INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

PAPERS PRESENTED AT
NEW YORK CITY

DECEMBER 28-30, 1955

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PROCEEDINGS OF EIGHTH ANNUAL MEETING OF INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

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EDITED BY L. REED TRIPP

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PREFACE

The papers presented herewith were delivered at the eighth annual meeting of the Industrial Relations Research Association at New York City, December 28-30, 1955. Parts I through X of the volume cover all sessions of the Association's meetings with two exceptions. The joint session with the American Economic Association on "The Shortening Work Week as a Component of Economic Growth" is being published in the current supplement to the American Economic Review. Another session was devoted to informal discussion of training needs for students headed for jobs in industrial relations and is not included in the proceedings.

Part V marks an innovation in the type of meetings included in the annual volume. This session on German Experience with Co-determination consisted of prepared remarks on separately assigned aspects of the subject to panel participants herewith published as integral parts of the discussion condensed from a recorded version. Chairman William McPherson of this session took on the burden of editing the transcribed recording.

The Association wishes to express its appreciation to the participants in the 1955 annual meeting for their cooperation in submitting their material for publication. All principal papers delivered at the covered sessions are included and the invited discussants' remarks are complete except for one discussant in each of two sessions. The Association is further grateful for the willingness of contributors to condense their manuscripts in some cases to keep the volume within manageable size.

Members of the Association will find local chapter notes now comprising a separate part of this volume published as Part XII following the usual business reports in Part XI. We are happy to note that seven local chapters responded with contributions to this section this year.

It is believed that publication of this volume marks another accomplishment of the Association in promoting interest in industrial relations research and making available to a wide audience significant contributions to the literature of this field. It should be of interest to all concerned with research developments in industrial relations.

L. Reed Tripp, *Editor.*

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Part I

PRESIDENTIAL ADDRESS

RESEARCH AND PRACTICE IN INDUSTRIAL RELATIONS

LLOYD G. REYNOLDS
Yale University

WHEN SOME OF US in 1946 conspired to form this association, there was considerable discussion of an appropriate name. "Industrial Relations Association," it was feared, might imply that we were an action group committed to some sort of legislative activity. "Research" was added as a "good" word which would suggest the austere, neutral and academic character of the organization.

Only a minority of our members, however, are actually engaged in research and this creates a certain tension in our midst. The research man feels superior in some respects but inferior in others to the practitioner of industrial relations. The practitioner, more confident and outgoing, is apt to feel that he is the man who is really advancing human welfare. Both groups have uneasy midnight doubts about the value of research and about its relation to practical affairs. It seems worthwhile, therefore, to examine the nature of industrial relations research and the relation of research to practice.

AN APPROACH TO INDUSTRIAL RELATIONS RESEARCH

May I suggest first that the study of industrial relations needs to be conceived in very broad terms. People concerned with curriculum construction are perhaps forced to draw fine lines between "industrial relations," "labor relations," "labor economics," "human relations," "personnel management" and so on. This fragmentation should not veil the fact that we are integrally involved in all the phenomena surrounding the use of human effort in production. Scholars may choose to adopt specialized approaches to this complex of phenomena. The facts themselves stubbornly refuse to specialize.

We are concerned with *all* the uses of labor—white-collared or blue-collared, agricultural or industrial, union or non-union. It is not stretching a point to say that we have a proper concern with the economics of professional practice, with other forms of self-employment, and with the labor market for business executives. Collective bargaining is a part of our study, but it is far from being the whole of it. Even within the unionized sector of the economy, there are many areas of worker behavior and management practice which have nothing directly to do with the collective agreement.

When we thus stretch our imaginations to embrace the whole of the labor force, all aspects of the employment relation, all the facets of union and management institutions, all the social science disciplines available to deal with these matters, we are confronted with thousands of possible research studies. How can we establish sensible priorities? How can we turn our very limited research resources to best advantage?

I suggest that, in order to receive a high priority rating, a research subject should measure up to the following standards. First, it should meet the ordinary tests of scientific work: clear hypotheses capable of being validated or refuted by evidence, an adequate body of data appropriate to the problem, and the possibility of quantifying these data and manipulating them by statistical techniques. If a problem cannot be attacked quantitatively, it may still be a proper subject for qualitative description and for pre-scientific "fishing expeditions." But the rule of "no measurement, no science" is generally a sound one.

Second, the subject should have important and continuing implications for human well-being. Everything which happens in the economy affects welfare to some extent; but there are minor effects and major effects. Our research resources are very limited, not so much in terms of money as in terms of time and talent. It is irresponsible to lavish these scarce resources on minor problems.

There is a particular danger that research workers will be pulled off base by the headline news of the moment. There are fads in industrial relations as in everything else. Operators in the field are perhaps compelled to go off in hot pursuit of every new development. The research worker should try to take a calmer view, sifting the permanent from the transient and concentrating on problems with a long life span. If a problem is important, it has probably been around for decades or generations, and the economy is unlikely to collapse if we don't get all the answers within the next six months.

Third, research should be *operational* in the sense of contributing to wise action, and particularly to sound public policy. We should ask concerning any piece of research: Supposing that the results were already in hand, what could anyone do with them? To what issues of public policy are they relevant? How could citizens and legislators use this information? Unless we can give convincing answers to these questions, our research is mere random curiosity, and it is questionable how far society can be expected to pay for this form of self-indulgence.

I am not questioning the value of basic research and theoretical speculation. It is obviously necessary to construct tools and to test the strength of materials before attacking problems of social engineering. What I am questioning is that bane of our subject, the magpie-like gathering of facts unrelated to any possibility of social action. It is this preoccupation with trivia, this failure to think hard enough about whether a piece of work is really worth doing, this allegedly "practical" research which in fact has no practical outlet that befuddles our activity and drains our research resources.

I have stressed the importance of research oriented toward governmental action because public policy, being everybody's business and nobody's business, stands in danger of general neglect. It goes without saying that the leaders of trade unions, business concerns, and other economic organizations should have the knowledge from which sound private policies can be developed. The term "sound," however, is ambiguous. If "sound" private action means action consistent with the public interest, we are faced at once with the question of defining the public interest and discovering what kinds of social control are necessary to ensure that private action will be in conformity with it. This returns us to our starting point, the importance of research oriented toward public policy.

Alternatively, "sound" may mean simply "efficient," *i. e.*, action which is well-designed to further the ends of the private group in question. On this front, there is some question how far university research centers should undertake to tell business managers or union officials how to conduct their affairs. Private groups have a powerful incentive to conduct this kind of "operations research" for themselves, they are aided by a host of consulting firms and paid advisers, and they have a legitimate claim on the research facilities of labor departments, commerce departments, and other government agencies. The comparative advantage of university research is greatest with respect to questions of public importance, the answers to which are not directly profitable to any private group, the answers to which may even be harmful to certain private interests, yet which must still be resolved in the interest of the general welfare.

SOME EXAMPLES OF SERVICEABLE RESEARCH

Let me illustrate by brief mention of four research areas which seem to meet these criteria. These are the problems of income distribution, the supply of human effort, the marketing of labor services,

and the economic consequences of collective bargaining. The fact that these illustrations are heavily economic indicates simply a modest hope of staying within the bounds of my own competence. A lawyer, a psychologist, or a political scientist could doubtless lay out an equally appetizing menu.

a. *Income Distribution*

The level of incomes in the United States is increasingly adequate to cover physiological needs; but aspirations rise as income rises. Income is rarely adequate in a psychological sense. Each group in the population tends to feel that its own income level is too low, that other groups are getting more than they need or deserve, and that the national income should be redistributed in its favor. "Parity prices" are urged for farmers, "fair wages" for wage earners, "equitable differentials" for the higher occupational groups, "reasonable profits" for entrepreneurs. The chorus of conflicting claims rises to Heaven—or at least to Washington—from all directions.

An earlier and more hard-boiled generation of economists referred this conflict of interest to arbitration by the market. Efforts to alter market-determined rates of return were regarded as reprehensible, economically harmful, and largely futile over the long run. The leaders of economic blocs, however, have not been impressed by these warnings. They work ceaselessly to alter the terms of exchange to their own advantage through private bargaining and, to an increasing extent, by capturing the coercive power of government. The rising generation of economists, recognizing tendencies of which it may not wholly approve, talks less about enforcement of competitive principles and more about bilateral monopoly, "balance of power" among economic blocs, and government as umpire in the income distribution struggle. The concept of "the just price" has crept back into public discussion after centuries of disuse.

