right of employes who refrain from joining labor organizations to have access to jobs which unions have laid claim to. This issue was decided in favor of the individual worker by the Taft-Hartley Act, in a considerable shift away from the preference that unions enjoyed under the Wagner Act. The new decision is unacceptable to unions, and it may be expected that there will be dispute over the problem for some time to come.

The Right to Strike. There is another issue raised by the way "strike" is defined that goes even deeper than the job rights of nonstrikers. It is the accusation, made now and then by representatives of organized labor, that any limitation of the right to strike is a move in the direction of involuntary servitude and therefore contrary to the Thirteenth Amendment to the Constitution of the United States.² This charge clearly rests on a misunderstanding of the law, which makes a sharp distinction between that which can be done individually and that which can be done in concert. A strike is a concerted action by a group of employes. A complete prohibition of the right to strike would still not bar employes from giving up their jobs individually and so would hardly constitute involuntary servitude.³

Since the strike is the union's major weapon, organized labor has been extremely jealous of its protection and sensitive to any attempt to curtail its use on any grounds whatever. A typical statement of view is the following, taken from an editorial in the *American Federationist*, official journal of the AFL:⁴

² Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

³ Some labor leaders have taken advantage of this situation and carried on illegal strikes without a formal strike call, by conveying to employes the suggestion that they "take vacations" as individuals.

⁴ February, 1946, italics supplied.

Strikes are never welcomed by the public and seldom desired by industry or labor. But they may be necessary to promote the general welfare and to establish justice for workers. *The right to strike is inseparable from human freedom.* No genuine democracy will consider outlawing strikes, but ample facilities for helping to adjust issues and problems that cause strikes should be provided.

This viewpoint is very widely held, and not only by members of trade unions. It has been impressed upon legislators, for example, to the point where guarantees of the right to strike are frequently included in legislation regulating union-management relations. For example, the amended National Labor Relations Act, which became Title I of the Taft-Hartley Act, contained the following assurance:⁵

Nothing in this Act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.

Nonetheless, the "right to strike" is itself a fundamental issue, which has been flatly denied by spokesmen for both industry and government, who contend that concerted action by employees is not a right at all but a privilege, which may be limited, modified, or taken away if abused. The issue is brought to a head by work stoppages of such size as to interfere with service to the public, like the series of crippling walkouts in 1946. A particularly vigorous statement from the opposition came in that year:⁶

The time has come when we must, not as business men but as citizens, examine and define that word "strike." It has been said for a long time that nothing must deprive labor of the right to strike. But if today we mean by "strike" such a situation as the Pittsburgh power strike, the maritime strikes, the New York tug-boat and truckmen's strikes, and the threatened strikes of transportation workers, then labor has no such right, any more than any group has a right to starve, endanger, or destroy the society of which it is a part.

No less a person than Franklin Delano Roosevelt himself was very explicit on this point with reference to employees of the government.⁷

The facts of the matter are, of course, that there are very few absolute rights and certainly the "right to strike" is not one of them. There have been legislative, administrative, or judicial limitations upon strikes at all periods of this country's history, and the casebooks are full of decisions which distinguish between "legal" and "illegal" walkouts. What the trade unionist is probably asking for is no limitation of the right to strike in favor of any *private* interest, and he looks with suspicion upon all restrictions since

⁵ Sec. 13.

⁶ Charles E. Wilson, president of General Electric Company, quoted in advertisement of the Bank of New York, *New Yorker*, Nov. 9, 1946.

⁷ See Frances Perkins, *The Roosevelt I Knew*, p. 326 (New York: The Viking Press, Inc., 1946).

sad experience in the past has taught him that this may be the outcome of moves nominally made for protection of the public. In view of the fact that corporate bodies and trade unions are now of such gigantic size that a single contest (as in steel, railways, or coal mining) may disrupt large sections of the economy, the line between public and private interests becomes increasingly harder to draw.

Congress took cognizance of the problem first in a series of laws dealing with labor relations on the railways, and in the Taft-Hartley Act of 1947 set up a complicated procedure for the handling of "national emergency" strikes, which included the use of fact-finding boards, injunctions, cooling-off periods, and polls of the employees. It would be optimistic, however, to regard this action as settling the question. Limitations upon the right to strike, even in walkouts that "imperil the national health or safety," are strongly opposed by union leaders and just as strongly supported by representatives of management and the general public. At the level of national health and safety, the argument for limitation seems unanswerable, but a compromise satisfactory to everyone has yet to be worked out.

The Size of the Problem. The next question is: Are strikes really such a problem? Are there enough of them, are they big enough, to really threaten to interfere with the national welfare? Not so long ago (pages 425-426 above) the point was being made that the vast majority of employer-employee bargaining was carried on peacefully, without any interruption of work. Can there be a serious strike problem, consistent with such a fact? Union spokesmen say "No," that interruptions of service are minor and inconsequential compared with the total volume of man-hours of work performed, and the inconvenience caused by a work stoppage now and then is a small price to pay for the preservation of labor's fundamental right to strike. The basic figures which labor relies on to support this argument are found in Table 60, which shows the volume of work stoppages in the United States from 1916 to 1947, as measured by several different standards.

According to the table, it looks as though organized labor has a pretty good case. The volume of strikes⁸ has not increased appreciably in 30 years. There were 4,450 of them in 1917 and only 4,985 in 1946, the top year since and the top year of all. The average length of strikes, measured in calendar days, has also not increased; in fact, it has dropped—from 26 and 27 days, on the average, in 1927 and 1928, to 24 and 25 days in 1946-47. Nor has there

⁸ Most "work stoppages" are from strikes. The BLS does not separate strikes and lockouts in its statistics, nor did the U.S. Conciliation Service. The main reason is to avoid disputes over causation and charges that the record is being loaded in favor of one or another of the parties. It is common practice for both unions and management to charge the other party with responsibility for shutdowns, and in many cases it is actually difficult to tell whether the stoppage was caused by a union or management decision. However, there is little doubt that strikes cause 90 per cent or more of the total.

Table 60. Extent of Work Stoppages in the United States, 1916-1947*

Year	Stoppages		Workers involved		Man-days of idleness	
	Number	Average length (days)	Number ('000's)	Per cent of all employed	Number ('000's)	Per cent of all working time
1916	3,789	....	1,600	8.4		
1917	4,450	....	1,230	6.3		
1918	3,353	....	1,240	6.2		
1919	3,630	....	4,160	20.8		
1920	3,411	....	1,460	7.2		
1921	2,385	....	1,100	6.4		
1922	1,112	....	1,610	8.7		
1923	1,553	....	757	3.5		
1924	1,249	....	655	3.1		
1925	1,301	....	428	2.0		
1926	1,035	....	330	1.5		
1927	707	26.5	330	1.4	26,200	0.37
1928	604	27.6	314	1.3	12,600	0.17
1929	921	22.6	289	1.2	5,350	0.07
1930	637	22.3	183	0.8	3,320	0.05
1931	810	18.8	342	1.6	6,890	0.11
1932	841	19.6	324	1.8	10,500	0.23
1933	1,695	16.9	1,170	6.3	16,900	0.36
1934	1,856	19.5	1,470	7.2	19,600	0.38
1935	2,014	23.8	1,120	5.2	15,500	0.29
1936	2,172	23.3	789	3.1	13,900	0.21
1937	4,740	20.3	1,860	7.2	28,400	0.43
1938	2,772	23.6	688	2.8	9,150	0.15
1939	2,613	23.4	1,170	4.7	17,800	0.28
1940	2,508	20.9	577	2.3	6,700	0.10
1941	4,288	18.3	2,360	8.4	23,000	0.32
1942	2,968	11.7	840	2.8	4,180	0.05
1943	3,752	5.0	1,980	6.9	13,500	0.15
1944	4,956	5.6	2,120	7.0	8,720	0.09
1945	4,750	9.9	3,470	12.2	38,000	0.47
1946	4,985	24.2	4,600	14.5	116,000	1.43
1947	3,693	25.6	2,170	6.5	34,600	0.41

*Source: BLS, *Handbook of Labor Statistics*, 1947, p. 136.

been a noticeable increase in the number or percentage of workers involved. There were 4,160,000 employees out on strike (or locked out) in 1919 and only 4,600,000 in 1946. Considering the increase in the size of the labor force

and in the total number of trade-union members, this is a very conservative rise, especially when one considers the *drop* in percentage figures (of workers involved), from 20.8 per cent of the employed labor force in 1919 to 14.5 per cent of the working population in 1946.

Only when we get to the volume of man-days lost as a result of work stoppages is there statistical evidence of any increasing seriousness of the problem, and here we are hampered in our comparisons by a record going back only 20 years. In 1946, an all-time record was set, with a loss of 116 million man-days of working time. This was more than four times the loss of the highest preceding year, 1945, during which 38,000,000 working days went down the drain. Yet even in 1946, the total loss was less than 1½ per cent of all available working time, and ruling out the three postwar years, 1945 to 1947, there was no appreciable rise in the percentage of working time lost during the 20-year span. The high years were: 1937 (43 per cent lost), 1934 (38 per cent lost), and 1927 (37 per cent lost).

Then why all the worry? Why does Congress pass laws which limit the right to strike, and public opinion apparently support such legislation? Is it just meanness, or is it, as some labor leaders declare, a deep-laid conspiracy to reduce the American workingman to a condition of servitude by weakening his union and taking away its most potent weapon? The answer, which comes impartially from a number of sources, is that it is neither. Strike regulation is called for, according to these observers, because the actual burden of work stoppages is inadequately reflected in the statistics, being more a question of the size and the industrial location of the particular walk-out than of averages. According to this view, the burden of work stoppages upon the economy is to be measured *qualitatively* rather than *quantitatively*, although the argument may be backed up with figures. It is a matter of shock, or impact, rather than of averages or percentages. The record these spokesmen would call attention to is given in Table 61, which shows the incidence of work stoppages (strikes) involving more than 10,000 employes each since 1935.

What Table 61 shows is a steadily growing volume of big strikes, with the trend uninterrupted by the war years, 1942 to 1945, when all of organized labor was bound by a no-strike pledge. The increase is especially noticeable in the "over 100,000" class, where exactly two-thirds of the walkouts came in the last 3 years of the 13-year period. Some of these strikes were really gigantic in size, and the pile-up in a 3-year period unquestionably had a hampering effect on efforts to reconvert from a wartime to a peacetime economy.

Another measure of the impact of a strike is its duration. There was a big increase in the number of work stoppages which lasted 3 months or more in the years following the Second World War. This increase carried

with it a proportionate rise in the number of workers involved and the man-days of idleness. For example (as shown in Table 62), 40 per cent of all the idleness attributed to work stoppages in 1946 was due to 303 shutdowns last-

Table 61. Work Stoppages Involving 10,000 or More Employees, 1935-1947*

Year	10,000-50,000 size class	50,000-100,000 size class	Over 100,000 size class	Total over 10,000
1935	8	0	1	9
1936	8	0	0	8
1937	24	2	0	26
1938	2	0	0	2
1939	5	1	2	8
1940	4	0	0	4
1941	24	3	2	29
1942	6	0	0	6
1943	7	1	2	10
1944	14	2	0	16
1945	37	2	3	42
1946	20	3	8	31
1947	11	1	3	15
Totals.....	170	15	21	206

SOURCE: BLS, *Handbook of Labor Statistics*, 1947, pp. 146-49.

Table 62. Work Stoppages Lasting Three Months or More, 1935-1947*

Year	Number	Workers involved	Man-days idle
1935	99	83,700	4,340,000
1936	112	38,900	3,280,000
1937	140	84,000	6,280,000
1938	154	30,300	2,770,000
1939	138	24,600	2,510,000
1940	106	13,600	1,150,000
1941	124	24,800	2,470,000
1942	56	11,100	784,000
1943	2	60	7,500
1944	0	0	0
1945	22	15,700	923,000
1946	303	671,000	51,800,000
1947	212	126,000	13,400,000

* SOURCE: BLS, *Handbook of Labor Statistics*, 1947, p. 139.

ing three months or more, although these were only 6 per cent of the strikes in that year.

The Strike as a Weapon: Strikes and Strike Substitutes. There is another reason why the strike problem is more important than the statistics seem to

indicate. There are more strikes (and near-strikes) than are put down as such. In other words, the statistics are inadequate. The primary reason is the difficulty of defining the word "strike" so as to catch all cases of "temporary stoppage of work by a group of employees" for the purpose of expressing a grievance or enforcing a demand. There are a lot of them, and some, which almost escape notice by outsiders, are very harassing. Take the case of the Milwaukee plant of the Briggs and Stratton Corporation, in which the International Union, United Automobile Workers of America (AFL), was bargaining agent for the employees. According to the facts of the case, as found by the U.S. Supreme Court:⁹

On November 3, 1945, its leaders submitted to the Union membership a plan for a new method of putting pressure upon the employer. The strategem consisted of calling repeated special meetings of the Union during working hours at any time the Union saw fit, which the employees would leave work to attend. It was an essential part of the plan that this should be without warning to the employer or notice as to when or whether the employees would return. The device was adopted and the first surprise cessation of work was called on November 6, 1945; thereafter, and until March 22, 1946, such action was repeated on twenty-six occasions. The employer was not informed during this period of any specific demands which these tactics were designed to enforce nor what concessions it could make to avoid them.

This procedure was publicly described by the Union leaders as a new technique for bringing pressure upon the employer. It was, and is candidly admitted that these tactics were intended to and did interfere with production and put strong economic pressure on the employer, who was disabled thereby from making any dependable production plans or delivery commitments. And it was said that "this can't be said for the strike. After the initial surprise of the walkout, the company knows what it has to do and plans accordingly." It was commended as a procedure which would avoid hardships that a strike imposes on employees and was considered "a better weapon than a strike."

Was it a strike, or rather, a series of strikes? The Wisconsin Employment Relations Board declined to state, but called the effect coercive and notified the union to stop. The Wisconsin supreme court and the Supreme Court of the United States upheld the Board, but a four-man minority of the latter dissented. Mr. Justice Douglas, who wrote the principal dissent, said:¹⁰

This *strike* was legal under the Wagner Act in 1945 and 1946 and its legality was not affected by the Labor Management Relations Act of 1947. . . . Section 13 of the . . . Act is written in language too plain to admit of doubt or ambiguity: "Nothing

⁹ See International Union, UAWA, Local 232 v. Wisconsin Employment Relations Board, 336 U.S. 249 (1949).

¹⁰ *Ibid.*, p. 265, italics supplied.

in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike."

The strike is a very flexible weapon. It is also a very powerful one and is therefore hedged about with legal restrictions and managerial reciprocity. As in the case above, there are times when a strike may be accomplished in fact without incurring the burdens which would go with a formal announcement: unemployment of members, replacement of strikers by the employer, prosecution for illegality of purpose, etc. Referring back to the matter of statistics, it is extremely doubtful that the 27 different work stoppages sponsored by Local 232 of the UAWA went into the records of the BLS, either as one strike or as several, yet the effect was designed to be, and probably was, to "put strong economic pressure on the employer." One of the evidences of union generalship is the ability to employ the various kinds of strikes and strike substitutes so as to get the most return for the least cost.

How many varieties of strikes (and near-strikes) are there?

The answer will depend on how many strike substitutes are included, and there will be differences of opinion, as on the Supreme Court. However, the following are considered as eligible for listing: (1) the organized slowdown, (2) the strike vote, (3) the informal stayaway, (4) the formal stayaway for union business reasons, (5) the protest stoppage for a definite term, (6) the formal work stoppage for an indefinite term, and (7) the general strike. With labor regulations increasing, new methods of bringing about concerted work stoppages will undoubtedly be invented. As of now, however, the categories named above will cover most cases. A sentence or two of explanation may help to distinguish them.

1. The *organized slowdown* is an agreed reduction of the rate of output for purposes of gaining a point with the employer. It differs from the standard "limitation of output" which is found in almost all shops (and offices) in that it is temporary and will be abandoned in favor of the previous production schedule as soon as the dispute is settled. It is not a protest against the rate of production as such. Some observers decline to classify it as a strike, but many others insist that it is so similar in purpose and method that it cannot be left out. It is widely used, but for obvious reasons not often reported. Its main advantages are intangibility and lack of cost to the union or its members, who do not leave their jobs. It is a subtle and powerful method of bringing pressure on management, especially where output rates cannot be controlled by piece payment or by mechanical speeds (as on assembly lines).

2. The *strike vote* is a persuasive device which may possibly win as many points for unions as the actual work stoppages themselves. It is standard practice to arm bargaining representatives with a strike vote before they go into conference with management to negotiate changes in the agreement.

The efforts of public officials to use the strike vote as a method of settling differences between employers and employees (as in the War Labor Disputes Act of 1943 and the Taft-Hartley Act) have so far been singularly unsuccessful. The typical result has been a near-unanimous vote of confidence in the leaders of the union, leaving things about as they were in the first place or perhaps even worsened. The strike vote is a standard weapon, and union members know that there will be many more affirmative votes than there will be strikes. Whether the threat it carries should be considered a strike substitute is a matter of statistical definition. So far, the answer has been "No."

3. The *informal stayaway* is a method of carrying on a work stoppage when the purpose (or a formal walkout to achieve it) would be considered illegal. It consists of having the employees, as individuals, take unannounced "vacations" in large enough numbers to handicap operations. It has been used now and then by a number of unions, but most effectively and publicly by the United Mine Workers. It is risky for the individuals (who may be discharged for failure to report) and hard to handle as a breach of agreement (since there is an absence of evidence of concerted action) and as often as not it fails to get into the record as a work stoppage.

4. The *formal stayaway for union business reasons* (nominally) may be a series of small interruptions, as in the Briggs and Stratton case, or it may be a single protracted meeting off the company's premises as in the Greyhound Bus case in Chicago in 1945. Here the union conducted a continuous business meeting (on a 24-hour, round-the-clock schedule) for a period of several weeks, in order to put pressure on the employer and at the same time get around wartime restrictions on strikes in the transportation industry. This is an especially effective device when the union has written into the labor agreement a rule permitting it to call business meetings during working hours. It is usually pretty obvious when the meeting ceases to be for business purposes and becomes a work stoppage, but the line is rather hard to draw for regulatory purposes.

5. The *protest stoppage for a definite term* is used as a demonstration of union solidarity upon some issue between it and management. Customarily, it is for a day, a half day, or perhaps only an hour or two, but it may be for a longer period, as in the case of the full week of mourning which President Lewis of the UMWA called after the Centralia (Ill.) mining disaster in March, 1947.

6. The *formal work stoppage for an indefinite term* is the strike as most people know it. In spite of pious phraseology in the statutes, its use is held down by a number of limitations, such as requirements of advance notice, exhaustion of other procedures for dispute settlement, intervention by mediators and conciliators, conformity with contract provisions (no-strike clauses, etc.), and the like. The strike may be a right, but it is by no means an

absolute one, any more than freedom of speech. The growth of near-substitutes is clear proof of the restraining effect of formal regulation. The strike, as a mechanism, is also carefully hemmed in by the internal regulations of unions, many of whom require authorization from the national body before a local may stage a walkout.

7. The *general strike* is the final expression of organized labor's dissatisfaction with conditions in the community. Its object is to coerce the government, and it consists of a shutdown of all essential services in a given area to force a change of policy. Because of its objective (a change in governmental policy) and its drastic effects on the community as a whole, the general strike is looked upon with suspicion and as often as not the reaction against the strikers has been severe. The British General Strike of 1926 was directly responsible for the restrictive Trade Disputes and Trade Unions Act of 1927, which prohibited any kind of strike against the government, direct or indirect, and also denied the use of sympathetic strikes, mass or residential picketing, or the political use of trade-union funds.¹¹

What the statistics of strikes show, for the most part, is the number of "formal work stoppages for an indefinite term" (number 6 above). They seldom include the protest stoppages and the formal or informal stayaways, and are never expanded to include strike votes and slowdowns. Whether or not the latter are countable, they certainly add to the strike burden and therefore to the over-all problem. Nor do the figures which are collected show all the pertinent dimensions of work stoppages which reflect their seriousness. Disruption of production and of employment schedules are the measures of strike success, and these in turn are a function of many factors, not just the number of workmen involved or man-hours lost. Although strikes may be quite similar in these respects, they can have very different effects on company operations. The reports of strikes, whether from official or unofficial sources, are usually very inadequate bases for the formation of judgments regarding their impact on the economy. It is a reflection of maturity to withhold such judgments until all possible evidence, qualitative as well as quantitative, is available.

Strike Policy

Strike Issues. Very few people, labor leaders and union members included, enjoy strikes. For the labor leader, a strike is always a risk. If it is

¹¹ The two most recent examples of the general strike in this country, both of them on a much smaller scale than the British walkout, occurred in the San Francisco Bay area in 1934 and 1946. The former grew out of a waterfront dispute in San Francisco, and the latter originated in a work stoppage in department stores in Oakland. In both cases, the union complaint was against police support of nonstrikers and the general walkout was a protest against its use. Both strikes were successful in part and lasted only a few days.

lost, he will take a cut in prestige and may lose his job and even his union. The general record of strike success since 1937 has tended to obscure the historical fact that strikes can be lost, in large numbers, and the results can be disastrous for the unions involved. For union members, strikes mean loss of pay, which may or may not be made up by what is won from employers, and there is the additional risk of being replaced by nonstrikers with the consequent permanent loss of jobs. Unions are therefore rather careful about decisions to strike, and union leaders weigh the issues carefully before recommending such extreme action. It is a widely known fact in union circles, but not so well known elsewhere, that many official recommendations of a strike vote are turned down by the membership. It takes a very important issue to bring out the declaration of war (which is what a strike call amounts to), and all parties concerned mull it over fully before deciding to walk out.