These developments raise questions of enormous magnitude. What has happened to the functional distribution of income over the past century, and why? To what extent is functional distribution at a particular time determinate on economic grounds? Reversing the question, to what extent can distribution be altered by deliberate manipulation—either via the market, or outside the market through social transfers in government budgets? How do changes in distribution react on economic incentives and on the level of national output? Has economics anything to say about proper principles of income

distribution, about reasonable rates of return to different functional groups? Fifty years ago T. N. Carver and others wrote books which professed to combine sound economics and sound ethics. Was this just a poor idea? Or did Carver have a good idea but say the wrong things? Are any of our members bold enough to make the same kind of effort at the present time?

b. *The Supply of Human Effort*

National output depends partly on labor input. How much input is desirable? How many people in the adult population should be gainfully employed? How hard should they work, for how many hours per week and per year, and over what period of their lives? What is the personal and social value of leisure—for education, for efficient consumption, for effective citizenship, for recuperation from effort, for sheer entertainment—as against the value of greater output and higher income levels?

This set of questions would also have seemed foolish to many nineteenth-century economists, since the market was supposed to answer them. Each individual was assumed to strike his own balance between income and leisure. The sum of these decisions yielded aggregate labor supply, and the welfare problem was solved automatically. Is it not clear, however, that most people cannot strike this sort of personal balance? Pace of work, hours of work, vacation schedules, retirement age and other relevant factors are pre-determined by social custom, management policies, union policies, and in some cases by legislation. The individual can sometimes make a crude adjustment by holding more than one job, by seeking overtime work, or by shifting between long-hour and short-hour occupations. To a large extent, however, the size of the national labor force and the input of labor effort is set by organizational decisions rather than by individual decisions.

There has been little scrutiny of the grounds on which these institutional decisions are based. There is a cultural tradition in the United States that fewer hours of work—per week, per year, per lifetime—are always desirable. At what point does this cease to be true? If shorter hours are indeed desirable, how can farmers, professors, and other underprivileged groups get onto the bandwagon? What valid basis exists for present practices concerning retirement ages, or concerning the kinds of work open to women? Have indus-

trial engineers really succeeded in determining how much effort a worker should put forth in an hour?

If these questions appear simple, and the feasible range of deviation from present practices seems slight, this is merely because our imaginations have become cramped by long confinement within a particular culture. As soon as one shifts to France, or India, or Central Africa, the range of possible variation stands forth impressively, as, indeed, it does from a long enough reading of our own industrial history.

c. *The Marketing of Labor Services*

Under this heading I subsume all the phenomena associated with the matching of individual interests and abilities against the job requirements of the economy. We need to know much more about the way in which this matching occurs at present. How are successive "crops" of young people fitted into the various levels of the occupational structure? To what extent does the amount of education received by an individual and the quality of his scholastic performance determine his subsequent career pattern? How much occupational mobility is there in later life? It is said that there is serious wastage of talent in our economy, that many people of marked intellectual ability end up in inferior jobs. Can such statements be submitted to any quantitative test?

The fundamental problem is to define what we want the market mechanism to accomplish. One can conceive of recording on a series of punch cards the abilities of each individual in the labor force, and the requirements of each job in the economy. A clever electronic computer could match up these data and assign people to jobs in a way which would maximize national output. Productive efficiency, however, is not everything in life. Many people like to do things at which they aren't very good. Data concerning people's work preferences as well as their abilities would have to be entered on the punch cards. Moreover, there is no reason why we need take the structure of jobs as given. Perhaps we should try to create more jobs of the kind people like, even though this involves some loss in physical output. The most serious difficulty, however, is that the notion of "automatic matching" of abilities and job requirements involves either a repugnant degree of centralized authority or a vastly improved mechanism for transmitting labor market information to workers and employers.

We properly attach importance to the right of free occupational choice; but what conditions are necessary for this right to become truly effective? It would be interesting to try to devise an educational system under which children of equal ability would actually have equal opportunity to rise to the higher occupational strata. This would be social engineering of the highest order, and the practical consequences would be extremely important. A more limited problem, but one which we are far from having solved, is that of constructing a public employment service which will match worker preferences and employer requirements with maximum speed and efficiency.

d. *The Economic Consequences of Collective Bargaining*

The trade union is a political organization with economic consequences. The nature of these economic side-effects remains remarkably obscure and controversial. Some economists view trade unions as undesirable private monopolies which distort the wage structure, strengthen inflationary tendencies, interfere with free mobility of labor, reduce managerial efficiency, and slow up technical progress. Others assert with equal vigor that unionism corrects major defects in the operation of a non-union economy and that its net effect is clearly beneficial.

It seems remarkable that we have made so little progress toward a resolution of this controversy. The arguments which were bandied back and forth a century ago are still current, and there is the same lack of solid evidence. The growth of collective bargaining in the United States and abroad during recent decades has produced a wealth of data which could be used to test theoretical hypotheses, but little use has been made of this material. We have been so busy examining the trees of the forest—the state of mind of ten workers in one department of a shoe factory—that the general contours of the forest remain unexplored and the wildest generalizations go unchallenged for lack of adequate information.

The questions which need to be answered are almost self-evident. How does trade unionism affect the rate of technical progress, the choice among production methods, and in consequence, the level of man-hour output? How does unionism affect the supply of labor—the number of people eligible for employment, the number of hours worked per year, the amount of effort expended per hour? How does it affect the structure of the labor market, the characteristics of labor mobility, the allocation of particular jobs to particular workers?

Does collective bargaining strengthen monopolistic tendencies in product markets? Does collective bargaining have any effect on the aggregate distribution of income between wage earners and other groups in the economy? How does it affect the structure of relative wage rates and the distribution of income within the wage-earning group? Until we know more about these matters we cannot profess to have any real economics of collective bargaining.

THE CONTRIBUTION OF RESEARCH TO PROGRESS

Suppose we all set to work on high-priority research projects and go about the country accumulating knowledge at a rapid rate. Is any practical good likely to come of this activity?

Let us be clear at the outset about the kind of result we are seeking. Progress, it seems to me, must be measured in terms of the status and welfare of the individual worker. Institutional arrangements are secondary and instrumental, and must be appraised in terms of their contribution to individual ends. Business concerns, unions, and government agencies all tend to set themselves up as "big brother" and as chief representative of the worker's welfare. These efforts to appropriate the whole man need to be resisted. The worker needs protection from his friends.

The fundamental meaning of progress is improvement in the position of the individual worker with respect to such things as: income level and income security; an adequate balance between effort and leisure; equal access to career opportunities (which means basically to educational opportunities) for himself and his children; free and informed choice among alternative employers; freedom from arbitrary discipline and penalties, from whatever source; congenial work surroundings; and opportunities for creative participation—in the plant, in the union, and in other organized groups. To some of these things collective bargaining can make an important contribution, to some a minor contribution, to some no contribution at all. Some of these objectives are best achieved through legislation applicable uniformly to all workers or all citizens, rather than to members of a particular union. Others, notably advances in the real wage level, are bound up with the process of economic growth, in which scientific discovery, entrepreneurship, and capital investment are the main dynamic elements. We who teach courses on trade unionism and labor relations are apt to develop a certain myopia, to exaggerate the

role of collective bargaining in labor's progress and to lose sight of other factors which may be more important over the long run.

How may research—meaning primarily basic, university-style research—contribute to progress in this sense? The initial result of research is ideas, a body of tested conclusions and generalizations. Specifically, skillful and cumulative research on labor matters should give us ideas of the following sorts:

First, a clearer picture of the human material with which we are dealing. What do the preference systems of wage and salary earners look like? What do they want and expect from their employers, their unions, their government? How does the world of employment appear to them, and how do these perceptions influence their labor market behavior? What is the significance of the fact that most employed people are members of household units, and that behavior in earning income is linked with expenditure habits and plans? Our ignorance about these things is demonstrated by the crude assumptions which still pervade social theorizing and management practice.

Second, a clearer picture of the organizations and institutions associated with industrial employment. Social policy directed toward individual welfare must work largely through business concerns and other organized groups. It is important, therefore, to know as much as possible about the dynamics of these organizations and the ways in which they respond to external stimuli.