What are the issues that unions and their members feel are worth a strike?

Anyone who has read the preceding chapter should be able to answer the question without looking further. Unions go to bat over questions of recognition, security, wages and hours, and grievances. For a number of years the BLS has collected information on strike issues, and the statistics reflect clearly the shift of attention from one type of issue to another as union organization progressed, business conditions rose and fell, and the economic scene was successively dominated by depression, war, and postwar prosperity. In Table 63, the percentage of work stoppages originating from each of the major class of issues is shown for each year from 1935 to 1947.

From 1935 to 1941 was the great organizing period in the history of the American labor movement. In all of those years, the issue of "union organization" (which means union recognition and security) produced more work stoppages than any other type of dispute with management. In 6 of the 7 years, it produced as many shutdowns as all the other issues combined. With the virtual settlement of the recognition question in 1941, disputes over union organization declined to insignificance. In terms of lost working time, the drop was even more noticeable. Work stoppages over questions of union organization produced only 2 per cent of all man-days of idleness in 1946 and 5 per cent in 1947.

The standard strike issue over the years is wages and hours (terms of the agreement), which may be relied upon to appear in almost any serious dispute with management, either as the primary demand or as a supplement to other issues. After the matter of union organization was settled, "wages and hours" resumed its customary position as leading cause of union-management showdowns. This is particularly true when columns 2 and 3 of Table 63 are combined, from 1942 onward, and it is even more emphatic if the criterion is man-days of idleness. In 1946, for example, disputes over

wages and hours were responsible for 82 per cent of all lost time from strikes.

"Other working conditions" means grievances, primarily. Enough of these come to a head regularly to produce about one-fifth of all strikes. The principal exception shown in the table is the war period, 1943 to 1945, when they approximated one-third. This is a tribute to the difficulty of breaking in

Table 63. Work Stoppages by Major Issues Involved, 1935-1947*
(In percentages of total)

Year	Union organization	Wages and hours	Union organization, wages and hours	Other working conditions	Inter or intra union matters
1935	47	38	†	15	†
1936	50	35	†	15	†
1937	58	30	†	12	†
1938	50	28	†	22	†
1939	53	27	†	20	†
1940	50	30	†	20	†
1941	50	35	†	15	†
1942	14	47	17	16	6
1943	10	51	6	29	4
1944	11	44	5	36	4
1945	13	42	8	33	4
1946	14	45	18	18	5
1947	15	47	15	19	4

* SOURCE: BLS, *Handbook of Labor Statistics, 1947*, p. 138.

† After 1941, the BLS introduced a new classification, in which they put disputes which involved both "union organization" and "wages and hours."

‡ From 1935 to 1941, "inter and intra union matters" (jurisdictional disputes) were included in the class "other working conditions."

and maturing grievance committeemen, both union and management, after a period of rapid expansion of organization. It also reflects the pressure and disorder of the war years in production establishments and the underlying dissatisfaction with wartime restrictions on wages and labor mobility. "Inter and intra union matters" are jurisdictional disputes. They cause a small but steady proportion of all work stoppages. Actually, they should be added to the "union organization" column, as the issue is always one of union security.

One last word of caution is necessary for readers of tables such as the one above. They should be looked upon as evidence of *general trends only*, since the data of which they are composed are so dissimilar. No two strikes are alike, and it is impossible, without detailed knowledge of the shutdown, to assess the importance of any work stoppage, whether on grounds of the type of issue involved or otherwise. For example, the Pittsburgh power

strike of 1946 arose out of a grievance resulting from the discharge of less than half a dozen employees. It was not a large work stoppage in terms of either workers involved or man-hours lost directly, and those are what go into the record. Yet for a month or more it resulted in an almost total interference with the supply of electric light and power to a community of more than three-quarters of a million people. The resulting indirect effects, including the unemployment of people whose occupations were suspended for lack of electricity, were very severe. Yet these would not, and should not, be shown in the bare statistics of strikes themselves.

Factors Influencing Strike Policy. It is difficult to generalize about union strike policy, except to say that almost any conclusions concerning it have to be qualified so many times as to be practically useless. The use of strikes by unions ranges all the way from policies of complete self-denial (found in the constitutions of some unions of government employes) to an attitude of extreme aggressiveness, in which the slightest grievance becomes a pretext for a walkout. Some unions have carried on collective bargaining for years without a shutdown; others (like the United Mine Workers, with its "no contract, no work" rule) open every bargaining conference with an implied threat of strike, manipulate the strike weapon with imagination and abandon, and almost seem to enjoy breaking off relations with management.¹²

However, without attempting to establish rules which will apply to all unions, it is possible to point to some of the factors which will influence the strategic use of strikes. Some of the leading ones are: (1) general economic conditions, (2) union leadership and morale, (3) the personnel policies of employers, (4) statutory and legal limitations upon strike action, (5) policies and identification of local law-enforcement officials, and (6) the over-all political and social environment. It is not possible to say in advance which of the above is more and which is less important. At different times and in different situations, first one and then another may prove controlling. However, it is a fair bet that attention to these half-dozen factors will contribute to an understanding of the strike policy of a given union or group of unions.

1. *General economic conditions* are important to unions in two ways. They have a significant effect on the volume of employment available and they influence the cost of living. Trade unionists may not call them that, but they know what "real wages" are. Few issues produce a more reliable strike temper than the sight of a pay check standing still while prices rise. An examination of Table 60 (page 472) will reveal that without exception, the years of rising prices (1916 to 1920, 1935 to 1937, 1941 to 1947) were the years of lots of strikes. This generalization does not hold for *prosperity*, as such. The 1920's were prosperous, but from 1921 to 1933 the price level declined

¹² In the United Automobile Workers-General Motors strike of 1945-46, it was reported that union representatives riding the picket line were using the rallying cry, "It's just like the old times."

steadily. Strikes were at a low level for the whole period, which was also characterized by a high level of employment.

On the employment side, both union leaders and union members are realists. They are well aware that a walkout at a time when the employer was contemplating a reduction in force or a possible shutdown for lack of orders would carry little punch. Likewise, the possibility of striking union men finding other part-time jobs (a standard practice) is much less. And finally, in most states a striker is not eligible for unemployment insurance, whereas a man laid off by the employer is. It takes a tough issue to make a group of men jeopardize their job insurance rights at a time when a little negotiation might persuade the employer to issue layoff slips which carry compensation privileges up to six months in duration.

On the prosperity side of the cycle, an employer with orders, potential profits, and a high or expanding payroll is an employer in a vulnerable position for a shutdown or threat of one. He is likely to listen to reason, see his way clear to compromise, and think up concessions of his own to present to the union's strike committee. The union, in turn, is apt to be in good financial condition, with a well-filled war chest, ready to back up its demands with action. A shutdown is not inevitable, but it is easy in such circumstances for matters to get out of hand and a strike to occur.

2. The *morale* of the union is as important as the morale of an army. It is the union members who risk their jobs, lose their pay, and man the picket line. Very few strikes are called without a vote of ratification by the members who will be affected, and many are called off after the vote could not be rounded up, or proved indecisive. Strike morale depends in large part upon two things: the attitudes of union members toward the immediate issue and the long-run indoctrination of the union. The big issues for most trade unionists are the ones shown in Table 63—union security; wages, hours, and conditions of work; and grievances against management. Show most union members that a real issue exists in one of these categories and a strike vote will issue as a matter of course. It is not unusual for membership sentiment to run ahead of the official view in strike matters, and many a union officer has scurried around trying to damp down strike talk which he did not want to see snowball into a walkout.

One reason why union officials try to avoid strikes is that they distrust their members' conviction and staying power,—to wit, their indoctrination. It is one thing to get heated up over an alleged injustice, and another to dig in and stay out on strike when bills are unpaid and management is offering inducements to start a "back-to-work" movement. Strikes called in haste invite defection, retreat, failure, and loss of prestige for the union. Hence, labor leaders try to hold walkouts to a minimum, use them only on the most important occasions, and see to it that the treasury is in shape to stand the

strain and the members are fully aware of their responsibilities before being called on to make the sacrifice.

It would be unrealistic to deny the influence of *union leadership* in strike decisions. It is the job of a leader to make decisions, and official recommendations are always listened to with respect. Like others in positions of power, the union head is also in control of key information and the channels of communication needed to put his ideas over. It is even arguable that union members rely more on their leaders than do the members of other kinds of organizations (due to ignorance of issues, strategic necessity, etc.), although this would be hotly debated by many union officers who have to stand for reelection year after year. Particularly if the leadership has been successful in a series of disputes with management, its influence may become enormous and any opposition treated as disloyalty.

On the other hand, it is equally possible to overstress the weight of union leadership. The well-known apocryphal tale of the French Revolution, in which a public figure pointed to a crowd streaming down a street and said "I am their leader; I must follow them," is also applicable to trade unions. Union leaders canvass membership sentiment and count votes as carefully as any municipal political boss, and their recommendations as often as not are tailored to their findings. The public conception of the domineering, dictatorial, decisive labor leader, in the image of John L. Lewis or Dave Beck, is only partially correct even for those men. It is strictly inaccurate for many leaders of very large and powerful unions, in which both the spirit and the letter of democratic procedure are observed with scrupulous regard for due process.

3. Strikes are called by unions, but not for fun. A strike is always a protest against something, either an existing practice or a refusal of a request (demand) which the union feels is justified. Naturally, most protests are directed at management (the exceptions are jurisdictional and general strikes), so the *personnel policies of employers* are always a factor in the strike situation. The tip-off on *what* policies to look for is found in the catalogue of principal strike issues in Table 63. First on the list comes any threat to the union's security, in the form of a refusal to bargain; a proposal to weaken the union-security clause in the contract; an indication of preference for another union; discharge of a union official; the use of strikebreakers (scabs); or even management criticism of the union. Any one or any combination of these is liable to bring all good union men up on the alert, ready for counteraction. What they spell is insecurity, nonacceptance of the union, the threat of withdrawal of recognition. And if persisted in, they will probably spell strike.

There is less likelihood of a union resorting to a strike over contract terms than over protection of its own security, and still less likelihood of a

walkout over grievances. Nonetheless, both are significant sources of work stoppages, the former especially so. In each case, it may be the attitude of management, as much as the position it takes on the issues, that brings on the shutdown. An employer may be a tough negotiator and drive a hard bargain and still have the respect of the union and its members and run small risk of a strike, *provided* he demonstrates sincerity and good faith in all his dealings. An employer and his representatives may also watch the grievance procedure with an eagle eye and insist on fair treatment for the company, without any loss of union cooperation and with small risk of strike, *provided* there is no stalling, delay, buck passing, or dodging of issues. Good personnel administration starts with *attitudes* (of fairness, tolerance, cooperation) and is rounded out by *policies* (on recruitment, training, seniority, job classification and pay, discipline, etc.). Very few firms with a reputation for good personnel administration have a long strike record.

4. There are plenty of *statutory and legal limitations* upon strikes at all levels of government, and unions are very respectful of them. When the community, through its legislatures and courts, turns thumbs down on certain kinds of work stoppages, there may be a roar of disapproval from labor leaders but most of them observe the rule. Some kinds of strikes are prohibited: against the Federal government, over grievances on the railroads, in support of secondary boycotts and jurisdictional disputes, etc. Others are held up for a time after the dispute is made public, by one device or another: cooling-off periods, emergency-board investigations, mediation, and offers of arbitration. Still others may be ruled in violation of contract and bring an award of damages to the employer (if there is a no-strike clause in the agreement, etc.). Every restriction is a hindrance of sorts and tends to reduce the use of strikes. That is their purpose. The volume of "red tape" has grown steadily over the years, and there is no apparent reason to expect a reversal of the trend.

5. Strike management often calls for breaches of the peace, mainly in the form of picket-line brawls. In such cases, it makes a lot of difference if the local police are with you or against you. The policing of industrial disputes is not the proudest chapter in the history of American government. It is not too much to say that the *attitudes of local law-enforcement officers* have decided the issue in a very large number of disputes. Prior to 1930, it was common practice for sheriffs and chiefs of police to deputize plant guards and strikebreakers. It was rare for a strike to be won under such circumstances, since the pickets and their supporters found themselves lined up against the law. Since 1937, it is more common practice for police to turn their backs while strikers engage in mass picketing, trespassing and sabotage, and threats of violence against nonstrikers. Since 1937, very few strikes have been lost.

Local law enforcement is not the sole, perhaps not the primary reason for the change in fortune of trade unions, but no seasoned union organizer would put it last on the list of important factors. It must be calculated as carefully as union morale and finances in the planning of strike strategy.

6. Finally, there is the *over-all political and social environment*. This may seem distant and intangible, and some outstanding labor leaders have disregarded it to their cost and the cost of the labor movement as a whole. Nevertheless, most of the successful union officials read the election returns and keep carefully abreast of public opinion at the grass roots and in Congress. There are years when the public is almost automatically back of strikes (1937) and years when it is sick and tired of work stoppages and employer-employee recrimination (1947). Only the most aggressive and recalcitrant try to swim against the stream, both for reasons of probable immediate benefit and the effect on public legislative policy.

Strike Management. Strike management can be separated from strike policy for purposes of study, but not in actuality. They represent different stages of policy decision by the union, which are conveniently marked off by the actual walkout, but which are closely tied together in performance. Some elements of strike management, for instance, may be in operation before the actual shutdown occurs. They may or may not continue to be employed throughout the duration of the dispute. These include the boycott, the presentation of demands, publicity releases and propaganda charges against employers, requests for governmental intervention, and operations designed to strengthen the morale of members. The most important tactic in strike management, however, must wait until the workers have laid down their tools. It is picketing.

Picketing

Picketing is a reflection of the union theory of the strike, which is that the employes on strike retain their jobs and job rights during a temporary suspension of work. The function of picketing is to protect those job rights from nonstrikers and to ensure that the suspension of work is reflected in a corresponding suspension of activity by the employer. In other words, it is to make sure that the employer's place of business is shut down tight and that the production of goods and/or services and their delivery to customers is stopped.

Picketing is the key to strike success. If the picketing is effective, the odds are that the strike will be won. If the picketing is unsuccessful, it is a good bet that the strike will be lost. There are some unions (for example, the Brotherhood of Locomotive Engineers) that have such an inclusive membership among all the qualified personnel for a given type of work that they can walk off the job with assurance that they cannot be replaced. In the

great majority of cases, however, substitutes are available, new employes can be trained in a hurry, or the duties of nonstriking workers (especially the managerial staff) can be expanded to keep up a portion of production, so that without union interference there is no complete shutdown and operations can be gradually brought back to normal. It is the purpose of picketing to prevent this.

Types of Picketing. In line with other forms of union pressure, the varieties of picketing run the gamut from simple publicity to invasion of the employer's property plus the exclusion of all nonstriking personnel, including management. Starting with the most peaceable and progressing to the most violent, the identifiable types of picketing are: (1) strolling, (2) accosting, following, and residential picketing, (3) obstructing, (4) mass picketing, with or without flying squadrons, and (5) sit-down strikes. Although the purposes are similar, the effects are different and a variety of issues are raised by the several methods.

1. *Strolling* is the sandwich-man method of picketing. It consists of assigning one or two persons to the job of patrolling the sidewalk or street in front of the struck firm, with signs reading "This company (or "store" or "restaurant," etc.) unfair to Local Union, AFL (or CIO, as the case may be)." The strolling picket does not talk; his sign carries his message for him. Strollers may or may not be striking employes; often they are "mercenary" pickets, meaning they are hired by the day for the job.

This form of picketing may accompany a strike or it may have other purposes. It may be used to keep sympathizers from patronizing a firm of which the union does not approve for any of several reasons: nonunion employes, sale of nonunion goods, etc. It has often been protested by employers, particularly where no dispute with their own employes exists, and several attempts have been made to limit it, but without success. The U.S. Supreme Court has uniformly upheld it as an exercise of the right of free speech and denied the power of states or cities to prohibit it or require licensing of the pickets. Strolling keeps out union members and strong union sympathizers (who regularly refuse to cross a picket line) but is seldom very effective with the general public. It is about the only brand of picketing which everyone agrees is strictly peaceful, nonviolent in character.

2. *Accosting, following, and residential picketing* are more forceful than strolling. "Accosting" adds the use of the voice to strolling. It means addressing nonstrikers directly, in an attempt to persuade them not to return to work or to quit working. It may be extended to following workmen to their homes and patrolling in front of their residences in an effort to dissuade them from continuing at work. Accosting is generally considered legal, protected by the constitutional guarantee of freedom of speech, especially where no threats are used. Following and residential picketing have been ruled out,

more times than not, both by court decision and by statute. The grounds were harassment and invasion of privacy, especially of the home.

The range of pressure that may be exerted on a workman by means of accosting is pretty wide. It extends from simple requests for assistance to epithets and strongly worded threats of violence if cooperation is not forthcoming. Numbers are also important. A personal plea from a single picket or a pair stationed at a plant entrance is quite a different thing from shouts of "Scab," "Strikebreaker," "Stool pigeon," and worse, from a large crowd of hostile strangers. Words have instrumental qualities; a man can be struck with a harsh name just as he may be struck with a brick. Since "accosting" is just on the dividing line between peaceful and violent picketing, it has been a problem for courts and local peace officers alike. However, in recent years, it has been swallowed up and forgotten in the much more serious issues of obstruction and mass picketing.

3. "*Obstructing*" means, as the word implies, physical interference with the passage of workmen or customers into struck plants, stores, or offices. It may be done by a relatively few pickets, so long as they are able to control all entrances and exits. A typical example was the New York Stock Exchange strike in the latter part of 1948. Striking employes, assisted by sympathizing longshoremen, lay down side by side on the sidewalk at the entrance to the Exchange, so that Exchange members and nonstriking employes could not enter the building without stepping on the pickets. They succeeded in delaying the opening for a few hours one day until police dispersed them. Obstructing, in small numbers, is seldom successful for long, since it ordinarily violates local ordinances requiring the maintenance of free passage on streets and sidewalks, or else it is done on the employer's property, in which case it is trespass. If obstructing fails and the situation merits and the recruits can be found, the next step is mass picketing.

4. *Mass picketing* is obstructing carried out by sheer weight of numbers. It means picketing by such large crowds that it is often physically impossible for employes or vehicles to enter struck properties, although there may be no actual violence in the sense of assault. Strikers drive their own cars into the entryways to plants and parking yards, lock the ignition and doors and leave them. Pickets swarm over sidewalks and streets and mass closely in front of gates and doorways until no one can get through without pushing someone aside. It is too much to ask of nonstrikers, who are usually in the minority, that they clear their own path to work. Where it is permitted by authorities, mass picketing almost always accomplishes its objective: a complete shutdown of all activity except that authorized by the union—possibly maintenance, fire protection, and limited phases of administration.

The above is a picture of peaceful mass picketing. One of the properties of a crowd, however, is its temperamental instability. A crowd of pickets is

no exception, unless it is in the direction of aggressiveness. It is almost impossible to engage in mass picketing without some breaches of the peace, either in the form of fist fights, or the throwing of stones or other missiles, or the overturning of cars of nonstrikers, or some other form of working off resentment. Since mass picketing is too costly and difficult a maneuver for ordinary use, it is customarily saved for an emergency, like prevention of a back-to-work movement. The juxtaposition of large numbers of strikers, strike sympathizers, nonstrikers, and police in such a setting is almost certain to produce a round of altercations. It is a rare and cocky policeman who relishes assignment to a mass-picketing detail.

One minor but important point should be cleared up at the beginning. In spite of the protestations of union leaders, it should be recognized that mass is *always* an organized activity, and never a spontaneous, voluntary expression of protest by striking employees. There may have been instances of the latter, but they are such extreme exceptions that they may be disregarded for practical purposes. Most mass picketing is as carefully planned, organized, directed, and carried out as a battle, a sales campaign, or a bond drive. In many cases, it is necessary to drum up interest and enforce attendance upon strikers, with penalties for those failing to serve. It is a specific union weapon and should be regarded as such.

The central issue in mass picketing is the power and prestige of the local government as represented by its law enforcement officers. Almost no courts have held that picketing in large numbers is peaceful, as the following summary of the judicial view indicates:¹⁸

When pickets patrol the public street, which is the approach to their employer's premises, and either their number or their conduct is such as to constitute intimidation and put employees or others in fear of bodily harm, they are guilty of unlawful acts. The courts have generally recognized that persuasion in the presence of a large number of persons is not peaceful persuasion. In order to prove intimidation through fear of physical harm, it is not necessary to show that there was actual force or express threats of physical violence.

The problem of mass picketing is how to cope with it. It cannot be enjoined on the Federal level because use of the injunction is forbidden by the Norris-LaGuardia Act, and the most important strikes are in interstate commerce. Interstate commerce or not, however, the law-enforcement problem is a local affair, and local government is responsible and close to its constituents. In fact, many of them are liable to be found on the picket line.

Faced by (1) the constitutional fact that workmen have a right to picket, and (2) the political fact that a crowd of pickets means a lot of votes, and (3) the statutory fact that arrests must be for specific breaches of the peace,

¹⁸ Superior Judge William J. Palmer, of Los Angeles County, Calif. See *Los Angeles Times*, Apr. 11, 1949.

and (4) the physical fact that very few jails have the capacity to hold several hundreds (or thousands) of pickets, the local law-enforcement staff (which is seldom adequately manned for the occasion) tends to meet the quandary by doing nothing. The position of the police is not made easier by the use of "flying squadrons" of special pickets who go from place to place, doing the necessary dirty work of violence and intimidation. This leaves the great majority of pickets innocent of wrongdoing and makes apprehension of those who violate the law much more difficult. A recent approach to control of mass picketing (under the Taft-Hartley Act) has been to rule it an "unfair labor practice" by the union, as a violation of the individual worker's guarantee of freedom of choice regarding union membership and activities. The decision has been violently protested by organized labor, and the general issue of regulation is still up in the air.

5. The *sit-down strike* is a refinement of picketing, introduced in the strike-happy year of 1937. Originated by the rubber workers in Akron, Ohio, adopted by the autoworkers in Flint, Mich., and given wide publicity in the Fansteel Manufacturing Company strike in North Chicago, early in 1937, the sit-down has been uniformly held illegal by all the courts. It consists of moving the pickets into the plant and denying access to all comers, including owners and the police. (The strikers merely "sit down" on the job and refuse to leave.) The pickets are supplied with food and other necessities by their striking associates on the outside, until demands are met or they are ousted by the militia.

The sit-down is an illegal instrument, but that does not mean that it will not be used. So are ordinary picket-line violence and intimidation, which occur regularly. The rubber workers and the autoworkers who used the sit-down were not disciplined. It was made an explicit part of the settlement of those disputes that all strikers, including those who "sat down," would be returned to their jobs without discrimination. Successful strike management practically requires breaches of the peace now and then, and the sit-down, like the general strike, is a powerful instrument, to be held in reserve for an emergency.

The Picketing Issue. The primary issue of picketing is what is "peaceful" and what is not. There is wide difference of opinion on the subject. At one extreme is the view that picketing by its very nature cannot be peaceful, as both the word (with its military connotation) and the practice carry an implied threat which will influence the actions of others.¹⁴ This argument is supported by the numberless instances of actual violence known to be associated with picketing and the clear proof of intimidation by threat and otherwise in cases of mass picketing and obstruction.

¹⁴ See Cooper, "The Fiction of Peaceful Picketing," *Michigan Law Review*, Vol. 35 (1932), p. 73.

The classic limitation of the right to picket was given in the case of *Vegeahn v. Guntner*,¹⁵ in which a sidewalk patrol of two men who had been accosting employes was ruled out of bounds as intimidating. The court's reasoning was as follows:

The patrol was maintained as one of the means of carrying out the defendant's plan, and it was used in combination with social pressure, threats of personal injury or unlawful harm, and persuasion to break existing contracts. It was thus one means of intimidation indirectly to the plaintiff, and directly to persons actually employed, or seeking to be employed, by the plaintiff, and of rendering such employment unpleasant or intolerable to such persons. Such an act is an unlawful interference with the rights both of employer and of employed. . . . Intimidation is not limited to threats of violence or of physical injury to person or property. It has a broader signification, and there also may be a moral intimidation which is illegal.

At even that early date, however, there was dissent, from Mr. Justice Oliver Wendell Holmes, then a member of the supreme judicial court of Massachusetts. His view was that:

The means adopted for preventing the plaintiff from getting workmen are, (1) in the first place, persuasion and social pressure. And these means are sufficient to affect the plaintiff disadvantageously, although it does not appear, if that be material, that they are sufficient to crush him. I ruled that the employment of these means for the said purpose was lawful. . . . The patrol proper at times went further than simple advice, not obtruded beyond the point where the other person was willing to listen. . . . I ruled that the patrol, so far as it confined itself to persuasion and giving notice of the strike, was not unlawful.

As in so many similar cases, Mr. Justice Holmes's position is now the law. The leading case at present is *Thornhill v. Alabama*,¹⁶ in which a state law forbidding "loitering or picketing" was held unconstitutional as a violation of the constitutional protection of free speech. The Court's argument is summarized in the following passages:

In the circumstances of our times the dissemination of information concerning the facts of a labor dispute must be regarded as within that area of free discussion that is guaranteed by the Constitution. . . . The range of activities proscribed by Section 3448 [of the Alabama State Code], whether characterized as picketing or loitering or otherwise, embraces nearly every practicable, effective means whereby those interested—including the employees directly affected—may enlighten the public on the nature and causes of a labor dispute. . . . It may be that effective exercise of the means of advancing public knowledge may persuade some of those reached to refrain from entering into advantageous relations with the business establishment which is the scene of the dispute. Every expression of opinion on

¹⁵ 167 Mass. 92, 44 N.E. 1077 (1896).

¹⁶ 310 U.S. 88 (1940).

matters that are important has the potentiality of inducing action in the interests of one rather than another group in society. But the group in power at any moment may not impose penal sanctions on peaceful and truthful discussion of matters of public interest merely on a showing that others may thereby be persuaded to take action inconsistent with its interests.

But what of more forceful means than "peaceful and truthful discussion" of matters in dispute? In the Thornhill decision, the Court expressly ruled out one kind of excess by saying: "We are not now concerned with picketing *en masse* or otherwise conducted which might occasion such imminent and aggravated danger ... as to justify a statute narrowly drawn to cover the precise situation giving rise to the danger." The issue is still undecided; it awaits further definition and the creation of sanctions appropriate to the modern conception of the job rights and responsibilities of organized labor.

The Boycott

Trade unionism's major weapon is the "refusal to deal," the withdrawal of contractual relations. Its principal form is the strike, which is the refusal to *sell* the services of its members; the complement of the strike is the boycott, which is the refusal to *buy* from firms which it disapproves. Picketing is used to support both the strike and the boycott. It is the attempt to extend the union's refusal to deal to third parties, either through force or persuasion.

The ordinary boycott is customarily supported by strolling pickets, who carry "We don't patronize" signs and advertise that the place of business is "unfair" to organized labor. This tactic often seems innocuous, but it may prove so efficient as to be disastrous to the employer. An example of this is when the boycott is supported by sympathetic trade unionists in other trades, whose services are indispensable to the picketed firm. If the teamsters refuse to cross the picket line, for instance, all deliveries of materials and supplies may come to a stop. Refusal to cross a picket line, regardless of the parties or issues in the dispute, is the tactic most common to the labor movement as a whole. The boycott is a powerful weapon, particularly now that organized labor has so many members and friends, all of whom may join in "refusing to deal."

The boycott has a long and checkered history, and its use is not confined to organized labor. It is a standard business weapon, used to kill off competition, and the final recourse of the consumer, always the forgotten man in the economic world. Professional associations rely upon it to enforce their criteria of good conduct upon administrators, colleagues, and the community. In its quarterly *Bulletin*, for instance, the American Association of University Professors regularly black-lists any college or university administration that violates its standards of academic freedom and tenure; and the

American Medical Association and its related College of Physicians and Surgeons use the same device to exclude unqualified practitioners from hospitals and other medical facilities. The trade-union boycott was countered for many years by employers through the "black-list" of workmen who were active in union affairs, a practice that is now illegal under the National Labor Relations Act.

Types of Boycott. As practiced by organized labor, two stages of the boycott should be clearly distinguished: primary and secondary. The *primary boycott* is the withdrawal of patronage from the firm with which there is a labor dispute. It means that a union asks its own members and the members of other labor organizations and all friends and sympathizers to refrain from dealing with (buying from) an employer of whom it does not approve. The disapproval may stem from any kind of antiunion activities, but the issue is the same. In the union's eyes the employer is engaging in an "unfair" practice and should be passed over in favor of his competitors whose policies are more acceptable.

The primary boycott has seldom been held illegal;¹⁷ on the other hand, it is often completely ineffective. This is particularly true when the employer is a manufacturer and his customers are business firms and not individuals. A trade-union boycott against the General Motors Corporation, for instance, would not reduce the company's sales by much, since it sells almost exclusively to dealers. The boycott, to be effective, would have to be applied to the latter.

However, a boycott of sales agents of General Motors products would be a *secondary boycott*, which means bringing pressure to bear against third persons, not parties to the labor dispute, to force them to discontinue dealing with the employer who is guilty of the unfair practices. A special type of secondary boycott, and one much deplored by employers, is the "hot-goods" boycott. This is the refusal of union men to work on materials produced with nonunion labor. It is "secondary" in that it is directed at an employer with whom there is no dispute and constitutes an interference with his business operations which may be substantial.

The secondary boycott has always been under suspicion in this country and has frequently been held illegal. The stated grounds of the decisions have varied, but the underlying idea seems to be that it is wrong to force innocent bystanders to take sides in a dispute between an employer and his employees. The leading decision for many years was *Loewe v. Lawlor*,¹⁸ in

¹⁷ An exception was the decision of the U.S. Supreme Court in *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418 (1911), in which a black list of "unfair" employers, published in the AFL's journal, the *American Federationist*, was held to be an actionable conspiracy under the Sherman Act. Gompers received a suspended jail sentence and the black list was immediately discontinued, never to be revived.

¹⁸ 208 U.S. 274 (1908).

which an employer was granted triple damages under the Sherman Act for loss of business resulting from a secondary boycott. This view seemed controlling until the *Hutcheson* decision in 1940 finally removed union action from the jurisdiction of the Sherman Act. For a time, the secondary boycott enjoyed an uneasy respectability, which came to an end with the passage of the Taft-Hartley Act, in 1947, with its powerful restrictions upon work stoppages in support of either "secondary" or "hot-goods" boycotts.

The Issue of the Boycott. The real issue raised by the boycott is the same as that of the sympathetic strike and the general strike, to wit, the allowable range of a labor dispute. Behind that is the deeper issue of the nature of the labor problem, whether group advantage or class struggle. The question is: Should members of trade unions, without respect to affiliation or immediate interest in disputes, be permitted to spread the area of a disagreement by striking or boycotting ("refusing to deal" with) any or all employers indiscriminately, or should they be restricted to taking punitive action only when they can demonstrate an immediate beneficial interest in the question at issue?

The answer to the question will depend upon the premises from which one starts. If the working class is seen as a single, cohesive unit, with interests which are identical and largely opposed to those of their employers, the reply will be in favor of a broad interpretation of "labor dispute," as found in the Norris-LaGuardia Act:¹⁹

The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

Under this interpretation, a labor dispute is not a private fight and anybody can get in. It was well established that under the Norris-LaGuardia Act injunctions could not be used to stop sympathetic strikes or secondary boycotts. The Taft-Hartley Act reversed this policy with respect to the secondary boycott and reinstituted the injunction, along with cease-and-desist orders and suits for damages as control mechanisms.

Which was right?

Organized labor insists upon the right to use the secondary boycott, especially the refusal to work on nonunion goods. Employers declare that such actions are intolerable interferences with freedom to purchase in the best market, and will, if permitted, result in union dictation of purchasing policies (an encroachment upon managerial prerogatives), higher costs, competitive disadvantage, and the enforcement of union membership upon employees who do not so choose of their own free will and accord. The policy of

¹⁹ 47 Stat. 70 (1932), Sec. 13.

the United States under the Taft-Hartley Act became a fence-straddling one of "encouraging the practice and procedure of collective bargaining" and at the same time of protecting employes in their "right to refrain from any or all of such activities" except as membership is required by a valid union-shop agreement arrived at through majority vote of the employes affected.

An important question of public policy is raised, and the issue is by no means clear to all observers. The conscientious student of labor problems should familiarize himself with the premises involved and the implications of a decision either way, in order to determine what his own position is.

Supplementary Union Tactics

The power tactics of trade unions are the strike, the boycott, and picketing. These, in turn, are buttressed by a variety of methods for bringing pressure against employers and strengthening the morale of union members. Most of them are collected under the general heading of "collective bargaining," or "negotiation," which is a field of study in its own right.²⁰ They include the content and presentation of demands; the use of publicity to influence employers, employes, and the public; requests for mediation and arbitration by third parties, and the bringing of charges before labor tribunals, like the National Labor Relations Board and the National Railroad Adjustment Board; membership rallies, with visits and speeches by national union officials; and all the details of arranging and carrying on the actual conferences with management representatives. In the great majority of cases nowadays, collective negotiation does not bring into play the strike or the boycott, which is as it should be. The methods mentioned above are persuasive tactics, designed to strengthen the bargaining position of the union and bring about a conclusion satisfactory to it. They constitute "peaceful" collective bargaining; the prevalence of their use and the correlative decline in reliance upon power tactics are a tribute to the maturity of union-management relations.

Nonetheless, it should not be forgotten that the resort to economic force is always in the background. The union which neglects its "preparedness" invites the same sort of treatment as a nation that lets its military potential

²⁰ See, for example, John T. Dunlop, *Collective Bargaining: Principles and Cases* (Chicago: Richard D. Irwin, Inc., 1949); Leonard J. Smith, *Collective Bargaining* (New York: Prentice-Hall, Inc., 1946); Neil W. Chamberlain, *Collective Bargaining Procedures* (Washington: American Council on Public Affairs, 1944); and L. H. Hill and C. R. Hook, Jr., *Management at the Bargaining Table* (New York: McGraw-Hill Book Company, Inc., 1945). The emphasis in these books is upon the methodology of negotiation and the content of the labor agreement. These subjects are extremely important, but much too technical and detailed for coverage in an introductory course in labor economics.

run low. Union-management negotiations are a species of diplomacy (labor agreements are often compared with treaties between sovereign nations), and it is still unduly optimistic to assume that strength at the bargaining table is unrelated to power on the picket line. In the foreseeable future, at least, the relative grasp of tactics and strategy by management and labor are important elements in the industrial relations picture.

Some Questions

1. What theory of the strike do you hold with? Defend it, by pointing out the premises upon which it rests. Criticize it in the same manner.
2. What is the meaning of "peaceful picketing" to you? Outline exactly what you would permit under that description, and draw the line at what you would prohibit.
3. If you were given the assignment of devising an effective yet equitable means of controlling mass picketing, having in mind the interests of the union, the employer, and the public, what rules and regulations would you lay down? Give details, including the penalties and enforcement agencies you would specify.
4. If you were a member of a trade union, would you consider it proper to refuse to work on materials produced by nonunion labor? What rights would you allow the employer as countermeasures to such a "hot-goods" boycott? Would it be permissible for him to refuse to buy or use union-made goods? Why or why not?

5. Look up one of the following cases and tell what you think of the argument of the court:

Thornhill v. Alabama, 310 U.S. 88 (1940).

Loewe v. Lawlor, 208 U.S. 274 (1908).

Carpenters and Joiners Union of America v. Ritters Cafe, 62 Sup. Ct. 807 (1942).

Milk Wagon Drivers Union of Chicago, Local 753 v. Meadowmoor Dairies, Inc., 312 U.S. 287 (1940).

18. UNIONS AND THE LAW

The Issues

Like all other organizations, unions are now and always have been regulated by law—common, statute, constitutional, and administrative. In fact, several of the great turning points in union history in the United States are directly connected with some form of governmental action: for example, the no-conspiracy decision of Chief Justice Shaw in *Commonwealth v. Hunt* in 1842, passage of the Sherman antitrust law in 1890, enactment of the National Labor Relations Act in 1935, etc. Some of the actions have been favorable, others unfavorable, and the unions keep a wary eye on Congress, the courts, and chief executives at all levels of government. The unions know that the attitude of the government is vital; that is one reason why the big federations headquarter in Washington, D.C.

Then what should the government's attitude be?

One of the most unsettled questions of public policy in this country today is the relationship between the government and trade unions. Some of the issues and subissues raised by this controversy are listed below:

1. Should the government's primary interest in trade unions be to strengthen them, to limit and suppress them, or to direct and regulate their activities?
2. What means—legislative, executive, judicial, or administrative—are best suited to union regulation, whether protective or limiting?
3. If trade unions are protected in their right to organize and bargain collectively, what—if any—are the rights of management and of employees who do not choose to join a union?
4. Some union activities—strikes, picketing, etc.—inevitably affect the general public. Are these interferences of sufficient importance to justify protective rules limiting union action?
5. Should a union be considered a legal entity, separate from its membership, or should it be classed as a voluntary, private organization indis-

tinguishable from the persons composing it? In other words, should it be able to act for itself, sue and be sued, enter into agreements and be responsible for its commitments (like a corporation, say), or should it be regarded as a private club with no legal status apart from the individual rights and responsibilities of its members?

6. How far should the government's interest extend? Just to protection of the right to organize (or to refuse to organize)? Or to details of union organization like membership, financial practices, political activity, and leadership? Or into the negotiation and terms of collective agreements between unions and management? Or into the administration of those agreements?

7. What should the Federal government regulate and what should it leave to the states and cities?

8. How far should trade unions be permitted to combine to help each other for purposes of mutual gain or protection, and how far should employers be permitted to combine to oppose them, and where does the public interest come in?

9. And so on, and on and on.

The above list by no means exhausts the issues which are connected with the public regulation of trade unions, but it gives some idea of the difficulty and complexity of the questions which are raised. Every country with a strong labor movement has had occasion to debate and consider some of the above problems, either directly or by implication, and conclusions reached on some of them have been law for generations. Needless to say, there are two or more schools of thought on each issue and very spirited opinions can be found to support each point of view in turn. It is not surprising that in the United States, at the middle of the twentieth century, with one-third of the labor force organized, the "labor question" should be considered a major domestic problem.

The answers to questions of union regulation are not to be found in any single manual, whether of economics, ethics, politics, law, or custom. Of all phases of the labor problem, it is the most complicated and "unscientific." It is possible to say what it (union regulation) has been and what it is, to trace the influences—many of them transient and unpredictable—which produced this and that piece of legislation, this and that judicial precedent. But what public regulation of trade unions "should be" is another matter. Individual answers to this will depend on:

1. Personal convictions regarding the rights of workingmen
2. The importance of economic standards as balanced against principles of equality and human dignity
3. Political issues to which labor questions are attached as riders and vice versa

4. The extent to which personalities become symbols of labor exploitation or labor dictatorship

5. The maturity and intelligence with which problems of industrial relations are handled by management and union leaders

6. The demands of the times for uninterrupted operation of the economic machinery

7. Many other social, humanitarian, and economic considerations. These factors will determine the outcome of the pulling and hauling for more or less regulation, protection versus limitation, "free" collective bargaining versus governmental supervision of all dimensions of union-management relations, and so on.

In a word, the answer cannot be given in advance. However, there is a long record of public regulation of employee combinations in Great Britain and the United States, stretching from the Statute of Labourers in 1351 to the Taft-Hartley Act of 1947. There is also a trend, clearly discernible through the 6 centuries that employment has been a subject of Anglo-American legislation. That trend is the one pointed out by Commons and Andrews in their authoritative study of *Principles of Labor Legislation*, as running from *repression* to *toleration* to *encouragement* to *intervention*.¹ A knowledge of the historical background and present-day pattern of labor regulation may not make it possible to predict the future, but it can acquaint the student with the issues which have arisen and the techniques which were devised to solve them in the past, and this is a long step in the direction of understanding the regulatory problem. Public regulation of trade unions has its "tricks of the trade," just like any other line of activity. They must be learned before the strategy of policy can be understood.

Historical Background: British Regulation of Trade Unions

In Great Britain, the emancipation of the laboring man took 595 years, from the passage of the Statute of Labourers in 1351 to repeal of the Trade Unions and Trade Disputes Act in 1946. It was genuine emancipation (for labor organizations, anyway), with no restrictive regulations that trade unions needed to observe in the statutory law of England. It was the first time in six centuries that the code books had been free of such legislation.²

¹ Harper & Brothers, New York, 1936. Pp. 374-376.

² It is something of a paradox—and perhaps worth noting as a clue to the direction of trend—that the same Labor government that repealed the distasteful Trade Unions and Trade Disputes Act also imposed the most drastic restrictions upon freedom of choice of occupation in the peacetime history of Great Britain (in the Control of Engagements Act, which was aimed at the "spivs" and "drones" and provided for drafting the unemployed into essential work) and has several times used troops to counter strikes of dockworkers and keep supplies moving into the country.

The Statute of Labourers. The history of labor legislation in the English-speaking world starts with the aftermath of the Black Death (the bubonic plague) which swept across Europe in the Middle Ages and in the last years of the first half of the fourteenth century cut the population of Britain to a half or a third of its previous number. The immediate result was a serious labor shortage which produced a seller's market in personal services and threatened to disrupt existing economic arrangements to the disadvantage of the titled landowners. An Ordinance of Labourers, issued in 1349 by King Edward III, acted as a temporary protection, and in 1351, Parliament passed the Statute of Labourers, a broad and inclusive law whose terms sound today something like a Fair Labor Standards Act in reverse.³

The Statute of Labourers made it the duty of everyone (without land, position, or a title) to work, and established the terms of employment as to hours and rates of pay. And what were the terms? They were those in effect prior to the plague. Instead of minimum wages and maximum hours of work, the statute set *wage maximums* and *minimum hours of work*. Heavy penalties were established for accepting wages above those already in effect, and all hiring was required to be done openly (in public) and for long terms, to avoid the possibility of competition among employers for the services of laborers. Getting an employe to leave his master (inducing breach of a contract of employment) was made a punishable offense. It is the classic example of class legislation and it stood as the law of the land for 200 years.⁴ It also influenced British and American thinking on the law of labor contracts for more than 500 years; there are vestiges today in the American common law of employment (still called, from the British, the law of "master and servant") of doctrine carried over from the great statute of the fourteenth century.