Third, a clarification of the objectives of public policy in the labor field. This is partly a matter of research, partly a matter of analysis and judgment. What do we mean by "optimum" labor mobility? What is a desirable and feasible degree of income security? How are the interests of the employees to be balanced against those of owners and consumers, who in considerable measure are the same people? To raise these questions is to demonstrate the lack of any agreed answer to them.

Fourth, a clearer definition of the appropriate spheres of private and governmental action. How rapidly, for example, will the problem of poverty be eliminated by the continued growth of productivity in the private economy? To what extent is it wise and feasible to accelerate the process by various types of governmental action? What is the proper place of private pension and other income security plans relative to public programs in this area?

Fifth, there are some relatively non-controversial areas in which the problem is mainly one of techniques. Almost everyone would

agree that young people should have equal access, in some sense or other, to educational opportunities and to the career possibilities which flow from education. How do we set about achieving this objective in practice? There would be little disagreement about the desirability of better labor market information and better placement mechanisms, which would benefit workers and employers alike. How can this general objective be reduced to concrete terms? Even where there is broad agreement on objective, there remains a need for ingenuity in translating objectives into detailed institutional change.

These research products are, in the first instance, ideas—words on paper. To what extent can one assume that they will have an influence on action? One early consequence should be an improvement in the level of college teaching on labor matters. New research findings quickly find their way into elementary textbooks and into the heads of the graduate students who will form the next generation of college teachers. Thus undergraduate instruction gradually becomes more realistic, analytical, sophisticated. To compare the content of a typical labor economics course today with the content of a similar course thirty years ago, would be to note a very substantial improvement. Considering that we are soon to have three or four million undergraduates in the United States, improvement of college teaching is no small matter.

As these millions of students move out into adult life, there should be a steady improvement in the level of popular discussion on labor questions. Fallacious arguments will be less readily accepted; emotional and self-interested pleas will be discounted. It takes many years, unfortunately, for improved teaching of the young to have much impact on a society dominated increasingly by the old. One wishes that the process could be accelerated through adult education, and that the lag between the advance of knowledge and the level of public discussion could be very much shortened. One wishes that newspaper editors, economic commentators, and other pundits could have an occasional post-graduate year to catch up on their lessons. We need more able popularizers of economic ideas and discoveries. Every short-cut device should be welcomed and exploited as fully as possible; but in the end we shall have to rely mainly on the traditional mechanisms of undergraduate and graduate education.

A rising level of popular understanding will bring changes in the attitudes and policies of union and management officials, who will find themselves constrained by an increasingly sophisticated public

opinion. Weak lines of argument and crude uses of economic power will tend to be abandoned. Organizational leaders will become more cautious if not more altruistic. There should also be a healthy improvement in the level of political and legislative discussion. Political leaders reflect all too faithfully the average level of knowledge among their constituents. The history of American labor legislation over the last generation is filled with actions and proposals based on assumptions which informed students knew to be incorrect. Better education should gradually produce more informed citizenship and should make some of the absurdities of the past impossible in the future.

An important by-product of research and graduate training is the development of a body of expertise which can be drawn on for public purposes. If anyone had proposed in 1910 to draft a comprehensive social security program, he would have found few competent advisers in the universities or anywhere else. The same would have been true of any effort to create a public employment service, to set minimum wage levels, or to regulate union-management relations. At present, any government agency which needs skilled professional advice on such matters can turn to dozens of men in universities throughout the country.

Ideas *do* make themselves effective over the long run in all these ways: better education of the young, decade by decade; development of a reservoir of skilled professionals who can be called on for various kinds of social engineering; improvement in the sophistication of popular writing and discussion; reorientation of the attitudes and behavior of organizational leaders. One is bound to feel some impatience with these slow-moving social processes, but I do not believe there is any effective short-cut. It is an illusion to think that any important social problem is going to be "solved" rapidly by calling a conference about it, or launching a public relations campaign, or drafting a "quickie" research report. We are quite right to be eager for tangible evidence of progress in human welfare. If we are not deeply concerned about this, we are in the wrong line of business. But our eagerness must be tempered by patience, a sense of history, and a willingness to work thoroughly rather than superficially.

May I remind you of a well-known quotation from a very well-known economist:

> " . . . the ideas of economists and political philosophers . . . are more powerful than is commonly understood. In-

> deed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back. I am sure that the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas . . . soon or late, it is ideas, not vested interests, which are dangerous for good or evil." [1]

We shall do well if we can add modestly to the ideas of our predecessors before in our turn becoming defunct economists. We shall do still better if, by encouraging students, better trained than ourselves, to make the discoveries which we have not made, we hasten our own obsolescence.

[1] J. M. Keynes, *General Theory*, pp. 383-84

Part II

MAJOR TRENDS IN AMERICAN TRADE UNION DEVELOPMENT, 1933-1955

REBIRTH OF THE AMERICAN LABOR MOVEMENT

DAVID J. SAPOSS
Harvard University

CONSUMMATION OF THE recent AFL-CIO merger epitomizes the rebirth of the American labor movement. This metamorphosis had its inception over a quarter of a century ago. The break away from Voluntarism, the old concept of the labor movement, manifested itself in the immediate post-World War I period. It was spearheaded by the unions with all or a considerable portion of the membership employed in the railroad industry.[1]

Various impelling criteria reveal this transformation in the American labor movement. But first, what type of labor movement functioned in this country from the time the American Federation of Labor came into ascendency through the so-called unprecedented 1929-33 economic depression and the advent of the New Deal. Ideologically, the AFL accepted and elected to work within the existing, or laissez-faire, capitalist system. Functionally, it espoused Voluntarism as the most desirable mode of operation. This concept presupposed concentrating practically exclusively on trade union or economic activity. Thus, unions were basically to limit their goals to the immediate economic needs of the workers, such as wages, hours, and other working conditions, and the protection of the craft or trade from dilution or other deleterious encroachments. The few collateral needs in order to protect the labor market, as compulsory school attendance, abolition of child labor, restriction of immigration, could also be attended to by the trade unions. The cardinal and irrevocable principle of Voluntarism dictated that the worker must be taught to rely exclusively on his trade union for the promotion and protection of his interests in connection with his job. He must not be in a position so as to depend on any other organization, especially political or governmental. Neither should the employer intrude on this function. The rationale contended that, if other agencies or organizations served the worker

[1] Of course, from the inception of the AFL the substantial and successful Socialist unions served as an opposition to the dominant trade union group. But the leadership and membership was predominantly foreign-born even conducting union affairs in the mother tongue. Chiefly inspired by their European heritage, modeled after the European unions, they were an isolated, albeit ably led, element.

in his role as a wage earner, he would depend less and less on his union. Hence, the AFL opposed independent political action, minimum wage, social insurance, and other social legislation, and employer welfare programs.

In accordance with the principle of Voluntarism, the AFL was only interested in securing a limited type of negative legislation which would protect the labor market and safeguard trade union activity. It championed restriction of immigration and various state laws and municipal ordinances protecting specific crafts and occupations, mainly through licensing plumbers, barbers and miners. It also favored such negative legislation as restricting the courts in their interference with normal trade union activity by issuing injunctions, direct judicial punishment for contempt, outlawing boycotts, and applying the Sherman Anti-Trust Act to trade union activity. It was unalterably opposed to positive legislation whereby the government would be directly serving the workers by improving conditions through legislation and administrative orders.

Vicissitudes of Voluntarism

In its early stages, the AFL made good progress, while adhering to Voluntarism. But as the country developed industrially it began to lose ground. Among the various criteria for gauging the direct success of the movement while motivated by Voluntarism are two which the AFL considered of prime importance. One is union membership and the other extent of collective bargaining. Both lend themselves to quantitive measurement. These two benchmarks reveal that the height of success of Voluntarism occurred between the eve of the Spanish-American War and the end of the first decade of the twentieth century. For some fifteen years American unions made good headway with little assistance from the government, employers, or any other outside force.

By 1897 the AFL had bested the Knights of Labor, its outstanding rival, and immediately thereafter it defeated the efforts of the Socialists to commit it to a comprehensive program of independent political action, extensive social reform legislation, and basic social reorganization. It was then the dominant labor organization. From a membership of 264,825 in 1897, it mushroomed to 1,586,112 by 1908. It even gained slightly in membership during the 1907 financial panic. Concurrently the AFL affiliates extended their collective bargaining coverage by penetrating every important industry.