The Elizabethan Statute of Labourers and the "Century of Combination Acts." Most of the prosecutions for violation of the Statute of Labourers were to stop collective action by workingmen who insisted on combining to force wages upward. Approximately two centuries after its enactment, Parliament (in 1548) again took steps to protect the masters by passing the Bill of Conspiracies of Victuallers and Craftsmen,⁵ which was purely and simply an anticombination law. What it did was to prohibit under pain of heavy penalty any combined action by employes to raise wages, limit output, or reduce hours of work. This act was supplemented 14 years later (1562) by the comprehensive Elizabethan Statute of Labourers, which: (1) reaffirmed the duty of all to work, either in industry or agriculture, (2)

³ 25 Edw. 3, st. 1 (1351).

⁴ See J. M. Landis and M. Manoff, *Cases on Labor Law*, "Historical Introduction" (Chicago: The Foundation Press, 1942), for an excellent brief summary of early English labor legislation and its enforcement.

⁵ 2 and 3 Edw. 6, c. 15 (1548).

established official rates of pay, hours of work, and terms of service, (3) placed restrictions on the movement of laborers from country to town and vice versa, (4) made paying or receiving excessive wages punishable by fine and imprisonment, (5) made breach of a labor contract a penal offense, and (6) authorized the jailing of laborers until they were willing to work upon the prescribed terms.⁶ There were few liberalizing features in the law and several additions to the rigor of the labor code. For another 150 years, the Bill of Conspiracies and the Elizabethan Statute set the dimensions of the labor contract, with no space left open for combined action.

But combined action there was, nonetheless, especially with the improvement of economic conditions at the beginning of the eighteenth century. These "worker rebellions" were put down with the help of a series of acts of Parliament throughout the 1700's which made any form of collective action illegal. The century of (anti) combination acts was capped by the Combination Acts of 1799 and 1800, which imposed criminal penalties for any form of joint action by employes to improve their pay, hours, or working conditions, and the next 20 years saw prosecution after prosecution based on the statutes.

The Reversal of the Trend. The tide turned with the substitution of the Combination Act of 1824 for its nefarious predecessor of 1800. The new law, sponsored by Francis Place, the great reformer, and David Hume, a liberal M.P., was a triumph of liberality. It repealed all previous anticomination acts and gave workingmen full freedom of collective action to strike, picket, or boycott; to negotiate collective agreements; or to get others to quit work in support of their objectives. For none of these things could they be prosecuted for conspiracy under either common or statute law. It was a great victory for labor—organized labor—and it lasted exactly 1 year. A series of strikes enraged the public, and the Combination Act of 1825 took away most of the gains that had been made. The only provisions saved were permission for employes to meet together to agree upon common action in regard to wages and hours, and official approval of collective agreements.⁷

From 1825 onward, the position of trade unions in Britain steadily improved. In 1859, persuading others to go out on strike was specifically defined as *not* an inducement of breach of contract. In the Trade Union Act of 1871, Parliament decreed that trade-union activity did not render workmen subject to prosecution for conspiracy even if the union activity as such was in restraint of trade. The Trade Disputes Act of 1906 (passed after the election of a number of Labor M.P.'s) provided British labor with

⁶ Eliz., c. 4 (1562).

⁷ See Landis and Manoff, *op. cit.*, for a careful yet dramatic outline of the struggle of these years.

a Magna Charta. It (1) limited the doctrine of civil conspiracy as applied to unions, (2) exempted unions as such from legal action, and (3) gave full legal sanction to any form of peaceful picketing.⁸ It was reinforced in 1913 by Parliamentary permission for trade unions to use their funds for political purposes if the members had so authorized.

It seemed like the end of the trail. Trade unionism in Great Britain was free, legal, unencumbered. Then, in 1926, came the General Strike, in which some unions of government employes took part. The reaction was immediate and sharp. The Labor government was overthrown, and the new Parliament passed the Trade Disputes and Trade Unions Act of 1927.⁹ It was as much of a shock as the Taft-Hartley Act in America 20 years later. The law prohibited sympathetic strikes, strikes designed to coerce the government, mass and residential picketing, and the political use of trade-union funds without individual authorization of members. Violations were punishable by fine and imprisonment. It was a long step backward, from the labor point of view, and the trade unions did not forget. In 1946, with a new Labor party in control, the 1927 law was repealed.

Historical Background: Union Regulation in the United States

Conspiracy and the Courts. There was no real labor movement of a permanent character in the United States, and hence little need for union regulation, during the first hundred years after adoption of the Federal Constitution. The conspiracy doctrine was imported from Great Britain, along with most of the rest of the common law, and it was sufficient grounds for putting down collective action when workmen became too obstreperous. After the conspiracy dogma was demolished in *Commonwealth v. Hunt* in 1842, other national issues crowded labor out of the legislatures and the courts. Slavery, war, and reconstruction, in turn, were the principal issues for 30 years or more, and the steady westward migration to the frontier took the pressure off employer-employee relations in the commercial and industrial centers of the East. The establishment of a few national unions following the War Between the States, and the mushroom growth of the Knights of Labor during the prosperity of the 1880's, laid the groundwork for renewed governmental attention to the phenomenon of trade unionism. It was the courts which again took the lead, through the process of judicial review and application of the Sherman Antitrust Act.

If any fact is clearly established, it is that for roughly the first 150 years of American history, public regulation of trade unions was court regulation. The principal instruments of the judges were the conspiracy doctrine, the

⁸ Edw. 7, c. 47 (1906).

⁹ 17 and 18 Geo. V, c. 22.

injunction, judicial interpretation of statutes, and the declaration of unconstitutionality. During this period, Congress and the state legislatures either avoided the subject or treated it gingerly, and the laws they passed were promptly rewritten in line with the economic and social sentiments of the judges. The period was long enough and the record is clear enough to justify fully the deep-seated union distrust of courts and court-made justice in this country.

The Labor Injunction. No chapter in American legal history is more repugnant to trade unionists than the section dealing with the labor injunction.¹⁰ The first important use of the restraining order by the Federal government seems to have been in the railroad strike of 1877, after which a number of injunctions were granted by state courts in the labor disputes of the 1880's. However, the plug was finally pulled, perhaps unwittingly, with the passage of the Sherman Act in 1890, which applied the conspiracy doctrine in connection with restraint of trade and provided for injunctive relief along with civil and criminal penalties.¹¹ Widely publicized by the Pullman strike in 1894 and the subsequent trial and imprisonment of Eugene V. Debs for disobedience of the Court's order, the injunction became the standard reliance of Federal and state officials for the control of aggressive union action. Its effectiveness probably reached an all-time high in the sweeping order of Judge Wilkerson ending the Railway Shopmen's strike of 1922, which forbade conversation, assembly, distribution of funds, or any other activity in connection with the strike and included within its restraints, not only the strikers themselves but also "all of their attorneys, servants, agents, associates, members, employers and all persons acting in aid or in conjunction with them."¹² That is "government by injunction."

In 1914, a liberal Congress and a liberal President, Woodrow Wilson, had tried to remove unions from the antitrust law's injunctive jurisdiction by including in the Clayton Act's amendments a section which seemed to bar all the activities found in the Wilkerson order from court restraint.¹³ Only a year before the Shopmen's strike, however, the Supreme Court urbanely repealed the provision by interpretation in *Duplex Printing Press*

¹⁰ There is an extensive literature on the use of injunctions in labor disputes. See, among others, Felix Frankfurter and Nathan Greene, *The Labor Injunction* (New York: The Macmillan Company, 1930); John P. Frey, *The Labor Injunction* (Cincinnati: Equity Publishing Co., 1923); E. E. Witte, *The Government in Labor Disputes* (New York: McGraw-Hill Book Company, Inc., 1932); and J. F. Christ, "The Federal Courts and Organized Labor," *Journal of Business*, Vol. V (1932), pp. 283-300.

¹¹ 26 Stat. 209. Labor organizations were not mentioned as such in the act, and it is now a thoroughly academic point—though one still widely argued—whether or not Congress intended to include trade unions in its ban on restraints of trade. At any rate, the Supreme Court so interpreted the law under its prerogative of judicial review.

¹² 283 Fed. Cas. 479 (1922).

¹³ See above, Chap. 12, pp. 299-301 for details.

Co. v. Deering.¹⁴ In the same decision, the Court also extended the doctrine (established in 1917) of *Hitchman Coal and Coke Co. v. Mitchell*,¹⁵ that private employers should have the right to ask for restraining orders if union activity threatened to disturb their nonunion agreements with employees. The *Hitchman* and *Duplex* decisions paved the way for the most efficient anti-union procedure since the days of the simple conspiracy doctrine—a combination of the yellow-dog contract and the injunction.

Employers simply required workmen as a condition of employment to sign individual bargaining (yellow-dog) contracts, which committed the employe to give up his union membership if he held one or to abstain from joining if he was not at the time a member and to refrain from such association during the period of his employment. Attempts to organize employees who had signed the agreements were interpreted as inducements to breach of contract and grounds for a restraining order. If the order were violated, the organizer was held guilty of contempt of court and was subject to criminal penalties at the discretion of the judge and without benefit of jury trial. The decline of union membership in this country from the end of the First World War to the days of the New Deal is to a considerable extent explainable on grounds of the airtight defense against extension of organization provided by the yellow-dog contract combined with the injunction.

Judicial Review and Unconstitutionality. The most important instances of judicial interpretation of statutes for purposes of union regulation are the Supreme Court's elaboration of the Sherman Act, and the Clayton Act which amended it. The substance of the Sherman Act, probably the most succinct statement of major national policy on record, is found in a single sentence, as follows: "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. . . ." In a series of sweeping decisions between 1908 and 1927, the Supreme Court held secondary boycotts to be illegal conspiracies under the act (*Loewe v. Lawlor*, 1908), found that the refusal to handle nonunion goods was an actionable conspiracy to restrain trade (*Duplex*, 1921, and *Bedford*, 1927, cases) decided that a strike by the United Mine Workers violated the law (*Coronado* case, 1925), and made the statutes a basis for the strict limitation of the number of pickets in a labor dispute (*American Steel Foundries* case, 1921). Not until 1941 did a new Court, with a different personnel and a changed philosophy, reinterpret the Clayton Act and give it the clear meaning which its phraseology called for (in the *Hutcheson* case).

Along the way, the Supreme Court struck down as unconstitutional a number of laws designed to protect union activities. Three of the most im-

¹⁴ 254 U.S. 443 (1921).

¹⁵ 245 U.S. 229.

portant decisions were: the Adair case (1908), in which an anti-yellow-dog contract provision of the Erdman Act regulating labor relations on the railroads was held a violation of the Fifth Amendment of the Federal Constitution; *Coppage v. Kansas* (1915), in which a similar state law was found to be in conflict with the Fourteenth Amendment; and *Truax v. Corrigan* (1921), which canceled a state antiinjunction statute patterned after the Clayton Act. The net effect of the rulings of unconstitutionality and the Sherman Act interpretations was to make union organization a hazardous undertaking and to leave employers free to employ a variety of antiunion devices with practical impunity.

Union Encouragement: The Turn of the Tide. As was pointed out above, Commons and Andrews have classified governmental attitudes toward collective bargaining as (1) repression, (2) toleration, (3) encouragement, and (4) intervention, and have implied that this is the order of their appearance. They place the date of change from toleration to encouragement in the United States as 1933. The shift had in fact begun several years before and was not completed until 1937, with the "reorganization" of the Supreme Court. The real issue was the extremely basic one of assumption of authority over regulatory policy and its administration by the legislative and executive branches of the Federal government. It took approximately a decade, 12 years to be exact, to decide the question.

The first step was the passage of the Railway Labor Act of 1926, with its revolutionary guarantee that representatives for the purposes of collective bargaining should be chosen "without interference, influence, or coercion exercised by either party over the self-organization or designation of representatives by the other."¹⁶ In the Texas and New Orleans Railway case (1930), which excited little attention at the time, the Supreme Court upheld the law and granted an injunction *to* a labor union *against* an employer that had violated the law. The Railway Labor Act was followed in 1932 by the Norris-LaGuardia Act, which outlawed the yellow-dog contract and the labor injunction and reiterated in its statement of policy that individual workers should be "free from the interference, restraint, or coercion of employers of labor, or their agents" in the designation of representatives or in self-organization for purposes of collective bargaining. It was to become a familiar refrain in the years that followed.

Section 7a of the National Industrial Recovery Act of 1933 was an almost verbatim repetition of the pledge, which was expanded, defined, and given administrative support and powerful sanctions in the National Labor Relations (Wagner) Act of 1935. Two years later, in a series of precedent-shattering decisions, the Supreme Court upheld both the Wagner Act and the

¹⁶ 44 Stat. 577. This was the first step only in the sense that it was the first that "stuck." The real birth of this idea was in the principles laid down by the War Labor Board in the First World War, but their legal effectiveness ended with the disappearance of the emergency.

Norris-LaGuardia Act. The era of encouragement was under way, and public regulation of trade unions was in the hands of Congress and the Executive.

The New Labor Policy: Encouragement

The National Labor Relations Act: United States Labor's Magna Charta.

The Wagner-Connery National Labor Relations Act (hereafter referred to as the "NLRA" or the "Wagner Act"),¹⁷ was a model law, if the proof of the pudding is in the eating. It did what it was designed to do, with efficiency and dispatch, and for more than a decade withstood all attempts at repeal or modification.¹⁸ The act stood for 12 years without so much as the dotting of an "i" or the crossing of a "t," notwithstanding Congressional investigation, and criticisms of the law and its administration from both trade-union and business sources.

The Wagner Act was a labor law of general application (covering industry generally, except the railroads) but with a limited purpose which was carefully spelled out in its provisions. That purpose was to stop employer interference with the attempts of unions to organize American employees. That it was supremely successful, no one attempts to deny. The growth of union membership from less than 4 million in 1935 to more than 15 million in 1947, and the unconditional surrender of the great open-shop basic and mass-production industries (steel, autos, rubber, glass, lumber, etc.) to unionization, are credited by all, friend and foe alike, mainly to the vigorous prosecution of "employer unfair labor practices" by the National Labor Relations Board (referred to hereafter as the NLRB). Given protection from discrimination, coercion, company unions, and refusal to bargain collectively, the unions did the rest. They went through the industrial antiunion defenses in two great waves, 1936 to 1938 and 1941 to 1945, to a postwar position of security and power never before approximated in the United States. The law's terms were simple and well defined, as follows:

1. One general and four specific "unfair labor practices" by employers were prohibited. They were outlined in Sec. 8, which said: "It shall be an unfair labor practice for an employer—"

a. To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Sec. 7 (of self-organization and collective bargaining through representatives of their own choosing)

¹⁷ 49 Stat. 449 (1935).

¹⁸ What it was designed to do was clearly stated in the preamble on "Findings and Policy." It was declared to be the policy of the United States to encourage "the practice and procedure of collective bargaining . . . by protecting the exercise by workers of full freedom of association, self-organization and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of employment or other mutual aid and protection."

- b.* To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it (this was the "company union" provision)
- c.* By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization (the only exception being bona fide closed-shop agreements, which were permitted)
- d.* To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under the act
- e.* To refuse to bargain collectively with the representatives of his employees, subject to the provisions of Sec. 9 (which provided for certification of unions representing a majority of the employees).

2. A three-man National Labor Relations Board was set up to administer the act, with power to investigate, hold hearings, subpoena witnesses and papers, render decisions, issue cease-and-desist orders, and require constructive action of employers.

3. The NLRB was authorized to investigate questions of representation (arguments over a union's right to recognition) and to certify unions as the official representatives of groups of employees if they were found to have signed up a majority of the employees in the "appropriate bargaining unit." When a union was so certified, the employer could not refuse to "bargain collectively," without violating the fifth unfair labor practice.

The "New" Labor Policy. Now it is one thing to write a law, and quite another to make it work. There are many chances for a slip-up in a Federal democracy, where one set of people makes the laws, another set administers them, and still a third set passes judgment on both the law and its administration. In the first place, the law may be written wrong. It may say too little (like the Sherman Act), and no one will know what was in Congress's mind, if anything. Or it may say too much (like most laws), and every time an administrator starts to make a move, he will find himself running into detailed instructions which do not fit the case.

The Wagner Act was a superb example of policy making and execution, a fact which is all the more surprising since its subject matter was so controversial. Probably nothing contributed more to its success than the circumstance that two boards had tried for 2 years to find the formula for stopping employer interference with unions, and the members were permitted to write the results of their experience into a statute. The law, of course, was not written by Senator Wagner, who sponsored it. It was drafted principally by men who *did* know what the problem was, and who had been trying for several years to make Sec. 7a of the NIRA work. They were the members of the National Labor Board (1933) and the (First) National Labor Relations Board (1934) and their colleagues and associates, Garrison, Millis,

Smith, Witte, *et al.* These men knew what employers did to stop unions from organizing and they knew what powers an administrative board would need to stop them from stopping unions, and they wrote the necessary powers and prohibitions into the act.

After a law is written and passed, however, there are still plenty of possibilities of rendering it harmless: lack of appropriations, incompetent administration, and finally, the great hurdle of the courts. The NLRA got the appropriations, it was expertly administered (perhaps overadministered, as was frequently claimed by both employers and the AFL during the first few years of its life), and its record in court is the envy of every administrative board and commission in the Federal government. There is no better way to get a quick, bird's-eye view of the "new" labor policy (now no longer new, but still definitely this country's labor policy) than by examining a few of the more important court decisions bearing on the main features of the law. A short list of crucial cases is summarized below:

1. *National Labor Relations Board v. Jones and Laughlin Steel Corporation*. (301 U.S. 1, 1937). (This case has been outlined previously on pages 327-328, above.) The two important points decided were: (a) the constitutionality of the act, in its entirety, and (b) the correctness of its application to the manufacturing industry, as being in or "affecting" interstate commerce.

2. *National Labor Relations Board v. Remington Rand, Inc.* (94 F.2d 862, 1938). To break a strike at three of its plants in New York State, the Remington Rand Corporation employed the classic "Mohawk Valley formula," which called for: (1) refusal to recognize or bargain with the union, (2) formation of competing "independent" employe associations (called, in this instance, the Middletown Remrand Employees' Back-to-Work Association, the Ilion Typewriter Employees Protective Association, and the Syracuse Employes' Independent Association), (3) discharge and arrest of union leaders, plus attempts at bribery and other forms of corruption, (4) extensive use of labor spies in unions and at union meetings, (5) *agent provocateur* action at union meetings to create riots and make police action necessary, (6) use of newspaper space and radio time by the company and refusal of similar access to the union, (7) employment of professional strikebreakers (this was one of Pearl Bergoff's "cases"), (8) threats to dismantle the plants and remove them to another part of the country, (9) a back-to-work drive made up of mass meetings, advertisements in local newspapers, private telephone solicitation to individual strikers, and public requests to open the plants, (10) enlistment of public officials in support of the back-to-work movement, and (11) many other details too numerous to mention.

All were held to be in violation of the Wagner Act, and the employer was ordered to cease and desist from them, to reinstate all discharged and striking employes with appropriate back pay, and eliminate from the payroll

the strikebreakers brought in by Bergoff and his associates. There were around 4,000 employees eligible for reinstatement, with various claims for lost wages which totaled hundreds of thousands of dollars. It was a great victory for the union and it foreshadowed the ultimate decision in the holdout cases of Little Steel and the Ford Motor Company.

The Remington Rand case was decided by the second circuit court of appeals, which upheld the order of the NLRB almost *in toto*, whereupon the Supreme Court refused to review the verdict.¹⁹ The case is important for two reasons. It was the last of the great, full-fledged strikebreaking episodes à la Bergoff in American industrial history, and it demonstrated the extent to which the courts would back up the NLRB's corrective orders for reinstatement of strikers, payment of back wages, etc.

3. *National Labor Relations Board v. Pennsylvania Greyhound Lines, Inc.* (303 U.S. 261, 1938). This was the big "company union" case. The bus company had assisted in the formation of a private (limited to the company) labor organization known as the Employees Association of the Pennsylvania Greyhound Lines, Inc., dominating it, interfering in its work, and contributing financial and other support to it. Company officers promoted the plan, set up the organization, and presided over meetings. All bus operators, mechanics, and clerks automatically became members after 3 months of service, but there were no provisions for regular meetings, instruction of representatives, or other common employee-organization activities. The Association was protested by some employees who were members of a local of the Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America (AFL), and after investigation, the NLRB ordered the company to withdraw recognition and post notices of disestablishment of the company union in conspicuous places throughout their places of business. The circuit court of appeals turned the NLRB down because the Employees Association had not been given notice and a hearing. Upon appeal, the Supreme Court upheld the Board, reversing the circuit court, and holding that "the Assn. . . is not entitled to notice and hearing. Its presence was not necessary in order to enable the Board to determine whether respondents [the company] had violated the statute or to make an appropriate order against them." The decision wrote *finis* to the career of thousands of "employee representation plans" which had been set up by employers between 1933 and 1935 to qualify for the Blue Eagle under Sec. 7a of the NIRA.