Reversal set in with the emergence of the so-called "trust era", which came into full bloom during the first decade of this century. It marked a period of mergers and consolidations, the most notable of which was the formation of the United States Steel Corporation. Although the AFL unions continued gaining in membership as industry expanded, approaching the 2,000,000 mark by the outbreak of World War I, they were nevertheless persistently being forced out from the heart of trustified industry, as steel, meatpacking, and heavy industry in general. Thus, the area of collective bargaining was reduced to the highly competitive industries, like coal mining, building and construction, and to the fringe or smaller units of those industries now dominated by large scale and chain plant operations.[2]

World War I to the Rescue

Gauged by the extent of collective bargaining, the status of American unions continued regressively to deteriorate up to the time of World War I. But because our country was growing and industry of all sizes was expanding, union membership continued to increase moderately. Fortuitous circumstances, induced by war exigencies in the need of uninterrupted and increased production and the shortage of labor, favorably changed the course of events. Government intervention in recognizing organized labor as the spokesman for the workers gave the American unions an impetus which they were unable to generate on their own efforts. As the scholarly Twentieth Century Fund Collective Bargaining Study concluded: "Government intervention in labor relations during the war marked a turning point in collective bargaining."[3] Legislation and administrative orders creating such agencies as the War Labor Board gave organized labor a status tantamount to union recognition. A tight labor market reinforced this powerful government assist. Organized labor again became a power in all important industries except steel. AFL membership soared to new heights during and immediately following the war. Within four years it doubled, mounting from 2,072,702 in 1916 to 4,078,740 by 1920.

Reversion to Voluntarism and its Disastrous Consequences

Discontinuance of government intervention in the economic life

[2] See my article, "Voluntarism in the American Labor Movement," Monthly Labor Review, September 1954, for amplification and documentation of the subject matter discussed herein.

[3] "Trends in Collective Bargaining," 1945, p. 6.

of the country, following cessation of war hostilities, led the AFL as a whole to revert to Voluntarism. There was considerable dissent in its ranks, but only one important sector, namely, the railroad unions, undertook vigorously to fight for perpetuation of the pattern designed during the war. Hardly had the war ceased when disaster began to overtake most of the American unions. They became involved in costly and bitterly contested strikes, nearly all of which were unsuccessful. Industry quickly began to take full advantage of the weakened condition of organized labor. But realizing that, because of the war experience, return to unadulterated individual bargaining was not feasible, it introduced "The American Plan" and "Welfare Capitalism." The mixed and apparently contradictory concomitants of these programs were company unions and welfare programs, usually sustained by armed guards, labor spies, accelerated implementation of the yellow dog contract and the black list—all described in the historic "LaFollette Civil Rights Committee" hearings.[4] Organized labor found itself helpless against this formidable combination of paternalism disguised in an ostensible democratic form, but sustained by discrimination and brutal force. AFL membership in common with total union membership, tobogganed from over 4,000,000 in 1920 to 2,865,799 by 1924. It gained slightly in membership during the next several years, but hardly in proportion to the increase in employment during this "unprecedented period of prosperity." The "great depression" of 1929-33 caused another loss, lowering membership to 2,126,796 by 1933. And the extent of collective bargaining shrunk at an even faster pace. Once more, with some exceptions, organized labor was routed from the now described "mass production" industries.

Whether organized labor had reached the irreducible minimum in membership and extent of collective bargaining is uncertain. Students of labor and its sympathizers were beginning to speculate and despair about the future of American Trade Unionism. Some even feared that it could not persist in face of the ruthless and determined anti-labor attitude of the powerful industrial and business group.

Disheartened by the dismal situation, many of the alert and shrewdest labor leaders began to search for ways and means of rehabilitating the movement. In their desperation they unconsciously resorted to policies and practices inconsistent with the philosophy of

[4] Violations, Free Speech and Rights of Labor, Hearings Before a Senate Sub-Committee on Education and Labor.

Voluntarism, while proclaiming loyal adherence to it. During the twenties and running into the thirties, out of frustration, because of their failure to stem the decline of unionism and their efforts to restore it to its former strength, these labor leaders lost faith, perhaps temporarily, in militant trade union action, consisting of vigorous organizing campaigns and hard fought, long drawn out strikes—cardinal concomitants of self-reliant trade unionism. They were greatly influenced in this attitude by the succession of disastrous post-World War I strikes, including the spectacular organizing campaign and 1919 steel strike. These strikes, mostly forced by the petulant rank and file, nourished the thought that militancy does not result in organizational achievements. Hence, exhortation and persuasion was substituted for traditional trade union procedures. Outstanding labor leaders began to cater to industrial and business leaders, in order to win their confidence so that they would permit their workers to organize into unions. Most of the prominent labor leaders devoted more time in addressing local chambers of commerce and other similar business gatherings, as well as associating with individual business men, than in organizing workers or attending union meetings. Most captains of industry, finance and commerce wined, dined and otherwise humored the labor leaders, but deftly changed the subject when the question of organizing their workers was broached. Why should they be party to changing labor relations policies when their unrelenting anti-union policies were eminently successful? Concurrently, AFL leaders tried in 1920 to revive the dormant National Civic Federation with the hope of using it to generate a friendly attitude on the part of business and the public towards organizing labor. The depth of desperation of these labor leaders occurred in 1927, when they urged the Secretary of the National Civic Federation to use his good offices in order to determine whether some accommodation could be arranged between trade unions and company unions. In addition to trying directly to interest management to confer with and recognize unions, the labor leaders sought government intervention in order to induce industrialists to meet with them.

As a direct inducement, labor leaders offered themselves to business as protectors of capitalism against the growing threat of Communism. But their trump card was union-management cooperation. And, while in a few notable instances this arrangement was instituted between management and labor as equal partners in a new phase of genuine collective bargaining, on the whole it became an undertaking

of a weakling seeking favors from a securely entrenched employer group that had nothing to fear from union pressure. Retention of an engineer by the AFL, who devoted his time to union-management cooperation salesmanship, even establishing the program in an out-of-the-way, small plant in the South, proved both a farce and a fiasco. Even sadder was the agreement between the Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America and the Philadelphia Traction Company, christened as the Mitten-Mahon Plan. This program required the union to surrender its basic function as the guardian of the economic interests of its members, in order to act as an efficiency promoting agency, with the hope that ultimately management might see fit to recognize the union as such. Perlman and Taft characterize "union-management cooperation" as the "paragon of a spiritually defeated unionism; and as the low water mark of a self-confident unionism." [5] Since management was quite satisfied with its own union-management cooperation achieved through company unions, it was not interested in the overtures of the labor leaders. Even the super-patriotic appeal that the AFL would protect capitalism against the menace of Communism failed to soften management's anti-union attitude.

Hence union-management cooperation and other activities catering to employers in the twenties and early thirties represented a clear, albeit unconscious, departure from Voluntarism, which was predicated on an aggressive, self-sustaining trade union movement, dependent exclusively upon the efforts of the workers. Organized labor's basic approach during this period, could have been justified as supplementing militant trade unionism, but as a substitute for trade union action it was an admission of failure—not only of Voluntarism, but of any other form of unionism. Indeed, it should be a cardinal principle of unionism that it cultivate friendly relations with business and the community, encourage amicable union-management relations, and seek appropriate legislation and other government aid. But these policies should be pursued, as the labor movement does at present, by a self-reliant, powerful, functional group, rather than a cringing suppliant begging favors. Thus, the labor movement unsuccessfully attempted to barter Voluntarism for what eventuated in scorn and rebuffs by business and the then functioning government administration.

[5] *History of Labor in the United States,* Vol. II, pp. 584, 586.

RAILROAD UNIONS BLAZE NEW TRAIL

Perhaps if the AFL had followed the course adopted by the railroad unions, most of which were its affiliates, it might have retained its essential dignity, and been better prepared to take immediate and full advantage of the opportunities presented by the New Deal, and thereby a split in the movement might have been averted. In the beginning, the railroad unions floundered in their efforts, in seeking to perpetuate the pattern created during the war, whereby the government was to remain an important party to the handling of labor relations, and otherwise improving social and economic conditions. In the heat of the struggle they permittted themselves to embark on a quasi-utopian venture. Since these unions had become powerful and had made extraordinary gains in conditions under government operation, they launched the Plumb Plan in order to retain the advantageous status. And because of the hostile attitude of the government administration, and expecting no better response from those in control of the Democratic or opposition party, they joined with other dissident groups in sponsoring the LaFollette presidential candidacy in 1924, on an independent, not a third party ticket.