4. *National Labor Relations Board v. Mackay Radio & Telegraph Co.* (304 U.S. 333, 1938). This case covered the problem of discrimination in the reinstatement of striking employees. It arose out of a strike in the San Francisco office of the Mackay company by some 60 members of Local 3 of the American Radio Telegraphists Association. The strike was a failure, and the

¹⁹ That is, it denied certiorari, which means that the lower court's decision stands.

men soon petitioned to return to work. All were taken back, except five, who "were prominent in the activities of the union and in connection with the strike." These men were told that the roll of employees was complete, that they might fill out application blanks, and they would be considered for any vacancy that might occur thereafter. After 3 weeks without a call, the secretary of Local 3 petitioned the NLRB under Sec. 8(3) of the act. The Board decided that the failure to reinstate was discrimination based on union activity and ordered the company to put the men back on in their former positions, without prejudice to previous rights and privileges, and to "make each of them whole for any loss of wages due to their discharge"; also, to post notices for 30 days that it would not discriminate against union members or those who wanted to become members.

At the first stage of appeal, the circuit court denied the Board's order on grounds that the employer was not guilty of any unfair labor practice, the strikers had ceased to be employees when they walked out, and the evidence supporting the charge of discrimination in reinstatement was insubstantial. The Supreme Court granted certiorari (agreed to review the case) and flatly reversed the lower court, upholding the NLRB and its award without change. It thus made the discharge of active union members or even the *failure to rehire* them after strike or layoff an act open to suspicion of discrimination and possible penalties.

5. *National Labor Relations Board v. George P. Pilling & Son Co.* (119 F.2d 32, 1941). This case produced one of the most difficult definitions in connection with the act—that of the meaning of "collective bargaining" and the "refusal to bargain collectively," according to Sec. 8(5) of the law. It concerned a Philadelphia manufacturer of surgical instruments, who had openly opposed the union, but was forced to bargain with it after a close election (51 votes for the union out of 99 cast) produced its certification by the NLRB. The substance of the complaint against the company was the refusal of the employer to meet with union representatives to discuss proposed contract terms except at long intervals and his conduct when he did meet with them. This conduct consisted of listening to the proposed terms of the agreement and replying "No" to each of them, without any explanation of his views or offering any counterproposal or suggestion. The employees, in a subsequent election, repudiated the union, and the union charged the employer with an unfair labor practice under Sec. 8(5), which charge was agreed to by the NLRB.

In finding for the union and the Board, the circuit court defined "collective bargaining" as follows:

Bargaining presupposes negotiations between parties carried on in good faith. The fair dealing which the service of good faith calls for must be exhibited by the parties in their approach and attitude to the negotiations as well as in their specific

treatment of the particular subjects or items for negotiation. For such purpose, there must be common willingness . . . to discuss freely and fully their respective claims and demands, and, when these are opposed, to justify them on reason. When the proffered support fails to persuade or if, for any cause, resistance to the claim remains, it is then that compromise comes into play. But, agreement by way of compromise cannot be expected unless the one rejecting a claim or demand is willing to make countersuggestion or proposal. And, where that is expressly invited but is refused, in such circumstances the refusal may go to support a want of good faith and, hence, a refusal to bargain.

The parties are not required to agree, it was pointed out, but they are required to act as if they were trying to do so, which means meeting promptly, regularly, and in a convenient place; offering proposals and counterproposals, with reasons therefor; and trying to find a basis for compromise. In the same year (1941), the Supreme Court added another requirement: a written contract if agreement is reached (in *H. J. Heinz Co. v. National Labor Relations Board*, 311 U.S. 514).

6. *Pittsburgh Plate Glass Co. v. National Labor Relations Board* (313 U.S. 146, 1941). The NLRB's authority to determine the "appropriate bargaining unit" was (and still is) a strategic power. It can be used to decide elections in advance (by including or excluding unionized groups), to protect or weaken either the craft or industrial form of organization, and to influence the nature of collective bargaining (by making it industry-wide, company-wide, or merely plant-wide and local). It has been the subject of strong debate, and the Board's decisions in this area brought it violent criticism throughout the early years of its life. In the Pittsburgh Plate Glass Co. case, the Supreme Court finally established the Board's authority to make such decisions without outside (court) interference.

The company operated six plants in six different locations, and the NLRB held that maintenance and production employes at all six plants constituted an appropriate bargaining unit. A CIO union had majorities at five of the plants, but most of the 1,800 employes at the sixth plant belonged to a bona fide independent union called the Crystal City Glass Workers' Union. The CIO union had enough members in the five plants to give it a majority of the six, so the members of the independent union were absorbed, against their wishes and that of the company. They appealed all the way to the Supreme Court, which upheld the NLRB, saying: "The determination of certain matters was, under the NLRA, entrusted by Congress to the NLRB alone, and the Courts were denied power to substitute their judgments with respect to such matters for those of the Board. . . . Our conclusion is that the decision of the Board was not arbitrary or invalid."

7. *New York Handkerchief Manufacturing Co. v. National Labor Relations Board* (114 F.2d 144, 1940). If a majority of the employes are members

of the union, the union is in line for certification as the official representative of all employees in the bargaining unit. This case shows how the NLRB settled the question of what a "majority of the employees" meant.

The argument was between the company and Local 76, International Ladies' Garment Workers Union (at Chicago) for an investigation and certification of representatives. It was decided that the matter could best be settled by a secret-ballot election, which was duly scheduled and run off. The statistics of the election were as follows: 225 employees eligible to vote (that is, in the appropriate bargaining unit, as defined by the Board), 56 voting, and 53 votes for the union. The Board then certified the union as exclusive representative of the employees. Since the number voting were just under 25 per cent of the total electorate, and the prounion votes were a still smaller percentage, the company refused to accept the decision. *Held*: the Board was right in applying the theory used in deciding political contests in this country, that a majority of those voting is decisive. Otherwise, "an indifferent minority could prevent the resolution of a contest, and thwart the purpose of the act, which is dependent for its operation upon the selection of representatives. There is the added danger that the absence of eligible voters may be due less to their indifference than to coercion by the employer." The Supreme Court denied certiorari.

The Federal Labor Code before the Second World War. The cases in the brief sample offered above are typical illustrations of the NLRB's remarkable success in the courts. By 1941, the "new" labor policy was legally established beyond any possible doubt, and organized labor had doubled its membership in 5 years. Important as the Wagner Act was to this development (and it was the number one influence), it did not do the job alone. It was buttressed along the way by the Norris-LaGuardia Federal Anti-injunction Act, which effectively restrained the courts from taking a hand in strikes, and by a new and improved Railway Labor Act. The Wagner Act, the Norris-LaGuardia Act, the Railway Labor Act, and the provision for a U.S. Conciliation Service in the Department of Labor were this country's peacetime Federal labor code, from 1935 to 1947. Together, they changed the face of industrial relations in America and in so doing they changed the face of industry and perhaps of the national political and economic life. We may be too close to the development to judge it properly, but it seems a fair guess that these laws provided the base for a change from a "business" to a "laboristic" state in the decade prior to 1947.

The Norris-LaGuardia Act and the Strike Weapon. Unions not only need to organize, as permitted and encouraged by the Wagner Act; they also need good contracts with employers. Good contracts are obtained through collective bargaining, but only if the bargaining has power behind it. Union power means the capacity to win strikes. A glance at the record

will show that few strikes were lost and many, many won in the years following 1937. One very important reason was good picketing, aided and abetted by the Norris-LaGuardia Act. With the labor injunction shelved, unions simply went ahead and shut down struck plants, leaving not a vestige of production activity to nurse the illusion that operations could be continued without union support. They did this by barring nonunion and non-striking employes from the premises, sometimes extending the proscription to management and maintenance crews. In extreme cases, they took over the plants by sit-down, and there is little punitive retaliation to be found in the record, although the courts in every case held such action illegal.

The Norris-LaGuardia Act,²⁰ like the Wagner Act, was a labor law of general application, with a limited purpose. It was directed at the Federal Courts, the idea being to take them out of the labor-injunction business, and it was just as successful as its companion, the Wagner Act. Here is how it operated:

1. It barred any "court of the U.S." from issuing an injunction in a labor dispute, except in strict conformity with its provisions.

2. As a guide to the courts, it restated the policy of the United States toward employes: "full freedom of association, self-organization, and . . . collective bargaining, [etc.]."

3. It carefully and specifically barred yellow-dog contracts as contrary to public policy and unenforceable in the courts and as offering no basis for legal or equitable relief.

4. It excluded all forms of customary union activity—meeting, conferring, use of funds, etc.—from court injunction, without exception.

5. It barred the use of the injunction on grounds of conspiracy, whether against members or officers of a union.²¹

6. It barred the use of injunctions in labor disputes under any circumstances, except after the hearing of witnesses in open court, with cross-examination and testimony from both sides, and the following findings of fact:

- a. That unlawful acts have been threatened and will be committed unless restrained, but the restraint can only operate against those constituting the threat
- b. That there is danger of substantial and irreparable injury to the property of the complainant
- c. "That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief" (This was a real corker; it would have been enough by itself to stop most labor injunctions.)

²⁰ 47 Stat. 70 (1932).

²¹ The Norris-LaGuardia Act, it will be remembered, was an amendment to the Sherman Antitrust Act, just like the Clayton Act before it.

d. That the complainant had no adequate remedy at law

e. "That the public officers charged with the duty to protect complaint's property are unable or unwilling to furnish adequate protection."
(Another corker. This finding of fact meant that the judge had to report publicly the inadequacy of a closely related branch of law enforcement before issuing a restraining order.)

7. The court was required to file a bill of particulars before issuing the injunction, and the petitioner (employer) was held responsible for making every possible effort to settle the dispute through other legal channels.

8. Persons charged with contempt of court (arising out of the violation of a labor injunction) were guaranteed a speedy and public trial *before a jury* and were given the right to demand a new judge, other than the one responsible for the contempt charge.

9. "Labor dispute" was defined very broadly, as follows: "The term labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee."

The above may seem like a lot of provisions, just to stop judges from issuing labor injunctions, but liberal congressmen and their labor advisers were taking no chances. They had seen the Supreme Court repeal a similar, but much more casual, proposal in the Clayton Act and had no intention of permitting the courts to slide by again as easily as they had before. The act was not used until the surge of union activity in 1936-37 brought about recourse by employers to the old familiar weapon of the courts. Then, in two strange but important cases, in 1937 and 1938,²² the Supreme Court upheld it. From 1937 to 1947, no labor injunctions marred the union scene, and employers forgot what it was like to win strikes. Unions went on a picketing rampage, with mass, residential, mercenary, and sit-down picketing used indiscriminately. Pickets, with and without benefit of violence, supported secondary boycotts, jurisdictional disputes, and industry-wide strikes. The inevitable reaction came in 1947, when the Eightieth Congress inserted the labor injunction (issuable only to public officials) at several points in the Taft-Hartley Act. No feature of that law infuriated union leaders more than the partial revival of organized labor's most hated control mechanism.

The New and Improved Railway Labor Act. In 1934, the Railway Labor Act was brought up to date (and perhaps even extended into the future.)²³ The one thing the railway unions had wanted very much back in 1926 that they had not received was a set of national adjustment boards. In railroad

²² The Senn and Lauf cases (see pp. 328-329).

²³ 48 Stat. 926.

industrial relations, an "adjustment board" is a joint committee of representatives of the carrier (the employer) and of the union (or unions) to interpret the working rules.²⁴ It is some job, on the railroads, where standard labor agreements run to more than a hundred pages of fine print covering every possible detail of work assignment. It is a truism of law that the more complicated the agreement, the more difficult it is to find out what it means. This has certainly proved true in the railroads, where employe grievances have been known to be held up for years, pending some meeting of minds on what rule applies and what meaning is to be given it when found. All railroads have "system" adjustment boards—that is, grievance committees whose jurisdiction is limited to a particular railroad system: Pennsylvania, Baltimore & Ohio, Santa Fe, etc.—but the unions wanted a nationwide setup like they had had under Federal operation of the roads during the First World War. The carriers, however, opposed it so strongly that it was left out of the 1926 law.

In 1934, the unions got their national adjustment boards. Congress amended the Railway Labor Act, revising it here and there, and adding a totally new agency, the National Railroad Adjustment Board. The NRAB was a form of industrial court for the settlement of grievances arising under railway labor agreements, with provision for compulsory arbitration to a final decision and court enforcement of its orders. The NRAB has headquarters in Chicago and is composed of 18 carriers and 18 union representatives, who sit on four joint committees called divisions. The 1st division handles cases coming from the operating brotherhoods (engineers, firemen, trainmen, switchmen, and conductors); the second division decides cases coming from the shop crafts (machinists, boilermakers, blacksmiths, sheet-metal workers, electricians, etc.); the third division takes care of disputes "involving station, tower, and telegraph employees, train dispatchers, maintenance-of-way men, clerical employees [etc.]" and the fourth division has jurisdiction over disputes involving employes engaged in water transport.

The divisions are equally manned with employer and union representatives and frequently deadlock on cases. When they do, they are instructed to pick an outside umpire satisfactory to both parties, to decide the issue. If they cannot agree on an umpire, after 10 days of trying, the National Mediation Board (the principal administrative agency under the Railway Labor Act) selects one for them from a panel and the cases are heard and decided by him. It is the only instance of legally required, peacetime compulsory arbitration to a final decision in United States labor relations on the Federal level, and it has operated very satisfactorily, except that the organization of work is poor. The first division is overworked and always runs several

²⁴ In effect, it is a grievance committee.

thousand cases behind its docket, while the other divisions, notably the third and fourth, have little to do and must find ways to kill time. It is a pattern that may well be adopted on a broader scale in the future. Here again, the Railway Labor Act has been a pioneer proving ground for the public regulation of industrial relations.

The U.S. Conciliation Service. Like the British navy, the U.S. Conciliation Service (now the Federal Mediation and Conciliation Service) deserves the title of the "silent service." It has been working steadily at the settlement of industrial disputes for 30 years, with many notable successes, but the nature of its work makes it impossible to dramatize the results. In the first place, the results themselves, however important they may be (and they are often *very* important), are so undramatic that they seldom make even the back pages of the newspapers. They are things that *do not happen*, strikes which are not called, boycotts that are not announced, disputes which are reconciled to the mutual satisfaction of everyone concerned. Troubles which fail to materialize are not the sort of thing to catch the public eye, but that has been the business of the Conciliation Service.

The second reason for the lack of attention to and interest in the work of the Service is that it does not want publicity. It avoids reporters like the plague. The professionals on its staff could probably furnish a long list of disputes that might well have been resolved without strike or walkout if they could have been kept out of the searchlight of some newspaper short of good copy. The formula for disposing of labor disputes without trouble, like that for solving family quarrels, is not to shout it around the neighborhood, getting everybody to taking sides and speculating on the issues. It is, instead, to keep it as quiet as possible, get the parties to meet together in amicable surroundings, laugh at a few jokes, talk matters over, and try to find a possible basis of settlement. This is very hard to do if everyone is following the event as though it were an athletic contest, with radio commentators giving hour-by-hour fill-ins on meetings, rumors, charges, and personalities.

In 1947, the Taft-Hartley Act took the U.S. Conciliation Service out of the Labor Department, where it had been for 30 years or more, and made it an independent administrative agency responsible to Congress, with a new name—the Federal Mediation and Conciliation Service. This was another move which angered organized labor, both because it was a slap at the Labor Department, which is regarded by trade unionists as their Department, and because it was a reflection on the Service, which has usually been sympathetic to trade unions and has had a large number of former union officials on its staff. The grounds for the shift reflected both these facts. A mediation service should be strictly impartial in its attitude toward industrial disputes, it was held, and the location of the U.S. Conciliation

Service in the Department of Labor was therefore as illogical as its assignment to the Department of Commerce, presumably the representative of employers. So Congress made it independent of both.²⁵

There was no change in function resulting from the shift. Neither then (as the Conciliation Service) nor now (as the Federal Mediation and Conciliation Service) has the agency ever had any authority to *settle* any labor dispute. It is not in any sense a board of arbitration, although it frequently gets the parties to a dispute to agree to arbitration and it may handle all the details, including the naming of an arbitrator. It is simply a group of experts with a large body of experience in employer-union relations, who have the right to deal themselves into any dispute that seems to them important enough to merit their attention (or who may be called in by either of the parties), and who then try to find some compromise agreeable to both sides. If they are successful, another "situation" is disposed of, without fanfare or publicity.

The Postwar Revolution in United States Labor Policy

The War Interlude. The Second World War added quite a bit to United States experience in labor regulation, but the applicability of what was learned to peacetime industrial relations has been a subject of some debate, with both the facts and the conclusions subject to different interpretations. The main events, of course, were the National War Labor Board and its work, and the War Labor Disputes Act, the former a conspicuous success and the latter just as conspicuous a failure. The work of the NWLB was a form of voluntary compulsory arbitration, and in its most successful department—the settlement of disputes between employers and employees—it had absolutely no statutory authority to compel either the submission of disputes or the acceptance of its decisions. The whole thing was voluntary. Employers and unions brought in their problems, argued them before the Board, and accepted the rulings which came forth—often with protest and grumbling—as personal mandates. The Board originated the "maintenance-of-membership" formula and the "Little Steel" doctrine,²⁶ to take care of its most difficult problems, and then Congress handed it the job of national wage stabilization.

²⁵ There were other reasons, however. There had been criticisms of the Service and its work, from employer sources, based on the previous trade-union affiliation of many of its mediators and a dislike for the public statements of its director, Edgar L. Warren. It was understood that the Republican Eightieth Congress would not confirm the reappointment of Mr. Warren to the directorship of the new agency, so President Truman named a former director of industrial relations of the U.S. Rubber Company, Cyrus S. Ching, to the job. Mr. Warren subsequently became Director of the Institute of Labor Relations at the University of California at Los Angeles.

²⁶ See pp. 346–347 above.

This *was* compulsory arbitration, with the voluntary left out, and it was about like telling one good-sized oil company to start servicing the Atlantic Fleet with oil and gas. The Board was swamped from the moment the order went into effect, and it spent the rest of the war trying to build up its staff, develop an organization, set policies, and get its head above water. Considering the handicaps, it did an outstanding job, notwithstanding complaints from all sides of delay, indecision, and block voting by members.

The (Smith-Connally) War Labor Disputes Act of 1943 was just as sorry a failure as the National War Labor Board was a success. There was nothing voluntary about this law either; it was a return to the tried-and-true Congressional principles of definition, requirement, governmental intervention, and penalty for violation.²⁷ And it flopped, while the NWLB, resting on voluntary compliance by employers and unions, was successful. Ergo, said some, the road to good industrial relations is less government intervention and more reliance on "free collective bargaining" between employers and employes without any public agencies messing around to muddy the waters. There were others, however, who accepted this argument only with important reservations. Their point of view was that a wartime experience, with its compulsions of patriotism, especially when joined to the general rise in the standard of living enjoyed by wage earners as well as others, was a poor basis for predicting what would happen in peacetime with real wages perhaps going down instead of up. These reservations came quickly to the surface during the strike-bound year of 1946, helping to produce a Republican Congress and, in the year following, bring regulatory legislation in a majority of the states and on the Federal level.

One of the major products of the wartime labor experience in the United States, therefore, was the fundamental postwar issue of *voluntarism* versus *intervention* as a basis for public policy in labor disputes. In the first round, intervention won.

The Postwar Revolution. The change in public sentiment and the flood of restrictive union legislation which accompanied it during the first 2 years after the war amounted to a practical revolution. More than 30 states amended their constitutions or passed laws restricting union activity, and the U.S. Congress supported Senator Robert A. Taft in a one-sided political victory over President Truman, upholding the Taft-Hartley Act over the President's veto, by a slim margin over the necessary two-thirds vote.²⁸

²⁷ See p. 349 above.

²⁸ Two years later, in the summer of 1949, Senator Taft again proved his legislative sagacity by flatly defeating the administration's bill to repeal the Taft-Hartley Act (an election promise of President Truman in 1948), securing passage instead of his own substitute amendments, which were rejected by union leaders and the administration as "more Taft than the Taft-Hartley." As a result, the Taft-Hartley Act was left without change as it went into its third year.

The new statutes and amendments ranged from simple prohibitions of specific union devices (like the closed shop) to complete codes of union regulation with all trimmings, including union registration, reporting, unfair labor practices, accountability at law, and control of strikes in industries affected with a public interest. The free and easy, high-wide-and-handsome days of the Wagner Act and nothing else were gone—perhaps forever. If the change proved permanent, union officials might henceforth spend as much time as corporation officials filling out forms, signing affidavits, conferring with legal counsel, appearing in court, and explaining to government administrators why such and such a move should not be interpreted as malicious or unfair. It would be a new experience, and the scream of dismay from union headquarters throughout the country indicated that the prospect was not relished.

After it was all over, the probability of such a change in public attitudes toward trade unions could be established rather easily. The War Labor Disputes Act was one piece of evidence. It was passed by big Congressional majorities—big enough to override President Roosevelt's veto, anyway—and there was more than one school of thought about its interpretation. The simple explanation given above (page 517), that its failure was an argument for voluntarism, was denied by some of its sponsors, who contended that it did not go far enough, either in controls or in sanctions.