Thus, the railroad unions, in contrast to the action of the AFL in the twenties, were the first to break away from Voluntarism in the direction of welfare statism instead of welfare capitalism, that is, supplementing economic action by reliance upon political action, legislative and administrative measures to promote positive labor aims. But as practical and experienced men, the railroad labor leaders soon descended from the vapory utopian heights to advocate measures and procedures of a more realistic nature, more consistent with American traditions. By 1926 the complete abandonment of Voluntarism by the railroad unions was marked by two significant developments. With the enactment of the Railway Labor Act their "political activity began to pay dividends." [6] In protecting the right of the railroad workers to organize and to bargain collectively, this act was a forerunner of Section 7A, NRA and the NLRA.

The second event was the creation of the Railway Labor Executives' Association. It was formed in 1926, consisting of the "standard" railway unions. Its objective was to coordinate the political and other activities of mutual interest to these unions. "*Labor*," an outstanding labor weekly, established in 1919 by the unions to propa-

[6] Edward Keating, *The Story of Labor*, p. 160.

gandize for the Plumb Plan, was designated as its organ. In a very short period the R. L. E. A. acquired the reputation of having one of the most effective lobbies on Capitol Hill in Washington.[7]

Similar stirrings to abandon Voluntarism manifested themselves in another sector of organized labor. Led by John L. Lewis, the United Mine Workers of America initiated agitation for Federal government legislation that would aid union organization. As early as 1928 it supported the Watson-Rathbone Bill providing for the establishment of collective bargaining as a partial remedy for the ills of the coal mining industry. Thus Mr. Lewis within a short period reversed himself drastically from his unequivocal championship of laissez-faire capitalism, exalting economism and anti-governmentalism as the only true course to pursue for organized labor, as revealed in his book, "The Miners' Fight for American Standards," which appeared in 1925. Staunchly and positively he proclaimed: "The United Mine Workers of America . . . purpose(s) to allow natural economic laws free play in the production and distribution of coal . . . (p. 15). It is difficult to conceive how any such control of monopolies to limit production through political agencies could function without putting straitjackets upon the supply of industrial energy that would bring paralysis of initiative and enterprise in all other business (p. 21)." Mr. Lewis' remedy was a strong union that would control cutthroat competition by standardizing wages (pp. 179 ff). Responsive however, to changing conditions, he altered his course, which marked the beginning of the role he was to play in bringing about a rebirth of the American labor movement. In 1932 his union sponsored the Davis-Kelly Bill which carried the idea further in involving the government in the economic and labor problems of the coal mining industry, thereby recognizing that reliance on the "free play of natural economics" in the production and distribution of coal was inadequate in maintaining a viable coal industry.

For a short time the original adversaries of Voluntarism, the Socialist unions within the AFL, veered toward the old AFL leadership. In part, this change was influenced by their life and death struggle with the Communists. Fighting with their backs to the wall they needed allies. But their altered attitude was basically influenced by the realization of the inadaptability of Socialism to the American scene. As the leaders and members became Americanized,

[7] See Author's review of Keating's book "The Story of Labor," Monthly Labor Review, June 1954 (pp. 675-6.)

they readapted their thinking. In this transition they diminished their opposition to the dominant labor leaders. But when the new spirit emerged in the labor movement they aligned themselves with those who supported it. It is true that the International Ladies Garment Workers Union and the Hat, Cap and Millinery Workers Union returned to the AFL fold, but then the AFL was also undergoing an ideological and functional transformation similar to their own. This incipent reorientation coupled with their fear of Communist disruption impelled them to cling to their old anti-Communist allies.

Economic Reconstruction and the New Deal Usher in Renewed Labor Movement

Without a doubt the near collapse of our economy during the calamitous depression of 1929-33 jolted the country out of its laissez-faire lethargy. But only a small group of dissident AFL leaders participated in the early pioneering efforts at economic and social reconstruction. As late as 1931 the AFL convention rejected endorsing unemployment insurance legislation. It took considerable prodding and a serious split in the movement to change the course of the AFL, but once the AFL and its affiliates detected the handwriting on the wall, they began to shift away from Voluntarism and took full advantage of the opportunities presented by the change. And the movement, with government assistance through Section 7A of the NRA, the Wagner Act and other sympathetic legislative acts and administrative orders, began to stage a comeback. It now became government policy not only to encourage labor organizations, but to make it possible for them to expand and overcome employer opposition, by protecting the right of the workers to join unions. Moreover, the government through legislation sustained by the courts, made it mandatory for management to bargain in good faith with the union representatives selected by its employees, and to incorporate the agreed-upon conditions into written and signed trade agreements. Although unemployment was still large, and a substantial number of unions withdrew to form the CIO, AFL membership nearly doubled from 1933 to 1939, mounting to 4,006,354 from 2,126,796. Total union membership rose from 2,973,000 in 1933 to 7,734,900 in 1939. These unprecedented gains in union membership could not have been achieved in such a short period without government aid. Certainly the mass production, chain plant industries could not have been as

thoroughly organized and gotten to deal with the unions without government intervention.

Since the middle thirties organized labor has made steady and, at times, phenomenal progress. At present organized labor is credited with an estimated 18 million members by the United States Bureau of Labor Statistics.[8] The areas of collective bargaining, another significant index, are similarly extending with very little setback. All important industries, particularly those with large firms, are now covered by collective bargaining agreements. There are still some outstanding exceptions, chiefly in the South. And in private conversations with both AFL and CIO labor leaders concerned, a uniform explanation is brought forth, namely, that the chief obstacle making organization difficult is the control of government on state and local levels in these regions by the anti-union elements. Indeed it seems that the situation is reversed. The bulk of union strength rests in the basic industries and in the large plants. In pre-New Deal days it was found in the smaller business units and on the fringes of the important industries.[9]

The test whether the trade union movement possesses staying power, as compared with previous periods, occurred following World War II. In post-World War I days labor experienced a severe rout which landed it in the doldrums right into New Deal days. Witness the contrast following post-World War II days. Organized labor again became involved in momentous strikes, and some of the government's administrative action was unfavorable to it. Likewise, the enactment of the Taft-Hartley Act, by taking away some previous advantages posed an obstacle. But with its new spirit and outlook, organized labor has not suffered too seriously. Its forward march has continued. While some elements have grumbled and weakly whispered of returning to old practices, the movement has intensified its determination to continue on the newly chartered course.

Metamorphosis of the Labor Movement

With swelling and consistent growth in membership and wide extension of collective bargaining coverage, organized labor has acquired new status, thereby assuming a new character tantamount to

[8] See *Directory of National and International Labor Unions in the United States*, 1955, U. S. Department of Labor, pp. 6-11.

[9] The data on which this conclusion is based can be found in NRLB annual reports describing bargaining unit and decertification elections.

a rebirth. There are still anti-union areas and die-hard employers; there is still an element in the movement resisting the transformation, and nostalgic for the "good old days". However, government, management, and the public generally recognize organized labor as an indispensable and constructive functional group in our society. And the movement itself is resolute in its determination to continue in the new course. Having attained its struggle for recognition and status, it is expanding its role in society. Nevertheless, it is more than ever concerned with conducting militant and effective trade union activity. Indeed it has enlarged and intensified it by securing fringe benefits, and other concessions previously not regarded as coming within the range of collective bargaining.

But it has also broadened its perspective and expanded its sphere of activity into all fields affecting the social and economic interests of wage earners and society. Organized labor is superlatively conscious of wise public relations and the needs of its members in other fields than industrial relations. Thus, the two national labor centers, and the Railway Labor Executives' Association and their affiliates are keenly and increasingly interested as active participants in all vital community problems. The CIO has long had a separate Community Service Agency. The AFL has also increased its activities in this field. And both organizations, aided by competent research, publications and legal staffs, have manifested a growing awareness of vital social and economic issues, as taxation, education, health and housing.

In world affairs, the three labor centers have been both keen observers and active participants. With permanent international departments, ably staffed both at home and abroad, they have been able to maintain a familiarity so as to act with dispatch and effectiveness.

With this widening of its horizon as the movement grew larger and stronger, the AFL and CIO began to resemble each other more closely in recent years—ideologically, functionally and structurally. Ideologically, the AFL no longer pays homage to laissez-faire capitalism. It has, on the other hand, become an ardent champion and devotee of the welfare state concept. While it still accepts capitalism, it is a capitalism operating in a welfare state milieu. It no longer accepts the theory that the prime function of government is that of policing society. It now believes that the state has an important positive role to play in correcting evils and defects that emanate from private ownership and operation of our economy. And that government is to render these services by way of supplementing rather than

supplanting trade union activity. The CIO, as a child of the New Deal era, and spearheaded by the elements advocating a reorientation, embraced the welfare state concept from its inception.

Accepting the welfare state ideology automatically dictated an enlargement of functions. Relying exclusively on trade union action, in accordance with Voluntarism, was no longer adequate in order to cope effectively with all the problems which organized labor in its outlook considered as affecting the welfare of the workers and society. This new approach led to a re-evaluation of the type of political action and legislative objectives. Favoring merely legislation of a negative nature did not meet the needs of the times. It concluded that positive legislation whereby the government would render definite service in improving conditions was also essential. And since the government through the legislative, administrative, and judicial branches, was playing an important role in labor relations, as well as in the social and economic life of the country, a more effective form of political action was necessary.

The former haphazard or "fire-alarm" nonpartisan political action was too antiquated. Hence, permanent machinery for political action, with staffs devoting full-time to the operation of the political departments, and improved machinery for lobbying became a must. In addition thereto organized labor is taking a keener interest in the activities of the executive branch of government. Perhaps a superficial indication of organized labor's estimate of the important role played by government in social and economic matters is the increasing removal of international union headquarters to Washington. Another indication is the increased employment by unions of economists, lawyers, journalists, engineers, and other professionals and technicians.

Structural Changes

Structurally, most of the AFL unions no longer operate as craft unions, neither do they feature the craft concept, as is revealed by their jurisdictional differences, and intraunion NRLB election contests. Most AFL unions have, in common with unions generally, extended their jurisdiction to encompass interrelated crafts and occupations, thereby developing into trade, industrial or general unions. A former prominent member of the AFL Executive Council described the structure of his union, one of the largest, as broadly possessing a three-fold nomenclature. In industries of long standing union organi-

zation it operates as a craft. But in more recently organized industries it operates as a trade union in that it includes many occupations developing from or allied to its original craft, because of the introduction of machinery and other technological changes. In still other newly organized industries it goes the whole hog and operates as an industrial union. This transformed nomenclature of our unions is rapidly becoming characteristic. On the other hand, the CIO harbors a few highly skilled craft unions, like the Marine Engineers Beneficial Association and the American Radio Association.

Just as both national trade union centers differ little in ideology, function and structure, so do their affiliates differ little in militant trade union action. They are dynamic and aggressive, not hesitating to call strikes when occasion requires. Likewise, they are circumspect and farsighted in adapting their collective bargaining activities as circumstances and conditions dictate. They have extended the area covered by collective bargaining to include subjects previously not considered within its scope, such as fringe benefits and the guaranteed annual wage.

In other fields, like political, community, and public relations the AFL and CIO have also pursued similar courses. Both have specialized political arms, community service, publication and public relations machinery and programs. Both are vitally interested in international problems, with departments and staffs.[10]

Summary

In discarding its reorientation from Voluntarism, organized labor has retained some of its valuable features. Most significant is the one that the trade union is the basic and pivotal institution of the labor movement. All other vital organized labor activities are dependent and controlled by it. Whereas in most countries the labor movement is partitioned into a number of separate and independent, specialized bodies like political, cooperative and workers' education, in this country the reconstructed labor movement has retained the traditional principle laid down by the AFL that all other organized labor activities are its auxiliaries. In many countries an interlocking directorate, or an over-all formal committee coordinates the activities of the separate functional divisions; in the United States the move-

[10] For a description of the early symptoms of this new look, see my article: "American Labor Movement Since the War," *Quarterly Journal of Economics*, 49: 236, February 1935.

ment with its specialized agencies is controlled by the trade unions. Hence instead of craft or industrial unions we now have what might be termed institutional unions. Thus, the unions have broadened their field of activity. They are not only interested in exercising their economic strength on the industrial field, but have extended their activities to all social and economic fields, and, to effectively carry out these new responsibilities, the unions have created various divisions for the conduct of the different additional activities.

It is an error to consider this metamorphosis as a mere shift in emphasis, or as giving more recognition to legislation and political action. The American labor movement has undergone a complete change. It has a new outlook and has broadened its activities accordingly. It now aspires to, and actually plays a vital role in all important social and economic activities of our country both domestically and internationally. It is an integral functional group in our social order effectively exercising both its rights and its duties, as its achievements attest. It is no longer an outcast fighting for status, but a highly responsible socially conscious force in our society.

Just as it differs from "pure and simple" unionism, it also differs from the old-fashioned rationalized, doctrinaire radicalism with its elaborate theories and fanciful programs, generally unrelated to existing conditions. Old-fashioned radicalism never advanced in the United States beyond operating on the fringe—and usually a very narrow fringe. Imbued with the welfare state concept and impelled by it, the contemporary labor movement is but intuitively reflecting the sentiments of the American rank and file, sensed first by the railroad unions, embraced by the CIO, and cautiously adopted by the AFL. The new spirit is motivated by a practical down-to-earth progressiveness which relies on militant trade union action, buttressed by assertive political action, and other activities in fields affecting the worker and society.

To be sure the merger ushers in a new era, with a ready-made far-visioned movement having ramification in all fields of human activity touching social and economic problems. Thus, it is amply prepared for the new tasks confronting it as expounded by President George Meany of the merged movement. In his November 4, 1955 dedicatory talk, of Labor's Taj Mahal—the International Brotherhood of Teamsters new $5 million headquarters, he aptly and succincly categorized the new attitude: "We must have an instrumentality strong enough to maintain the standards of workers of this country,

to protect them from major hazards by means of effective social insurance, and, above all safeguard their basic freedoms. . . . The united labor movement will take the lead in campaigning for necessary, constructive advances in American life. . . . In pursuing these objectives to bring an even better day to all our people of our Nation, we expect to use every method legally available to us as citizens. This without question will include political action not only to defend our movement against legislation designed to destroy us, but also to raise even higher the American standard of life. . . . The scene of battle is no longer the company plant or the picket line. It has moved into the legislative halls of Congress and the State legislatures. . . .

"We anticipate . . . a much broader role of labor in the community service field. Without doubt, our local organizations will be able to speak with a much stronger voice for improved community conditions and will be in a position to make a far more significant contribution to community welfare programs. This is a field which is vital to public acceptance of labor as a force for good in the life of our community. . . . Another field in which the united trade union movement expects to broaden its activities is in defense of freedom. In the final analysis, all our efforts to build a more secure and rewarding life for the people of this country depend upon the preservation of the free way of life and the maintenance of peace. . . . Here at home, the trade union movement will do its utmost to see to it that our Nation maintains a firm foreign policy based on the time-honored tradition of freedom and justice upon which the United States of America was originally established. . . . We intend to give active support to the free trade unions of other friendly nations. . . . We can and will cooperate fully with the International Confederation of Free Trade Unions for the great objective of peace, freedom, and human progress."

MAJOR COLLECTIVE BARGAINING TRENDS 1933-1955

DAVID DOLNICK
Amalgamated Meat Cutters & Butcher Workmen of North America AFL-CIO

THE BASIC PURPOSE for the existence of trade unions in our society is to improve the living standards of those who work for a wage and for a salary. It is true that the emergence of labor unions has clothed the wage earner with personal dignity which he truly deserves; it has given him a wider perspective on the manifold economic problems which influence his living conditions; it has enabled him to exercise his independence and to demonstrate his ability to control his own affairs; it has given him political consciousness and an awareness of his influence. Man wants and needs dignity, he wants and needs control over his own affairs and his own destiny, he wants and needs economic and political self-expression and freedom. These things, however, remain secondary to his primary need for economic security.

Our liberties, our individual dignities and the right of self-determination are expanded or contracted by those whom the electorate selects for the administrative offices, the legislative assemblies and the halls of justice. The men so elected or selected are those who more clearly promise a better life, freedom from economic want, job security, security in old age and in illness, and economic opportunities. The first principle of autocratic governments is to promise the wage earner a better economic living standard — not personal dignity or the right of self-determination—only better living conditions and a larger share of the national wealth.

In totalitarian governments attempts to improve the plight of the wage earner are accomplished by decrees at the expense of personal freedom and personal dignity. In a democracy collective bargaining is not only concerned with improving living standards, but with the rights and privileges of the individual as well.