Another indication of the way the wind was blowing was the widespread criticism of union irresponsibility during the war. In spite of the universal "no-strike" pledge, there were still a lot of work stoppages: 2,968 in 1942, 3,752 in 1943, 4,956 in 1944 (the largest number ever recorded in a single year up to that time), and 4,750 in 1945. Most of them were of short duration, and the total time loss was relatively negligible, but they were constantly occurring and a few (notably those in coal mining) were protracted and irritating. They gave professional union critics a platform and encouraged some who were undecided to doubt the wisdom of relying entirely on the unions' "sense of responsibility." This critical sentiment was rather subdued and might not have produced any widespread insistence on controls, had not the series of strikes in 1945-46 exhausted public patience and contributed to the Democratic defeat in the Congressional elections of 1946. During the next 12 months, there was a splurge of antiunion legislation from one end of the country to the other.

The State Laws. The parade started in the states and it began quite a while before the end of the war. Alabama, Colorado, Florida, Idaho, Kansas, Minnesota, and Wisconsin opened things up in 1943 with a list of statutes that ranged from complete industrial relations codes (Alabama, Colorado, Kansas), containing many of the provisions later embodied in the Taft-Hartley Act, down to a simple requirement of annual financial reports by

unions (Idaho). In 1944, voters in Arkansas and Florida put "right-to-work" (anti-closed-shop) amendments in their state constitutions.²⁹ In 1945, Minnesota and Wisconsin added more limitations, and South Dakota outlawed the closed and union shops. In 1946, there were three more constitutional amendments (Arizona, Nebraska, and South Dakota) guaranteeing the "right to work," and two states (Louisiana and New Jersey) clamped on union controls by statute. The big year came in 1947, when 26 states added to their codes of industrial relations with every conceivable type of limitation, prohibition, and penalty.

In content, the state laws had everything to be found in the War Labor Disputes Act or the Taft-Hartley Act, plus many details never yet framed in a Federal statute. Among other things, they regulated and prohibited strikes; called for secret-ballot elections prior to walkouts, picketing, and boycotts; demanded incorporation, annual reports, and financial statements; made unions suable and their agreements legally enforceable in the courts; required the licensing of pickets and union business agents; outlawed the closed and union shops and preferential hiring in any form; prohibited political contributions; established compulsory arbitration as the method of settling disputes in important industries; defined union unfair labor practices; proscribed mass or abusive picketing; and authorized seizure, injunctions, damage suits, discharge, fines, and imprisonment for various types of violation.

Most state legislatures meet biennially in the odd-numbered years, which explains the concentration of legislative action in 1943 and 1947, and the emphasis on constitutional amendments in 1944 and 1946 (by referendum the year following an enabling resolution). In the 5 years from 1943 to 1947, 33 states put labor relations legislation in their code books or constitutions, and every measure was restrictive in some form or other.

Some of it—particularly the early legislation—went too far and was declared unconstitutional by the courts: compulsory union incorporation in Colorado; the embargo on jurisdictional strikes, hot-cargo, and secondary boycotts in California; the licensing of union business agents in Florida and Texas; and even the requirement of union financial reports in Idaho. On the other hand, much of it stood and still stands, as a network of rules and regulations for union administrators to cope with in the conduct of their business. The most important limitation upon the effectiveness of the states in regulating union activity was their limited jurisdiction (to matters of intrastate concern) and the doctrine of the supremacy of Federal law.

²⁹ The "right-to-work" clause has been a popular method of neutralizing the closed shop and the union shop. The customary form of the guarantee is along the following lines: "The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization" (Florida amendment).

Whatever consolation this might have been for union leaders, however, was soon dispelled by passage of the Taft-Hartley Act.³⁰

The Taft-Hartley Act: Passage, Administration, and Issue

Passage of the Act. Although we are still very close to the event for the passing of historical judgments, it seems reasonable to assume that the Taft-Hartley Act will be regarded in the future as a major turning point in domestic labor policy in the United States. It marks the shift from *voluntarism* to *intervention*, from a policy of unilateral encouragement of unions to a policy of bilateral supervision of union-management relations. The major risk in making such an assumption is the question of permanence. If the law were repealed promptly in its entirety, as demanded by organized labor and promised by the Truman administration in 1948, it might be regarded as an accident of legislative history (though few such "accidents" have occurred with two-thirds majorities over a presidential veto). However, it has stood through one session of a presumably adverse Congress (the 1949 session of the Democratic Eighty-first) without change, and each year that it is in effect without noticeably damaging the labor movement makes its outright repeal less likely.

In a country like this, no law as important as the Labor Management Relations Act of 1947 gets passed without a preliminary buildup. As has been indicated above, it was first preceded by a considerable amount of state legislation on the same general pattern, and it was also merely the last and most successful of several attempts by Congress to do the same thing. Only the year before, Congress had passed two minor restrictive statutes—the Lea Act and the Hobbs antiracketeering act—which became law, had passed one major control measure—the Case Bill—which President Truman vetoed, and had failed to pass two bills: President Truman's own request for power to draft strikers into the Army (after the railroad strike of May, 1946) and the Ball-Burton-Hatch Bill, a comprehensive labor relations proposal patterned on the Railway Labor Act. The shock and surprise of the Taft-Hartley law came primarily from two things: (1) its inclusive list of restrictions (more than were in the Case Bill of the previous year, which had been turned down by President Truman as too severe), and (2) its successful passage over the President's veto.

The law climaxed a remarkable legislative battle between a Democratic administration led by President Truman and a Republican Congress led by Senator Robert A. Taft. As a son of the former President and Chief Justice of the Supreme Court, William Howard Taft, and a leading contender for the Republican presidential nomination, Senator Taft had been a consistent supporter of his father's philosophy of industrial relations, which was the

³⁰ Which contained a passage giving state anti-closed- and union-shop laws precedence over the Federal statute.

primacy of business interests, once and for all. The legislative problem of 1947 was not, "What law could (or should) be passed by Congress?" After the succession of crises in 1946, almost any type of union restriction was acceptable to the legislators. The question was: "What law could be passed over the President's veto?" After the Case Bill episode, a veto could be counted on.

The major problem for the law's sponsors was the Senate, where the administration minority was stronger than in the House. The final result, which was sent to the President for his approval or disapproval, was tailored by Senator Taft in joint conference committee to such precise specifications that it overrode the veto by just four votes in the Senate.

The Test of Compliance. Every piece of major social legislation in this country must pass three tests before it is considered established as public policy. First, it must get public acceptance. That is, it must be approved by a sufficient majority of the general public and the individuals to whom it applies to ensure obedience. Second, it must be upheld by the courts as to constitutionality and in the interpretation of its provisions. Third and last, it is certain to come before the legislative body which produced it, for extension, modification, or repeal. If the law is concerned with controversial subject matter and involves a considerable shift of policy, the hurdles are correspondingly higher and the pressure on administrators, judges, and legislators is increased. A period of several years is usually required before it can be assumed that the statute has been absorbed into the general body of administrative and judicial rulings and into institutional practice.

At the end of 2 years (by August, 1949), the Taft-Hartley Act was standing up well. Union officials continued to protest it as the "slave labor law," but there was general compliance with its provisions. At the end of 1 year (by July, 1948), 76,710 officers of 171 national and 8,352 local unions had filed non-Communist affidavits. Financial and other reports had been received from 17,275 labor organizations (both national and local), of which about 70 per cent (12,100) were AFL, 11 per cent (1,900) were CIO, and 19 per cent (3,275) were independent.⁸¹ There were important exceptions to the rule of obedience; the United Mine Workers of America and the United Steelworkers of America on grounds of principle, although the unions and their leaders were strongly anti-Communist; and other unions, like the United Electrical Workers and the Mine, Mill, and Smelter Workers, some of whose leaders could not sign anti-Communist documents without committing perjury.⁸² In general, however, the record of compliance was

⁸¹ *Labor Information Bulletin*, September, 1948, p. 2.

⁸² One of the biggest holdouts against compliance—the United Steelworkers—capitulated in the summer of 1949, when it became apparent that there would be no important modification of its provisions in the current session of Congress. USWA officials were directed to sign the non-Communist affidavits and furnish the reports and financial statements necessary to qualify the union for recognition before the NLRB.

good, and the number of unions on file rose steadily throughout the first 2 years of the act's administration.

The reason for compliance was perfectly clear. There probably was not a union official in the country who would not have preferred to by-pass the law's requirements of reports and affidavits, a detour which was perfectly legal, as proved by John L. Lewis, Philip Murray, and several others. But the statute was ingeniously contrived to make acceptance of its provisions desirable. The reports and affidavits were necessary prerequisites to a union's appearance before the National Labor Relations Board to protest employer unfair labor practices, to request union-shop authorization elections, or even to ask for certification as the official bargaining representative of the employees. The strong arm of the government still stood behind the unions *if* they were willing to document themselves. The Wagner Act, with all its guarantees against employer interference, was firmly embedded in the new law, with very little change, and only a few unions felt so big and so strong as not to need its help. The proof of the continuing usefulness of the law to unions is found in another set of statistics, the record of cases filed with the NLRB during its first year of business under the Taft-Hartley Act, and their outcome.

The Administrative Record. There were 36,735 cases filed, far and away the largest number ever recorded in a similar period. The distribution was as follows: petitions for union-shop authorization polls, 26,099; petitions for various types of representation elections, 7,038; charges of unfair labor practices against employers, 2,553; charges of unfair labor practices against unions, 749. The results of the various contests were as follows: Unions won 98 per cent of the union-shop elections held, 17,601 out of 17,958. They came out ahead in 73 per cent of the representation polls, 2,337 out of 3,222. They lost 62 out of 97 decertification elections (involving a total of 8,836 employees, as compared with 384,565 in the representation contests and 1,852,333 in the union-shop decisions).³³

The large number of union-shop petitions and elections was a result of the outlawing of the *closed* shop (which was legal under the Wagner Act) and the substitution therefor of the *union* shop, when authorized by a majority of the employees in the bargaining unit in a secret-ballot election. The practically unanimous support received by unions in these referendums indicated that the loss of preferential hiring (the only important difference between the closed and union shop) had not weakened either union membership or morale.

Union officials did not like having to sign non-Communists affidavits and they did not like having to report annually to the Secretary of Labor

³³ The data on administration of the act are taken from the *Thirteenth Annual Report of the National Labor Relations Board*, for the fiscal year ended June 30, 1948.

concerning their finances and organization. They also emphatically did not like losing the closed shop, and one union—the International Typographical Union—continued to rebel against this loss of privilege long after it was clear that the provision was constitutional and would stand. Another feature of the law which aroused strong opposition was the list of “union unfair labor practices.” As noted above, 749 such charges were filed during the first fiscal year of the act. Not all of them came from employers. The distribution was as follows:

Charges brought by employers.....	436 (58%)
Charges brought by individual employes ...	271 (36)
Charges brought by other unions.....	42 (6)
Total charges	749 (100%)

During the year, 430 of these complaints were disposed of, with “remedial action” taken in only 90 cases. This means, presumably, that the other 339 were settled by agreement, compromised, or dismissed. The types of remedial action required are listed below. They are of interest, as the first formal record of enforcement of “good conduct” upon unions in a manner comparable to that required of employers since 1935.

Table 64. Remedial Action Required of Unions for Unfair Labor Practices by the NLRB during Fiscal 1948*

<i>Types of Remedy</i>	<i>Number</i>
Strike settled (presumably an illegal work stoppage, such as one in support of a jurisdictional dispute or a secondary boycott).....	21
Collective bargaining begun (the act required unions to bargain collectively in good faith, just like employers).....	23
Notice posted (presumably to cease discriminatory or unfair practices)...	12
Work jurisdiction settled (the law authorizes the NLRB to settle disputes over jurisdiction).....	6
Picketing or boycott ended (secondary and hot-goods boycotts and jurisdictional strikes are unfair practices).....	4
Featherbedding stopped (an unfair labor practice).....	2
Employer removed from union's black list.....	2
Union membership granted.....	1
Workers reinstated to remedy discriminatory discharge.....	20
Amount of back-pay awards.....	\$3,480

*Source: *Thirteenth Annual Report of the NLRB for the fiscal year ended June 30, 1948*, p. 107.

At the same time, the NLRB heard and disposed of 1,165, of the 2,553 charges of unfair labor practices against employers, and also heard and disposed of 1,402 out of 2,093 cases which had been pending under the Wagner Act—a total of 2,567 awards. “Remedial action” was taken in 632 cases: 357 under the Wagner Act and 275 under the Taft-Hartley. Again, the presumption is that the remaining 1,935 cases were either dismissed,

compromised, or settled by agreement. The distribution of formal orders in the 632 cases is given below:

Table 65. Remedial Action Required of Employers for Unfair Labor Practices by the NLRB during Fiscal 1948*

<i>Cases</i>	<i>Number</i>
Notice posted (to cease discriminatory or unfair practice).....	372
Company union disestablished.....	37
Workers placed on preferential hiring list	50
Collective bargaining begun.....	173
Total awards.....	632
<i>Workers</i>	<i>Number</i>
Reinstatements to remedy discriminatory discharge.....	981
Strikers reinstated.....	169
Workers receiving back pay.....	1,196
Amount of back-pay awards.....	\$427,630

*Source: *Thirteenth Annual Report* of the NLRB for the fiscal year ended June 30, 1948, p. 106.

The Tests of Constitutionality and Legislative Review. If anything was clear from the first year of administration of the National Labor Relations Act under the new law,³⁴ it was that the Board was busy and most of its activities produced results beneficial to unions. This fact, as much as any other, was influential in slowing down the union drive to get the Eighty-first Congress to repeal the act in its entirety in the spring and summer of 1949. The contention that the Labor Management Relations Act of 1947 was a "slave labor law" was even harder to document when confronted with the evidence of continued union growth, full union treasuries, good contracts full of new employee-benefit provisions, and widespread and powerful union political activity. The argument, offered by President Green of the AFL and many others, that organized labor's progress was achieved "in spite of" the law was regarded with considerable skepticism. Notwithstanding the remarkable political victory of 1948, in which more than a hundred anti-union congressmen marked by the Political Action Committee and Labor's League for Political Education for defeat failed to return to Washington (including Representative Hartley himself), the administration's attempt to carry out its election promise of repeal was a signal failure. Once again, Senator Taft succeeded in substituting a list of minor amendments for the administration bill, and all efforts toward repeal in that legislative session were abandoned. The Taft-Hartley Act had passed its first legislative hurdle.

On the judicial front, the law had proved equally sound. In 2 years of litigation, not a single provision had been found unconstitutional by the Supreme Court, and both the non-Communist affidavit and the reporting

³⁴ The amended National Labor Relations Act is Title I of the Taft-Hartley Act.

requirement were upheld as valid exercises of the legislative power. A test case of the prohibition of union campaign contributions and expenditures misfired, with the Court observing that the act was not intended to apply to cases such as that brought before it. It concerned a full-page endorsement of a candidate for Congress by President Philip Murray in the *CIO News*, with subsequent indictment and prosecution under Sec. 304 of the act, which read:

It is unlawful for . . . any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

The section was an amendment of the Federal Corrupt Practices Act of 1925, which had applied to national banks and corporations. The argument was over the addition of the words "or expenditure," which Murray and the Department of Justice claimed would apply to the endorsement of candidates by labor organizations in their own papers, thus interfering with freedom of speech. The decision was regarded as inconclusive, and a full definition of the meaning and validity of the provision is still to be given.

Issues Raised by the Act. The Taft-Hartley Act presents enough issues—administrative, legislative, constitutional, political, economic, and ethical—to form the basis for endless arguments. It is a very big and a very important law, the general outlines of which should be understood by anyone interested in the labor problem. (The administrative record described above touches only a few of its provisions.) The issues which the law raises have already been the subject of literally millions of words of debate, from the initial hearings in Congress to the political speeches of the 1948 campaign, with many of the arguments turning on very technical points of law or highly subjective interpretations of the meaning of such terms as "collective bargaining." It is too big a subject for the beginning student of labor problems to try to cover *in toto*, and much too important to be by-passed completely. The problem is what and how much to expect of a reader of an introductory text.

In Appendix I, following this chapter, the Taft-Hartley Act will be summarized in detail in nonlegal language, with limited discussion of some of the more important issues raised by its provisions.³⁵ Stripped of its complicated, legalistic, lawmaker's double talk, the act is a comprehensible attempt to put the industrial relations policy of the United States into a

³⁵ The problem of translation of statutory legalisms into plain English is therefore reduced, and the student can concentrate on the law's content and the issues raised thereby.

single, "omnibus" statute. It may be all wrong, as argued by most union officials, or it may be just right, as contended by some business spokesmen, or it may be partly right and partly in need of correction. (Even Senator Taft, the law's author, has been willing to concede the need of minor amendments, to correct misunderstanding and modify the harshness of certain restrictive features. It would, in fact be very exceptional if administrative experience with a law of such broad scope and revolutionary character did not show the need of considerable modification.) Whatever the case, the problem of public policy in labor relations is big enough to be a major domestic issue, probably for some time to come. Certainly the student of labor problems, and probably any well-read citizen, should have enough grasp of the main features of such a policy, and the arguments over them pro and con, to form opinions of his own. The Taft-Hartley Act provides a convenient vehicle for such a study. Before proceeding to it, however, the central and underlying issue of the legislation may be pointed out.

The basic issue of the law is *voluntarism* versus *intervention*.

That means that its passage is a move *away from* a governmental policy of "hands off" in industrial relations and a move *in the direction of* closer supervision of union-management affairs. The act is even considered by some to indicate complete abandonment of our previous governmental policy of encouraging the parties to labor disputes to reach decisions voluntarily by means of free collective bargaining, in favor of a policy in which the government intervenes at every point of the proceeding, with rules covering all steps in the bargaining process and even the terms of the contract itself. This view is taken primarily by critics of the law, who lament the passing of "free" collective bargaining and the good old days. Most of them are union spokesmen and professors and government employees of prolabor sympathies.⁸⁶

On the other side stand the law's supporters, who say: "What free collective bargaining? Is it 'free' collective bargaining to tie the employer's hands behind his back (the Wagner Act) and deny the courts the right to issue injunctions (Norris-LaGuardia Act) and turn organized labor loose to kick, gouge, and slug in the clinches, without even any responsibility under the antitrust laws (the Clayton Act and the Huthcheson decision)?" The former setup may have approximated "equality" in bargaining power (but not "freedom") in the days when unions were small and the labor movement numbered less than 5 million members, but what now, with 15 million trade unionists and some labor organizations bigger than the biggest corporations? If it is "intervention" to have a few rules for unions

⁸⁶ For a carefully argued statement of this point of view, see George W. Taylor, *Government Regulation of Industrial Relations* (New York: Prentice-Hall, Inc., 1948), and his contrast of "government-sponsored" and "government-regulated" collective bargaining.

to follow in their dealings with individual workers and employers, say these spokesmen, then let's have a little.

The union reply to this, of course, is that everything that was denied to the employer during the 12 years of the Wagner and Norris-LaGuardia acts was inequitable and unfair, and should have been made illegal, that its elimination simply put the two types of organization (union and corporation) on an equal plane and permitted free and equal bargaining without interference by labor spies, strikebreakers, black lists, and discriminatory discharges. To which, management counters with the questions: Are unions and their leaders perfect? Are there not labor racketeers (citing the ones in prison)? Should not unions be required to bargain in good faith? Is there not featherbedding? Should employers be tied up while unions settle their private grudges in jurisdictional strikes? Should not an individual employe have the right to decide for himself whether or not he wants to join a union? And so on.

The issue *is* voluntarism versus intervention, but like everything else, it is a question of degree. No union is on record as asking for complete hands off by the government, for a return to pre-Wagner Act days, and employers have very definite ideas of how far and in what direction intervention should proceed. The Taft-Hartley Act was a long step in the general direction that employers wanted to go. What the future holds no one can tell. It seems a 50-50 bet, however, that Commons and Andrews were correct in their prognosis, and that government intervention, of greater or lesser degree, will be an important factor in the industrial relations of the future in this country.

APPENDIX: THE TAFT-HARTLEY ACT: A TRANSLATION WITH COMMENTS

The Labor Management Relations Act, 1947 (popularly known as the Taft-Hartley Act) originated in the House of Representatives as H.R. (House Resolution) 3020, offered by Representative Fred Hartley of New Jersey, and was passed and became effective on June 23, 1947. That was the date that the Senate overrode President Truman's veto, the House having voted to override on June 20. An identical resolution had been introduced in the Senate by Senator Taft (Ohio), whereupon the two houses of Congress passed somewhat different bills, which were compromised in conference committee. The final result looked more like the Senate bill than the House measure, notwithstanding the fact that it was the amended House bill which was passed and sent to the President. It consisted of (1) an introductory description, (2) a "Short Title and Declaration of Policy," and (3) five major "Titles," or chapters. Most of the law is contained in the first three Titles. A complete listing of all major headings, with accurate numbering of sections and subsections and a summary of contents of each, is given below.¹

Public Law 101, Eightieth Congress Chapter 120, First Session H. R. 3020

An Act

"To amend the National Labor Relations Act, to provide additional facilities for the mediation of labor disputes affecting commerce, to equalize legal responsibilities of labor organizations and employers, and for other purposes."

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,"

Short Title and Declaration of Policy

Sec. 1. (a) "This Act may be cited as the 'Labor Management Relations Act, 1947'."

¹ All textual material in quotation marks is taken verbatim from the act. The remainder is either condensed or described, depending upon its nature and importance.

(b) Then follows a statement that industrial strife can be avoided or minimized if employers, employes, and labor organizations each recognize the rights of the others and also recognize that neither has the right to jeopardize the public health, safety, or interest. It is stated to be the purpose of the act to define the legitimate rights of employes and employers, to set up procedures for protecting them, to protect individual workers from unions, and to prohibit practices by either labor or management inimical to the public welfare.

TITLE I. Amendment of National Labor Relations Act

Sec. 101. This Title contains the amended NLRA.

Findings and Policies

Sec. 1. The substance of this section is as follows: The denial by employers of the right of employes to organize and the refusal of employers to bargain collectively cause strikes and other forms of industrial unrest which burden and obstruct commerce. The inequality of bargaining power between unorganized employes and organized employers also burdens commerce by aggravating depressions, holding down wages, and reducing purchasing power. "Experience has proved" that legal protection of employes' right to organize and bargain collectively promotes the flow of commerce by removing certain causes of industrial disputes (nonrecognition), encouraging the friendly adjustment of other disputes (over wages, hours, and working conditions), and by "restoring equality of bargaining power between employers and employes." *Experience has also shown that certain practices by labor organizations, their officers, and members have the effect of burdening commerce through strikes and other forms of industrial unrest, and "the elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed."*

"It is hereby declared to be the policy of the United States" to eliminate or mitigate all these obstructions "by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

Comment. The new material in the section above is the italicized provision for including unions in the list of potential troublemakers. The actual statement of policy (last paragraph) remains unchanged from what it was in the Wagner Act.

Definitions

Sec. 2. This is the customary long, tiresome section, in which the principal terms of the law are defined. In this case, they are: person, employer, employe, representatives, labor organization, commerce, affecting commerce, unfair labor practice, labor dispute, National Labor Relations Board, supervisor, professional employe, and agent. It is through definitions that persons or organizations are exempted from the law. The principal exemptions from the amended NLRA are:

governmental employers (Federal, state, or local), nonprofit hospitals, employers and employees subject to the Railway Labor Act, farm labor, domestic servants, independent contractors, and supervisors. A worker on strike is defined as still an employee, in the meaning of the act.

National Labor Relations Board

Sec. 3. This section sets up a five-man NLRB instead of the previous three-man Board, with a new functionary called a General Counsel. As administrative head of the agency, the General Counsel has broad powers of supervision over the Board's legal personnel and the officers and employees in the regional offices. He also has the say-so on the investigation of charges and the issuance and prosecution of complaints, which means that he can decide which cases go on the docket.

Sec. 4. (a) Board members and the General Counsel are paid \$12,000 a year, are eligible for reappointment, and must work at the job full time. Notwithstanding the General Counsel's supervisory authority, the *Board* appoints all officers and employees, which is a curious separation of powers, to say the least. In other respects, however, the Board's authority is severely limited. It may not (1) employ any attorneys other than the members' own legal assistants to review transcripts of hearings or prepare drafts of opinions (this was to get the Board members to do their own work, instead of delegating it to bright young lawyers on the agency's staff). Nor may it (2) advise or consult with trial examiners over their reports; or (3) appoint mediators, conciliators, or economists to the staff of the agency.

(b) Arrangement for paying expenses of the Board and its staff.

Secs. 5 and 6. Location of the main office (in the District of Columbia), and the Board's right to "make, amend, and rescind . . . such rules and regulations as may be necessary to carry out the provision of this Act."

Comment. The general purpose of the enlargement of the personnel of the Board and the restriction of its duties was to make the prosecuting and judicial functions of the agency independent of one another and to provide enough "judges" to speed up the handling of cases. In other words, the General Counsel and his staff were to prosecute and the Board was to judge. The NLRB had been heavily attacked in the past for acting as prosecutor, judge, and jury all rolled into one (a standard criticism of administrative boards and commissions); for not being able to keep up with its work load (not too surprising, as the evidence in some individual cases—like that of the Ford Motor Company—ran to several million words, with hundreds of exhibits); and for delegating the actual reading and analysis of trial examiners' reports to junior members of the staff. The final prohibition (of mediators, conciliators, etc.) was originally a conciliatory gesture toward the U.S. Conciliation Service—a commitment not to poach on their preserves. It is, of course, known by everyone familiar with the work of the Board that 90 per cent of it is mediatory, since less than 10 per cent of all complaints result in formal hearings and awards. The remainder are compromised (mediated) in some manner. How economists got elected to such good company is not known; probably a Congressional whim.

Rights of Employees

Sec. 7. (complete and verbatim, with italics supplied) "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, *and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section (8) a (3)* [the union-shop provision]."

Comment. This is the heart and soul of the National Labor Relations Act and always has been. The big addition is the italicized portion, which reinstates individual bargaining as an employee right and implies that it will be protected. This is a basic policy change in the law and raises several issues. One is over the right of employees to bargain individually with employers, which many convinced trade unionists doubt or deny outright. Their position is that individual bargaining weakens all labor, as it has been clearly demonstrated that a *general* policy of individual bargaining will not work;⁹ hence, refusal to join up with the labor movement is sabotage and antisocial. The position is clearer still if the class struggle is a major premise. All laborers are members of the laboring class, which is being exploited by employers, and have a duty to join and support the movement to overthrow the system. The counterview, of course, is based on the premise of individual liberty and free association, which employers and many others consider to be guaranteed by the Bill of Rights. Seen from this end, trade unions are just another kind of organization, which employees may or may not join as they see fit, under no compulsions other than their own desires or what they consider their personal self-interest. With respect to the class-struggle premise, many laborers in the United States have no intention of remaining in the laboring class and so feel no powerful urge to support the proletarian movement.

A second issue is the need for governmental protection of the right, granted its existence. Are unions coercive of workers? Do they force employees to join against their will? If so, are there enough instances to justify public intervention? There are also social and economic compulsions to join clubs and political parties, but these interferences with freedom of choice are not proscribed by law, so why should union membership recruiting be singled out for attention? There are other questions which can be raised, but these give an idea of the direction of some arguments over the new policy.

Unfair Labor Practices

Sec. 8. (a) "It shall be an unfair labor practice for an employer—(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7; (2) to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it . . . [the company union provision] (3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage

⁹ See Marx, Mitchell, Perlman, *et al.*, above, Chap. 14.

membership in any labor organization . . . [followed by a complicated proviso which permits union-shop agreements if the union is the certified representative of the employees and a majority of the employees in the bargaining unit have voted for it in a secret-ballot election, if membership in the union is open on a non-discriminatory basis to all employees, and if the only requirement for membership in good standing is the tender of dues and fees] (4) to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act; (5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a)."

Comment. These are the original five employer unfair labor practices contained in the Wagner Act, the only change being the substitution of the union shop proviso in Sec. 8(a)(3) for the closed-shop proviso in the former law. The former establishes the "open front door," that is, the employer's freedom to hire when, where, and whom he pleases, while still permitting unions to insist that all employees be members of and support the union.

Sec. 8. (b) "It shall be an unfair labor practice for a labor organization or its agents—(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7 . . . or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances; (2) to cause . . . an employer to discriminate against an employee in violation of subsection (a)(3) [above]" or for the union to discriminate against an employee who has been barred from the union on grounds other than failure to offer to pay his dues or fees; (3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of section 9(a); (4) to engage in or encourage a strike or a hot-goods boycott or a secondary boycott, where the object is:

- (A) forcing an employer to cease using the products of a manufacturer or to cease doing business with anyone,
 - (B) forcing some other employer to recognize and bargain with a union, unless the union is the certified representative of the employees of the other employer,
 - (C) forcing an employer to recognize or bargain with a union when some other union is the certified representative of the employees
 - (D) forcing an employer to assign certain work to the members of a given union in preference to the members of some other union (except that no one shall be required to cross a picket line against his will)
- (5) to charge excessive or discriminatory initiation fees of new members when a union-shop agreement is in effect; (6) to cause or attempt to cause an employer to pay for services which are not performed "or not to be performed." (This is the antifetherbedding provision.)

Comment. This is all new stuff, hot stuff, and very objectionable to unions, especially union officials. As can be seen, part of it is aimed at the protection of individual employees and part at the protection of employers. Sections 1, 2, and 5 are for the benefit of workers, both in unions and outside of them. Sections 3, 4, and 6 are to stop unions from coercing employers by not bargaining in good faith,

using secondary and hot-goods boycotts, authorizing jurisdictional walkouts, and featherbedding. These provisions are the basis for the awards described above in Table 64, page 523. The idea that unions can be guilty of unfair practices is not new, but a set of good-conduct rules enforced by a government agency is a new departure on the Federal level. According to employers, this makes the act bilateral, a two-way road, and is a step toward "equality under the law." There is no indication as yet that unions have been seriously handicapped in the performance of their functions by the prohibitions; what they are really afraid of is that in the hands of an antilabor Board and General Counsel, the section could be turned into a net of restrictive interpretations.

Sec. 8. (c) This is the free-speech section, which states that the expressing of opinions in any form (oral or printed) is no evidence of an unfair labor practice if not coupled with threats or promises of benefit.

(d) This section defines good-faith collective bargaining. Its principal components are: meeting and conferring and executing a written contract if agreement is reached, with it expressly understood that neither party is required to agree to a proposal or make a concession. A proviso is added, concerning the termination or modification of an existing collective bargaining contract. Either party desiring such a change must: (1) serve a written notice of such intent upon the other party at least 60 days prior to expiration of the agreement or of the date of change, (2) offer to meet and confer about the proposed changes, (3) notify the Federal Mediation and Conciliation Service within 30 days after such notice of the existence of a dispute, and (4) continue the existing agreement in full force and effect, without strike or lockout, for the entire 60 days. Employees striking during the 60-day period lose their status as employees under the act.

Comment. The free-speech section was inserted to counteract some decisions of the NLRB that expressions of opinion by employers critical of unions constituted undue interference and were an unfair labor practice under the Wagner Act. The explanation of the meaning of collective bargaining in good faith was to codify decisions already made by the NLRB and the courts (in the Pilling case and others; see above, pages 509–10, and to add the 60-day cooling-off requirement, where agreements were already in effect. One of the union practices most deplored by employers as a violation of good-faith bargaining was the strike without warning during negotiations.

Representatives and Elections

Sec. 9. (a) Provides that representatives designated by a majority of the employees in a bargaining unit "shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment." *Provided*, that individual employees have the right to present grievances to their employer and have them adjusted, within the terms of the agreement. And *provided further*, that the union representative has been given an opportunity to be present during the adjustment.

(b) The Board is empowered to decide what is the "appropriate" bargaining unit, the "employer unit, craft unit, plant unit, or subdivision thereof." Then follows an extensive proviso, separating out professional employees, guards, and members of craft unions. Professional employees and craftsmen must be permitted to vote before being included with other employees (in industrial unions, presumably). Guards must be in separate unions.

Comment. The first of these sections raises a rather important issue. Unions would like all grievances to be routed through shop stewards, while employers disagree. The former contend that permitting individuals to present grievances by-passes the union and undermines its authority. The latter insist that any employee should be permitted to take up a "misunderstanding" with his foreman, without setting in motion the cumbersome machinery of the grievance procedure, especially since many disputes can be ironed out promptly without recourse to formal debate. The argument is particularly apt where the union represents all the employees in the bargaining unit, but has only part of them in its membership. The right of the individual employee to take up matters with his employer then becomes a protection against discriminatory treatment by the union representative.

The proviso in Sec. 9(b) was a concession to the AFL, which had long protested the absorption of small craft and professional units in plant-wide or employer-wide industrial unions.

Sec. 9. (c). This section describes the procedure and rules for carrying on the certification process: (1) the filing of a petition by employer or employees, investigation and hearing by the Board, and the ordering of a secret-ballot election; (2) granting all labor organizations a place on the ballot; (3) a period of 12 months to run between elections, employees on strike who are not entitled to reinstatement not eligible to vote, and provision for run-off elections where no union receives a majority; (4) consent elections authorized; (5) the extent of union organization not to be controlling in the decision on the appropriate bargaining unit.

(d) Where an order of the Board concerning an unfair labor practice is based in whole or in part on facts turned up during a representation election, the full record of the election must be included in the transcript and filed with the award.

(e) (1) This is the section providing for union-shop elections. The necessary steps are: the filing of a petition by a certified union alleging that 30 per cent of the employees in the bargaining unit are in favor of such an agreement, a secret-ballot election held by the Board, and certification of the results to the union and the employer. (A majority vote does not automatically produce a union-shop agreement; it merely permits the union to bargain for it and the employer to agree to it, without violating the law.) (2) This is the decertification section, which permits the employees to vote themselves out from under a union-shop agreement. If 30 per cent or more of the employees under a union-shop contract petition the Board asking that the authority be rescinded, the Board is required to hold a secret-ballot election and certify the results to both the union

and the employer. (3) Once again, a period of 12 months must elapse after a valid election, before the Board can step in again.

(f) This is the now famous reporting requirement. The NLRB is prohibited from performing any service for a union—certification as bargaining representative, union-shop election, or investigation of a charge of unfair labor practice—unless the union has filed with the Secretary of Labor an extensive informational report, copies of its constitution and bylaws, and a detailed report of its finances, and has furnished to each member an identical copy of the financial statement.

(g) These documents are to be supplied or brought up-to-date annually, and their contents are specified with great exactness in the statute.

(h) This provision is the equally famous (or notorious) non-Communist affidavit requirement. It also prohibits the Board from performing any services for a union unless it has on file an affidavit executed within the past 12 months by each officer of the union and any union with which it is affiliated that “he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods.”

Comment. A number of issues are contained in the provisions outlined above. Sections 9(c) and (e) constitute additions to the Wagner Act, in that they specify secret-ballot elections in every case where a decision must be made by the Board concerning the intentions of a majority of the employees in a bargaining unit. Formerly, the Board was permitted to decide for itself whether or not an election was called for and it could certify unions on the basis of an inspection of membership cards, oral statements, a show of hands, or other means. It was contended that this produced careless, sloppy, and inaccurate decisions, and also that such public methods permitted the use of coercion to persuade employees to “vote right.” On the other hand, the facts are that the results of many elections are never in doubt (as indicated by the enormous majorities rolled up in union-shop elections since August, 1947) and the prohibition of the more flexible forms of arriving at decisions has thrown a tremendous load of work on the Board. This is particularly true of the union-shop elections, which were a complete novelty (no such prerequisite was in effect for closed-shop agreements before), and which have provided most of the routine work load of the Board ever since the passage of the act. It is clear that they might well have been dispensed with, except in special instances where the Board felt that they were called for.

Sections 9 (f)(g) and (h) are among the most controversial provisions of the new law. The non-Communist affidavit requirement was the basis for the decision of a number of important unions to get along without the act, and both it and the stipulation of reports were subsequently fought through the courts, with the decision going to the statute. In the union view, both of these rules amounted to “prying” into their private lives, one of them—the non-Communist affidavit—was an insult, and worst of all, the insulting provision was unilateral—that is, it was not imposed equally on employers. It implied clearly that disloyalty might exist among union officials, but would not be found in management. The reporting

requirement contained a number of impertinent questions too: dues, fees, disbursements, compensation of officers, how they were elected, restrictions on membership, how members were expelled, etc. So Lewis (UMWA) and Murray (USWA), brought together again by an issue, united in denouncing the act, and their unions abstained from furnishing reports and affidavits. Since both men had long and consistent records of opposition to Communism, their refusal to come to terms with the law was plainly on grounds of principle and therefore very influential.

Several issues were raised, of both a practical and a theoretical sort, of which two will be cited by way of illustration. On the practical side, abstention from compliance meant weakening the union in its struggle with competitors in any localities where the opposition was an actual threat, since the noncompliers could not be put on the ballot in representation elections, nor could they file charges of unfair labor practices against employers. These facts brought a yelp of dismay from local unions which were not too strongly established. They pointed out that rival labor organizations were strengthened and some managements were encouraged to regard bargaining demands and grievances more casually than they would have otherwise, and they put pressure on headquarters to fall in line.³

In the higher, purer, more rarefied air of public policy, the question of propriety was raised. The reporting requirement (especially when added to legal responsibilities assigned to unions in Title III) gave to unions a quasi-corporate status which implied that they were legal entities that exercised authority and had responsibilities toward members, employers, and the general public. These additions to the labor code *distinguished unions from their membership* thus taking them out of the legal classification of private clubs, and said in effect that the way they conducted their business, internal as well as external, was of concern to the general public and the government which represented it. Was it true? Union officials said "No," that unions were their members and vice versa and that how they ran their affairs was no one else's concern. But it was a difficult position to defend in the face of the known facts of union organization (with large staffs of full-time officials and employes), union finance, union contract negotiation (with its possibilities of loss and damage to members as well as improvement of their position), and the clear and obvious powers of union officials to interfere with industrial production and even to jeopardize the public well-being. The question is not settled, and may not be, for some time, and it contains the seeds of much controversy.

Prevention of Unfair Labor Practices

Sec. 10. (a) This section empowers the NLRB to prevent anyone from engaging in an unfair labor practice and authorizes it to turn cases over to state agencies in some instances, where the local rules are not out of line with the Federal law.

(b) This section provides for the filing of charges, the issuance of complaints,

³ After 2 years, one of the ringleaders of the mutiny reversed itself. The Steelworkers' high brass yielded to complaints from the local unions, complied, and immediately went raiding against John L. Lewis's "District 50," which still could not be put on the ballot by the National Labor Relations Board, on account of lack of compliance.

and notice of a hearing within five days. It also (and this is new) rules out complaints of unfair labor practices occurring more than six months prior to the filing of charges, a statute of limitations violently criticized by many as too restrictive. The conduct of hearings, "so far as [is] practicable," is to be in accordance with the rules of civil procedure for the district courts of the United States, which was a change from the Wagner Act's specific exemption from such rules.

(c-d) Cover hearings and awards of the Board. Testimony is to be reduced to writing, and a "preponderance" of the evidence is required for a decision. (This is another change, since the former law called only for "evidence.") Where the preponderance of the evidence supports the complaint, the Board must issue a cease-and-desist order and require affirmative action (including reinstatement of employes with or without back pay), "as will effectuate the policies" of the act. If the preponderance of the testimony goes against the complaint, the Board must dismiss it. No employe may be required to be reinstated or given back pay who has been "discharged for cause" (which raised many problems of definition, just on its face). There are a number of rules for filing, amending, and service of the Board's orders.

(e-j) These provisions authorize the Board to petition the Federal courts, and the courts to grant, "appropriate temporary relief or restraining orders" (injunctions) for the enforcement of orders. (It was the first formal breach of the Norris-LaGuardia Act in 15 years.) The right of appeal from an order of the Board through the circuit courts of appeal is guaranteed, but the commencement of such action, unless ordered by the court, does not stay an order of the Board. The granting of injunctions under the rules of this section is specifically given precedence over the limitations of the Norris-LaGuardia Act. The courts are directed to hear petitions for injunctions within 10 days, if possible, and the Board is authorized to request an injunction as soon as it issues a complaint, if it feels like it.

(k-l) These sections deal particularly with the union unfair labor practices of boycotts and jurisdictional disputes, found in Sec. 8(b)(4). The NLRB is "empowered and directed to hear and determine" jurisdictional disputes, unless they are settled to the satisfaction of the parties within 10 days after the charge is filed. The investigation of charges of secondary and hot-goods boycotts is given priority over all other cases, and as soon as the Board issues a complaint, it is *required* to petition "for appropriate injunctive relief." The courts are authorized to grant temporary injunctions for 5 days without notice to the party enjoined, if it is alleged "that substantial and irreparable injury to the charging party will be unavoidable," and the service of legal process upon officers and agents of a union is stated to constitute a service upon the organization as a whole.

Comment. These sections break open the whole question of the labor injunction once more. Granted that it was a limited breach only of the Norris-LaGuardia Act, in that injunctions were available only to public officials and there was no sign of revival of the hated and related yellow-dog contract, still it was a renewal of "government by injunction," and union leaders with long memories could recall as vicious use of the restraining order by government representatives as by private

employers. If any section of the Taft-Hartley Act was a basis for the union designation as a "slave labor law," it was the provisions authorizing the use of injunctions in labor disputes. It is a big issue, too big to be debated here, with a long history, a literature of its own, and plenty of arguments on both sides. The times have changed, industry has changed, and the labor movement has changed most of all, in the last two decades. Perhaps rules written in 1932 are out of date now. Of one thing, we may be sure: The issue will be argued from pillar to post in the years to come, so long as labor organizations are subject to limitation by injunction and contempt of court.

Investigatory Powers

Sec. 11. (1-6) This entire section is concerned with establishing the Board's power of conducting hearings and investigations. It is given full access to and the right to copy any evidence relating to its investigations; it may subpoena people or papers; and members or their agents may administer oaths, examine witnesses, or receive evidence. If anyone refuses to obey, the Board may go to court for an order backing up its request, and failure to comply with such an order may be punished as contempt of court. No one is to be excused on grounds that his testimony may tend to incriminate him, except that the testimony may not be used as a basis of prosecution, other than for perjury. There are rules for the service of process, the payment of fees and mileage to witnesses, and the reimbursement for the taking of depositions. Other government agencies are instructed to assist the Board in its work.

Sec. 12. Willful resistance to or interference with the Board or its agents is punishable by fines of up to \$5,000 or imprisonment for up to one year, or both.