In a democracy such as ours, collective bargaining is the technique used by labor and management to effectuate an agreement for wages and employment conditions of the wage earner. Labor unions use it as an instrument to improve the living standards of their members. Collective bargaining implies a lot more than the simple process of

compromise agreed to across the bargaining table. Collective bargaining extends beyond the complicated process of contract negotiations. It includes the administrative processes that develop in labor management relations and the adjudication of the concluded agreement. The examination of pertinent economic data, the debate of theoretical and philosophical concepts of industrial relations, the use of psychological pressures, even the exercise of economic sanctions are not final determinants in the collective bargaining process. "The employer . . . is only one of the powers with whom the union has to make terms. Public authority is the other . . . "[1]. Legislation and judicial decrees which affect the economic and social achievements of the wage earner have profound impact upon collective bargaining. They influence the direction to the whole process. The political climate, particularly the political activities of the trade union movement itself and its members, has more than a passing effect upon the concepts of collective bargaining. The economic and social forces which, in a dynamic economy follow their own course of development, are influenced certainly, though not entirely, by political events.

The 1933-1955 era has seen the coming to maturity of collective bargaining in this country. The forces responsible for this are many. We cannot isolate a few and regard them as the exclusive agent for the maturization. Each has its place in the total of events, but three major forces are most responsible for the profound and constructive changes that have taken place. They are the New Deal and its legislative enactments, the Congress of Industrial Organizations and political action, and the unprecedented economic expansion and productivity.

New Deal legislation gave the labor movement dignity, and adopted for the first time a national labor policy which established the legitimacy of collective bargaining. Its legislative enactments expanded the economic and social perspectives of collective bargaining. The National Industrial Recovery Act enunciated the principle that employees should have the right to organize and to bargain collectively through a representative of their own choosing, free from interference, restraint, or coercion from the employers. It is a different climate when a union representative sits across the table from an employer who must, under penalty of law, recognize the union representative

[1] Selig Perlman, "The Principle of Collective Bargaining," *Annals of the American Academy of Political and Social Sciences*, CLXXXIV (March, 1936) p. 156

as the spokesman for the employes. It is a different climate when the union representative knows that his reasonable proposals must receive reasonable consideration. It establishes confidence in the labor movement and it gives hope to the wage earner.

In the October 1933 convention of the American Federation of Labor, the late President William Green announced that in the short period since the establishment of the NIRA code, the membership of the Federation increased one and a half million. This figure may have been slightly exaggerated, but there certainly must have been a substantial recoupment of membership losses incurred during the preceding depression years.

The enactment of the National Labor Relations Act in March 1934, strengthened the policy first declared in the NIRA. It "actually established for the United States the public policy of encouraging collective bargaining as the means of adjusting relations between management and their employees." [2] Until the Wagner Act was declared valid by the United States Supreme Court there were forces active to void and avoid the adoption and the retention as national policy, the right to organize into labor unions and to freely choose collective bargaining representatives. There was some doubt whether such a law could be valid under our constitutional government. There was never doubt in the minds of those who were concerned with the economic needs of the wage earner that national policy was needed to establish and give impetus to free collective bargaining in labor management relations. The Wagner Act had its antecedents in the Norris-LaGuardia Act (1932), the Railway Labor Act (1926) and the many reports and recommendations of numerous agencies and commissions concerned with the problems of labor-management relations. The Act translated these into national policy. This right to organize, the right of the wage earner to be represented by those of his own choosing, established an equilibrium between labor and management at the collective bargaining table.

A whole series of laws were enacted which extended the range of collective bargaining issues into heretofore unchartered fields. The Social Security Act, approved in August, 1935, established for the first time, among other things, unemployment insurance and old age survivors insurance. Even the American Federation of Labor, which in years previous had opposed the enactment of such a law,

[2] Dunlop, John T., *Collective Bargaining,* Chicago, Richard D. Irwin, Inc. (1949) pp. 17-18

reversed its position because social and economic forces compelled government intervention. Speaking of the Social Security Act, Mr. William Green said: "The experience of these years showed that the very disaster of the crisis compelled the government to assume responsibilities and discharge functions within the field of private endeavor which had been regarded outside its scope." [3]

Then followed the Walsh-Healy Public Contracts Act establishing minimum hours and minimum wages for employees of contractors who do business with the government. In June of 1938, Congress passed the Fair Labor Standards Act, which was originally opposed by both the American Federation of Labor and the National Association of Manufacturers. The law was contrary to the laissez-faire economy previously upheld so zealously by Samuel Gompers and William Green.

"The basic importance of the New Deal program did not lie in immediate gains or losses for labor, but in its recognition that this whole matter of working conditions was no longer the concern of the employer alone but of society as a whole." [4] And when society becomes conscious of these needs, collective bargaining necessarily seeks to improve upon the legislative minimums.

The Congress of Industrial Organizations, a new militant group of industrial unions, was especially dependent for its existence and growth upon the New Deal. Out of necessity it became and remained more politically active than the American Federation of Labor. The long bitter struggle to organize the workers in steel, auto, rubber, oil, electrical and other mass producing industries, which gave rise to sit-down strikes and much bloodshed, also gave vitality and militancy to the collective bargaining process. The limited objective through lobbying established by Samuel Gompers and the American Federation of Labor, which in the days prior to 1933 opposed minimum wages, old age pensions and unemployment insurance, and which felt that the support of these social improvements was "softening the moral fiber of our people," was relegated to oblivion and collective bargaining spread its wings in an atmosphere free from strangulation.

Organized labor became not only politically aware, but also politically active. Its political action was designed to extend the scope of collective bargaining and to achieve those social benefits

[3] Dulles, Foster R., *Labor in America,* Thomas Y. Crowell Company, (New York) p. 283

[4] Supra, p. 287

across the bargaining table which heretofore was looked upon with suspicion.

This new dynamic approach to trade unionism and collective bargaining had its further impact in the organization of Labor's Non-Partisan League to support President Roosevelt for reelection in 1936. Labor rallied to its standard. The first President of the League was the late George L. Berry then President of the Printing Pressmens and Assistants Union affiliated with the American Federation of Labor. In spite of the fact that the American Federation of Labor did not officially endorse the League's activity, in spite of the fact that Mr. William Green, who individually supported Mr. Roosevelt, condemned the League as a dual movement in politics, the same as the CIO was a dual movement in organized labor, officials of both labor organizations participated actively in the campaign. Although labor representatives affiliated with the American Federation of Labor later withdrew, Labor's Non-Partisan League laid the cornerstone for more labor political activity in the years to follow.

Labor's League for Political Education, first established to avoid the political restrictions in the Taft-Hartley Act, expanded its activities to rank and file participation. In later years it became more and more similar to the activities of the Political Action Committee of the CIO. This was particularly true in the years immediately prior to the recent merger of the AFL and the CIO. Those who apply dialectics to the reason for the recent merger say that political activity is the immediate cause for the merger.

The growth of our economy, the concentration of business in fewer and larger corporations, the rise in man-hour productivity, and the unprecedented increase in mechanization and automation also affected the complexities of collective bargaining.

Since 1933 the gross national product has increased at an unprecedented rate. In 1933 it was $56 billion, in 1954 it rose to $360.5 billion and it reached an all time high of $391.5 billion for the third quarter of 1955. Personal incomes increased from $37.2 billion in 1933 to $287.6 billion in 1954. Corporate profits after taxes skyrocketed from a loss of $3.4 billion in 1933 to a profit of $17 billion in 1954. Expenditures for new plants and equipment increased over 385 per cent, industrial production increased more than 237 per cent, the number of housing starts was more than twelve times greater in 1954 than in 1933. Total civilian labor force (14 years of age or over) increased from 51,590,000 in 1933 to 64,468,000 in

1954, and total wage and salary workers in all manufacturing industries more than doubled in the twenty-one year period. Average hourly earnings at 1954 prices increased more than 97 per cent since 1933. Labor negotiations in this kind of economic climate are a great deal different than when the economy is depressed or moving upward rather slowly. Even though the National War Labor Board stimulated bargaining for fringe benefits, there is sufficient evidence to conclude that even without the stimulus from this emergency agency increased bargaining for such fringe benefits would have come as the consequence of economic expansion.