Limitations

Secs. 13-17. There are several miscellaneous limitations lumped together here. The right to strike is held to be unimpeded and undiminished, except as already limited or modified. Supervisors may be members of labor organizations, but employers do not, under the law, have to recognize or bargain with them. Where state or territorial laws prohibit agreements "requiring membership in a labor organization as a condition of employment" (the right-to-work laws and constitutional amendments), they supersede this act and such (closed- or union-shop) agreements are illegal. Conflicts between this law and the bankruptcy act are decided in favor of the Taft-Hartley Act. If any part of the act is held invalid (unconstitutional), the remainder is in full force and effect (the customary "separability" provision). The law may be cited as the "National Labor Relations Act."

Effective Date of Certain Changes

Sec. 102. This is the section which permitted the carry-over of closed-shop and union-shop agreements already in effect. Any such contract entered into prior to passage of the act (June 23, 1947) could run indefinitely, and new agreements signed before 60 days had passed (by Aug. 22, 1947) could run as long as a

year. (These modifications were to soften the shock of the closed-shop prohibition, and the requirement of union-shop elections.) For the periods named, the discrimination practiced under them would *not* be held an unfair labor practice.

Sec. 103. Any certification of representatives or decisions respecting the appropriate bargaining unit by the NLRB made prior to the effective date of Title I (Aug. 22, 1947, see below) would stand for 1 year or the end of the contract period, whichever came first.

Sec. 104. The effective date of the Title (Title I, the amended National Labor Relations Act), other than for the appointment of new officers by the President, was 60 days after the date of enactment of the law, or Aug. 22, 1947.

Comment. The foregoing Secs. 101-104 comprise the new (amended) National Labor Relations Act, Title I of the Labor Management Relations Act, 1947. The changes were mostly additions. The old Wagner Act was all there, except for the permission to execute closed-shop agreements, but something new had certainly been added. Among other things, employees had the right to *refuse* to go union, unions were subject to a longer list of unfair labor practices than employers, the injunction was turned loose again, the NLRB had to hold secret-ballot elections to decide if it was time to go to lunch, the Board was split clumsily into an administrative (prosecuting) and a judicial section, and the line was drawn between management and employees just below the supervisory level.

Would it work? Union officials said "No" and labeled it the "slave labor law"; management approached it gingerly at first and then decided it was all right; and a lot of people stood on the side lines wondering about it.

The National Labor Relations Act was only one of five Titles (chapters) in the Taft-Hartley Act, but it was the most important part of the statute and contained the provisions most violently opposed by organized labor. The new law was made a major issue in the 1948 elections, and most people thought the unions had won, but something went wrong in Congress in 1949. The administration abandoned its attempts to repeal by the middle of summer, after failing to stampede the issue through in the first few weeks, and the act was left to provide an issue in 1950, when there would be more elections. Meanwhile, the NLRB had reorganized and was managing to stay pretty well up with its case load, the unions were winning all the union-shop elections and their full share of representation polls, union membership was high and rising, union finances strong, and union contracts excellent (all this by the testimony of union representatives who told the Eighty-first Congress in 1949 that the act was enslaving American labor), and the labor-dispute front was quieter from August, 1947, through 1949 than it had been for a long time.

The future was hard to guess, but it doubtless held changes, probably in the direction of modification of the law. How much, no one could say. Back to the Wagner Act, alone and unadorned, seemed unlikely. However much they were displeased, union leaders would probably have a considerable amount of governmental intervention (or "supervision," if the term was preferable) to contend with for a while. Some important features of the intervention of the future were foreshadowed in Titles II and III of the Taft-Hartley Act.

*Title II. Conciliation of Labor Disputes in Industries Affecting
Commerce: National Emergencies*

Sec. 201. This section states the policy of the United States regarding the settlement of disputes over wages, hours, and conditions of work. It is "mutual agreement reached through conferences and collective bargaining," which, it is observed, may be helped along by the provision of governmental facilities for conciliation, mediation, and voluntary arbitration.

Sec. 202. (a-d) Creates the Federal Mediation and Conciliation Service, an independent agency under a full-time Director (\$12,000 a year), to replace the U.S. Conciliation Service located in the U.S. Department of Labor. Transfers all functions, personnel, and records of the old Conciliation Service to the new Service 60 days after passage of the act, and ends: "The Director and the Service shall not be subject in any way to the jurisdiction or authority of the Secretary of Labor or any official or division of the Department of Labor."

Comments. The quotation at the close shows what was in Congress's mind. There was no change in function whatsoever. This was simply the legislative method of objecting to the way the President was running one of the executive agencies (in this case, the Department of Labor). Moving the Service out of the Department and giving it a new name and an independent authority was a slap at the Service itself, at the Secretary of Labor, and through him, at the President. Creating a new directorship meant also that the current director of the Conciliation Service, Edgar L. Warren, was out of a job, and implied that a different point of view would be called for before the Senate would confirm the new appointee. Mr. Warren, a very competent and experienced director, was a prolabor liberal. President Truman recognized the inevitable and nominated Cyrus S. Ching, for many years director of industrial relations for the U.S. Rubber Company, who was immediately confirmed.

The above is cloakroom gossip, but undoubtedly true in part. It must be recognized at the same time that Congress had one valid and unanswerable argument for the change. Mediation and conciliation should certainly be conducted on an impartial basis. Could it be so, when the agency doing it was located in a major executive department committed to the interests of one of the parties to the disputes? Whether or not it should be, the U.S. Department of Labor has always been the Department of Organized Labor, from the days when it was only a twinkle in Samuel Gompers's eye to the present. It has been lobbied for, staffed by, and sympathetic to, organized labor, a thoroughly inevitable development, but a fact. Furthermore, of all the bureaus of the Department, the Conciliation Service was most obviously and heavily staffed with ex-union men, for which there were also good reasons, but which also supported the claims of prejudice. Would trade unions accept a mediation service in the Department of Commerce? Doubtful. The logic of the situation does support an independent agency.

Functions of the Service

Sec. 203. (a-d) The job of the Federal Mediation and Conciliation Service is to do anything it can to help settle labor disputes, including mediation, con-

ciliation, trying to get the parties to arbitrate or to submit the employer's last offer to the employes in a secret-ballot election. But nobody has to follow any of its suggestions, and it has no powers whatsoever other than to offer to help.

Sec. 204. (a) (1-3) Employers and employes and their representatives are commanded to make every possible effort to reach agreements, to confer promptly at the request of each other, and to cooperate in meetings arranged by the Federal Mediation and Conciliation Service for settlement of disputes.

Sec. 205. (a-b) Creates a National Labor-Management Panel of 12 members (six each for management and labor) appointed by the President for terms of 3 years each. Members are to be paid \$25 a day while working and are on call by the director for advice with respect to avoiding disputes or adjusting those which occur, especially "with reference to controversies affecting the general welfare of the country."

National Emergencies

Comment. This section sets up a six-step procedure for delaying and disposing of labor disputes which are serious enough to create national emergencies. The steps will be indicated in the summary of provisions below.

Sec. 206. Step One is as follows (verbatim): "Whenever in the opinion of the President of the U.S., a threatened or actual strike or lock-out affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public."

Sec. 207. (a-c) This section describes the composition of a board of inquiry (a chairman and such other members as the President may decide on), says that they shall get \$50 a day and expenses for their work, and defines their powers in the conduct of hearings and investigations.

Sec. 208. (a-c) In Step Two, the President, upon receiving the report from his board of inquiry, "may direct the Attorney General to petition any district court of the U.S. having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof," and the court is empowered to issue the injunction, with the Norris-LaGuardia Act specifically overruled.

Sec. 209. (a) The parties must then try to settle their differences, with the assistance of the Federal Mediation and Conciliation Service, but neither has to accept any proposal of the Service.

(b) Step Three is the reconvening of the President's board of inquiry, upon the issuance of an injunction, with instructions to report within 60 days the current positions of the parties, the efforts toward settlement, and the em-

employer's last offer of settlement. In Step Four, the NLRB has 15 days to take a secret ballot of the employees on the question of accepting the employer's last offer of settlement, and is given 5 days more to certify the results of the election to the Attorney General (a total of 20 days for this maneuver).

Sec. 210. In Step Five, the Attorney General asks the court to discharge the injunction, which motion must be granted. Then, in Step Six, the President makes a full report to Congress with recommendations for appropriate action.

Comment. Organized labor did not like the removal of the Conciliation Service from the Department of Labor or the arrangements for handling national emergency strikes,⁴ especially the latter. Trade unions had just got out from under the Sherman Act (by the Hutcheson decision), and here was the whole business back again, complete with injunctions, delay, and the government taking sides. Elimination or stringent modification of this procedure was prominent in the demands of union leaders for repeal of the Taft-Hartley Act. Yet this was exactly where the repeal movement tied up in the spring and summer of 1949. Congress, the Senate especially, still seemed to feel that the "national health or safety" might require protection from unions throwing their weight around and doubted that the President had the necessary powers inherent in his office. They could not get together on an acceptable compromise and repeal bogged down.

Compilation of Collective Bargaining Agreements, Etc.

Sec. 211. (a-b) The Bureau of Labor Statistics of the Department of Labor was instructed to maintain a file of copies of labor agreements of all types, "open to inspection under appropriate conditions prescribed by the Secretary of Labor," and was also authorized to furnish any information which might help in the settlement of disputes to employers, employees, and the Federal Mediation and Conciliation Service. Confidential data were specifically excepted.

Exemption of Railway Labor Act

Sec. 212. "The provisions of this title shall not be applicable with respect to any matter which is subject to the provisions of the Railway Labor Act, as amended from time to time."

Title III

Comment. Title III, which was not given a name, was a collection of miscellaneous restrictions and limitations upon trade unions. It contained some of the potentially most dangerous threats to organized labor—suability of unions, special penalties for boycotts, prohibition of strikes by government employees, etc.—and one section which was immediately attacked as an infringement of labor's constitutional rights. That was the prohibition of political contributions.

⁴ The inclusion of lockouts in the provisions was a euphemism. There had not been a national emergency lockout in 20 years, and if one occurred, it would be immediately subject to the antitrust laws. The act was aimed at strikes, of the type which occurred in such numbers after the Second World War, especially in coal mining. The "national emergency" section is another John L. Lewis contribution to the act.

Suits by and against Labor Organizations

Sec. 301. (a) This section authorizes damage suits for the violation of labor agreements in any district court of the United States, "without respect to the amount in controversy or without regard to the citizenship of the parties." (Most attempts in the past to collect damages for breach of collective agreements were brought in state courts and only a few such courts had treated labor agreements as legally binding. This and the subsequent provisions of this section opened the Federal courts to any such suit and moved a long way toward making labor agreements legally actionable contracts.)

(b) Labor organizations and employers were held to be bound by the acts of their agents, and any union could "sue or be sued as an entity . . . in the courts of the U.S." Money judgments against unions were enforceable "only against the organization as an entity and against its assets," and not "against any individual member or his assets."

(c-e) The rest of the provisions covered jurisdiction of the courts, the service of summons, and the definition of an "agent," in which it was held that to make another person responsible for his acts, "the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling."

Comment. This was a very unwelcome set of additions to union privileges and responsibilities. Unions do not want to "sue and be sued as entities" or to be legally bound by the acts of their agents. Their previous legal status had been more that of private associations, whose members had individual responsibility for their acts, but for which there was no "corporate" responsibility, assessable against the organization. The new situation made unions the legal agents of the employees, signing legally enforceable contracts, for the breach of which the union itself and not the members could be held liable. It was a much more exposed position and held infinite possibilities of jeopardy. It also continued the separation of unions from their members, along the lines of corporations, which are distinct from the stockholders, leaving the responsibility for organized acts with the unions and implying that they might have separate ends as well as a separate existence from their membership.

The basic issue is: Do they?

It is hard to argue the negative of this proposition, in the current state of union organization and control. A trade union is an organization with authority, responsibility, a distinct set of functions, and a given jurisdiction. It has its own segregated official funds and an official personnel, who bargain and negotiate for it and enter into contractual relationships with employers as representatives of its membership. The acts and decisions of its officers bind its membership in vitally important ways and may prejudice their interests as well as secure them. This fact has been explicitly recognized by a former research director of the International Longshoremen's and Warehousemen's Union (CIO), when, as a research associate at the University of California's Institute of Industrial Relations, he wrote:⁵

⁵ Lloyd H. Fisher, "The Price of Union Responsibility," *The New York Times Magazine*, Aug. 31, 1947, p. 9.

A modern union is not identical with its membership any more than a corporation is the simple sum of its stockholders, and so it is not unreasonable that the trade union should have requirements which are distinct and separate from those of its membership. . . . In a period of ten years the membership of a trade union will have turned over several times. Its membership is fugitive but the institution has survival needs for which it requires continuity, security. . . . [etc.]

With this the case (and it is the case) and with the continued growth of unions in both financial and political power, is it feasible to continue to regard them as voluntary private associations whose responsibilities are identical with the obligations of the members? Congress said "No" in the Taft-Hartley Act, but the matter may not be settled for all time. There still remain questions of the extent to which collective agreements should be considered binding at law, and other technical problems of control. But the big issue is the nature of unions and their relations with members, employers, and the public.

Restrictions on Payments to Employee Representatives

Sec. 302. (a-c) This is a complicated set of provisions, the purpose of which is to control the checkoff and the handling of union trust funds. It is another section presumably inspired by the leadership of the UMWA, after the public controversy about the management of the UMWA's welfare fund financed by royalty payments on each ton of coal mined in the industry. It starts out by making it unlawful for an employer to pay to a representative of his employees "any money or other thing of value" and then makes exceptions to the general rule: (1) compensation for services performed as an employee, (2) payment of judgments obtained in court, etc., (3) payment for articles or commodities purchased in the regular course of business, (4) the checkoff of union dues, *provided* that the employees agree individually in writing and such agreements may not be irrevocable for more than one year, and (5) payment of money into a trust fund, *provided* that (A) the purposes of the fund are either: medical or hospital care, retirement or death benefits, compensation for service-connected accident or illness, unemployment benefits, or some form of insurance; (B) there is a written agreement, employers and employees are equally represented in the administration of the fund with provision for a neutral third party to break deadlocks, and there is provision for an annual audit which must be available for inspection by interested parties; and (C) retirement funds (for pensions or annuities) are kept in a separate trust which precludes their being paid out for any other purpose.

(d-g) Willful violations of the rules above were made misdemeanors, punishable by fines up to \$10,000 and imprisonment up to one year, and the district courts were empowered to issue injunctions to prevent them. The limitations did not apply to funds in force prior to enactment of the law, at least until the "expiration of such contract, or until July 1, 1948, whichever first occurs."

Comment. These are some more regulations which thoroughly displeased trade unionists, as they concerned internal union affairs and the terms of agreements with employers. Also, they concerned finances, which are as important to labor organizations as to corporations. The checkoff restrictions were to stop an

alleged union practice of writing dues deductions into collective agreements without prior knowledge or assent by the members. The trust fund rules were to regularize the use and conservation of funds built up with management money, especially the royalty-payment type, to see that their purposes and management were in line with the declared intent of union officials (and not for some ulterior end, like political action, of which Congress has been very suspicious).

Boycotts and Other Unlawful Combinations

Sec. 303. (a) (1-4) This section makes the prohibition of secondary and hot-goods boycotts and jurisdictional strikes a general one (by defining them as "unlawful," instead of holding them to be unfair labor practices, as in Sec. 8(b)(4)) and adds what is potentially the most far-reaching penalty in the whole law. The penalty is described in subsection (b) below, which is repeated verbatim.

(b) "Whoever shall be injured in his business or property by reason of any violation of subsection (a) may sue therefor in any district court of the U.S. subject to the limitations and provisions of section 301 hereof without respect to the amount in controversy, or in any other court having jurisdiction of the parties, and shall recover the damages by him sustained and the cost of the suit."

Comment. The injury from boycotts and jurisdictional strikes may spread widely—to purchasers, suppliers, processors, transport companies, and even consumers deprived of essential products. And "whoever shall be injured in his business or property" has the right to sue for damages and costs. It is a sweeping privilege, especially when tied in with Sec. 301 above, which makes trade unions suable, responsible for the contracts, and for the acts of their agents. It will be a hardy union that keeps on using the secondary boycott, the refusal to handle struck or nonunion goods, or the jurisdictional walkout, in the face of this invitation to recover damages.

Restriction on Political Contributions

Sec. 304. This is the section which amends the Federal Corrupt Practices Act to prohibit labor organizations (along with national banks and corporations) from making contributions or expenditures in connection with Federal elections.⁶

Strikes by Government Employees

Sec. 305. (complete) "It shall be unlawful for any individual employed by the U.S. or any agency thereof including wholly owned Government corporations to participate in any strike. Any individual employed by the U.S. or by any such agency who strikes shall be discharged immediately from his employment, and shall forfeit his civil service status, if any, and shall not be eligible for reemployment for three years by the U.S. or any such agency."

Comment. The government (and many public officials) believes firmly in the right of employees to strike—the other fellow's employees, that is. But when it comes close to home, as in, say, a walkout of clerks in the Bureau of Indian Affairs, then it is unconstitutional and a breach of the oath to uphold the govern-

⁶ It has already been discussed above, p. 525.

ment. Section 305 follows the pattern of the New York State law, passed after the Buffalo teachers' strike of 1946. The Federal government has over 2 million civilian employees, the states and their subdivisions some four million more, and the number of public workers is steadily increasing. Should any of them have the right to strike?

On grounds of urgency, the services of the local gas company or hospital are far more necessary to the health and welfare of the community than the operations of the municipal park district. And telephone service, train operation, and the mining of coal are all more central to the national well-being than the work of some of the major executive agencies and commissions at Washington. However, strikes in the former are legal and in the latter are not. What are (or "should be") the rights of public employees with respect to self-organization and collective bargaining? It is an issue with many ramifications and one which is bound to arise as the volume of public employment increases relative to the sphere of private enterprise.

Title IV

Creation of Joint Committee to Study and Report on Basic Problems Affecting Friendly Labor Relations and Productivity

Secs. 401-407. This Title set up a joint Congressional committee called the Joint Committee on Labor-Management Relations, with seven members from the Senate and seven from the House. Its job was to study and investigate "the entire field of labor-management relations" and report back to Congress by Mar. 15, 1948, with recommendations, and make a final report by Jan. 2, 1949. What was expected was a checkup on the Taft-Hartley Act, and that was what came forth. The preliminary report was divided into two sections: majority (Republican) and minority (Democratic), the former favoring the law and finding its operations satisfactory, the latter critical of it and recommending drastic changes. By the time of the final report, Congress had been reorganized and the majority (Democratic) were critical, while the minority dissented.

Title V

Definitions

Sec. 501. (1-3) A few more definitions, this time for the law as a whole, and not just for Title I. The definition of "strike" is of interest. It was stated to include, in addition to concerted stoppages of work, "any concerted slow-down or other concerted interruption of operations by employees."

Saving Provision

Sec. 502. To the effect that nothing in the act should be construed to require an individual employee to work without his consent or to make the quitting of his job by an individual an illegal act.

Separability

Sec. 503. If any provision of the act be held invalid (unconstitutional), the remainder is not to be affected by the decision, but is still operative.

Comment. That is the Taft-Hartley Act, the basic labor code of the Federal government, as passed by the Eightieth Congress over the veto of President Truman. The meat of the law is in the first three Titles, and there is a lot of it. Most of the law—and practically all of the changes made in existing statutes—is antiunion, in the sense of restricting or regulating or prohibiting various forms of union activity and releasing employers and individual employes from existing limitations, either statutory or union imposed. But not all of the act is adverse to union members, and it may well be that some of the latter like the guarantee of annual financial statements, the right to authorize their own checkoff of dues, and the restrictions upon high fees and arbitrary dismissal from the organization. The protection of the right to organize and bargain collectively is continued, with but slight change, and there is concern for the public at large.

The Taft-Hartley Act is an "omnibus" law—that is, it was an attempt to put the entire Federal labor code in a single statute. Any such law, particularly one containing so many changes in existing institutions, should be regarded as merely a stage in the development of public policy in labor-management relations. That it will be changed, and changed considerably, is a foregone conclusion. It is remarkable to find it going into its third year without amendment, especially after a reversal of political sentiment like that exhibited in the elections of 1948.

The important thing is the direction and degree of change, which will represent policy decisions on some of the issues mentioned in this Appendix and the chapter preceding it. Since the act is a tremendously long step in the direction of regulation of trade unions, the consensus is that the next moves will be in the direction of modification. What they will be exactly, no one knows. They will hinge on the character of industrial relations in the future, the capacities of union leaders and corporation executives to work out mutually satisfactory agreements, the administrative feasibility of the law, the political complexion of Congress, and the public temper respecting interference with industrial and commercial operations.

The mere volume of administrative regulation contained in the law may seem shocking to some, especially when it is remembered how many people are affected by it (between 12 million and 15 million directly and at least an equal number indirectly). However, it may be suggested that the maintenance of social equilibrium between great national unions with hundreds of thousands of members and great national and international corporations with hundreds of thousands of employes, both functioning in an extremely interdependent and highly industrialized community, is very likely to call for a large body of rules to keep the adversaries from injuring either themselves or innocent bystanders. That is one of the penalties of a high-speed, modern, technological civilization. The rules can be made to work and the machine to operate if the parties really want them to, and that is the job ahead.

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