Man-hour productivity has increased at an annual rate of around four percent. The accelerated pace of mechanization and automation leaves no doubt that we are "on the threshold of an industrial age, the significance of which we cannot predict and with potentialities which we cannot fully appreciate." [5] In the past organized labor was opposed to the installation of labor-saving machines. That is not the case now. Walter Reuther, when he testified before the Joint Congressional Committee on the Economic Report, said that "we are now at the start of what some scientists tell us is the second industrial revolution. Automation makes possible the automatic office as well as the automatic factory, with the likelihood that entire plants, offices, or departments in much of industry and commerce will be operated by electronic control mechanisms within the coming decade or two. . . . Productivity in the period ahead may well be tremendous, making possible the creation of abundance in terms unheard of before."

Increased man-hour productivity brought about collective bargaining pressure for wage increases determined on the basis of the productivity factor. Such negotiated wage increases were reflected either in terms of an agreed upon annual amount, or as a negotiated periodical wage increase. It has stimulated negotiators to find additional formulae to consider ways and means to win a greater share of the national wealth for the wage earner. Increased productivity with fewer workers is a concern of government, labor, and industry. How shall real wages continue to increase? How can there be employment to all who are available for work? Is a shorter work week necessary and feasible? How is the saving won through more efficient plant operations and increased man-hour production to be divided equitably between the employer and his employes? How is

[5] Report of Sub-Committee on Economic Stabilization, "Automation Technological Change," *Daily Labor Report* No. 239, Dec. 9, 1955, (BNA) p. D-2

the employes' share to be divided equitably among the employes themselves? These and other wage questions require new studies and reexamination of the existing wage determinants.

Job classifications and wage rates based upon skills, abilities, and responsibilities, in themselves, are no longer sufficient criteria for wage determination. Other and more meaningful wage data are needed and other wage patterns need to be constructed to achieve this equitable distribution of wealth.

Business mergers and growth of more national large corporations have stimulated drives for industry and company-wide bargaining. Industry-wide wage patterns are more numerous, and greater uniformity of collective bargaining contracts is the goal of most unions.

The three major trends which influenced collective bargaining since 1933 have left permanent impressions upon our economy. Pensions, productivity wage factors, employment and income security, more rational wage structures, and contract uniformity are but a few of the issues that have become permanent factors in collective bargaining. They and others will continue to be the anchors in future collective bargaining. It is expected that our economy will continue to expand. There is certainly no appreciable disagreement that it can and must.

Organized labor will become more active in politics. Political office holders will more and more cater to the wage earner class.[6] Government will accept greater responsibility for the social and economic welfare of the growing working class. A means to more equitable distribution of our national wealth will be sought by government and by organized labor. Organized labor today is not worried about the second industrial revolution, but it is geared to "guard against the possibility of the new industrial age breaking down the conditions of life and work that wage earners have achieved in the past." [7] The keynote to the future of collective bargaining lies, perhaps, in the words of George Meany, President of the AFL-CIO. He recently told members of the National Association of Manufacturers that he is for the profit system, that he is for free enterprise, that he is for a reasonable return on investment, and for management's right to manage. But he is also for giving the worker a more equitable share of the nation's wealth.

[6] Sumner H. Slichter, "Our Economy—Is It Politico-Proof?" *New York Times Magazine,* Dec. 4, 1955

[7] George Meany, "Meany Looks Into Labor's Future," *New York Times Magazine,* Dec. 4, 1955, p. 11

MAJOR TRENDS IN AMERICAN TRADE UNION DEVELOPMENT, 1933-1955

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IT IS A PLEASURE to talk and discuss with you today the question of major trends in the labor movement from 1933 to 1955. I omit some things prior to 1933 that might be used by way of background, but start with 1933 in accordance with the wording of the subject.

I am sure you want me to discuss the subject as I believe it is seen by management. My friend, Mr. Saposs, brought me a copy of his proposed paper some days ago. He said at that time that I probably would not agree with parts of it. I replied to him, and I say to you now, that if we all agreed on everything for discussion here there would be little purpose in having such an exchange as this. Hence, I expect some of you here to disagree with certain of my observations.

Now for the years 1933 to 1955: Why was 1933 selected as a starting point? I don't know what the framers of the subject had in mind. I do remember, however, that a gentleman by the name of Franklin D. Roosevelt was inaugurated President on March 4, 1933.

His coming to power signified a sort of political revolution. A part and parcel of it was a management-labor revolution which simultaneously took place. The implementation of this revolution was in the laws passed by Congress and in the subsequent enforcement of these laws.

It would be amiss here to review these legislative developments and the changes in Government which accompanied them. You people are familiar with the enactment and ramifications of the National Industrial Recovery Act, the Wagner Act, the Fair Labor Standards Act, the Walsh-Healey Act. You know the workings and results of the National War Labor Board and the Wage Stabilization Boards.

The important thing about these acts of government beneficence was that tied to them were important trends in the labor movement. Total union membership grew tremendously. Remember that there were less than three million members in 1933. The eighteen million membership today shows what has happened meanwhile. This tremendous growth in membership, which was sparked by Government

support for organized labor as initiated in 1933, probably surprised organized labor itself even more than it surprised anyone else.

One cause of the great growth in total union membership has been the rise of industrial unionism. The UAW and the Steel Workers' Unions were not even in existence in 1933. They, together with the Teamsters who, in a sense, have copied the pattern of industrial unionism, are the three biggest international unions today. The success won by industrial unionism in the great mass production industries is one of the most significant trends in the union movement. It is likely that organization would still be only a spotty affair in the mass production industries and total membership much less, had it not been for this development.

At the same time the increased bargaining power of unions has been so great as probably to surprise the most ardent union advocates. It is questionable if even the most enthusiastic promoters of the Wagner Act foresaw how far this power would go.

For instance, it takes a brave labor lawyer today to assure his client that almost any subject is outside the area of required bargaining. Unions once confined their bargaining under a quite limited concept of wages, hours and working conditions. This concept has constantly broadened.

This trend has at times alarmed management. For instance during the 1945 Labor-Management Conference the labor delegates refused to enter into any agreement regarding matters which should be protected as management functions. The labor delegates said: "The experience of many years shows that with the growth of mutual understandings the responsibilities of one of the parties today may well become the joint responsibility of both parties tomorrow."

Thus unions appear to want a constantly enlarging area of bargaining, and the trend of 1933 to 1955 has definitely been that way. No end to it appears to be in sight.

The way the area of bargaining has expanded is just one symbol of the great strength today of powerful unions at the bargaining table. In many instances they have become far more powerful than the employers with whom they do business.

Today most observers would agree with a statement made during the decade by a scholar on labor unions that "the strongest unions . . . . are the most powerful economic organizations which the country has ever seen."

Naturally a feeling among unions as to their own importance has

developed and grown. Labor unions no longer feel themselves to be underdogs. Not only do they have great power, but employers, the unions themselves, and most of the general public recognize this fact. Whereas there was once talk that organized labor craved recognition, developments have in fact made it one of the most recognized groups in the nation. If George Meany, Walter Reuther, or John L. Lewis visits one of our cities, he is, as a rule, much bigger news than any important business man.

This greatly increased power and sense of importance expresses itself in a number of ways, all of which are trends in themselves. Union treasure chests, largely bare in 1933, are today bulging with millions of dollars in assets.

Some of this growth in union financial strength has been amazingly rapid. One international union which was quoted as worth eight million dollars in 1948 is quoted today as worth more than a quarter of a billion dollars.

Union funds have constructed some very fine union buildings in Washington recently. The Teamsters' building, just completed at a cost of five million dollars, is an edifice of lavish appointments. Current talk is that this building has no indebtedness against it. The new AFL-CIO building, being constructed around the corner from the United States Chamber building, would make any management organization envious.

Of course, unions also own insurance companies, apartment and office buildings, stocks and bonds, and notes or other evidences of indebtedness to cover loans made.

This increase in wealth was an inevitable result of membership growth. If a union adds 50,000 dues-paying members, each contributing $2.00 in dues per month to the International, an added annual income of $1,200,000 annually from dues only follows. This figure is not fantastic. One international union today does in fact have an annual income from dues of well over $25 million. This is several times more than the income of any association on the management side.

I don't make these comments about union finances to be critical. I make them because they are in fact important symbols of union power.

Figures on financial development become the more important when union pension and welfare funds are included. Reserves in these funds probably amount to a total of more than $25 billion. The

unions exercise a share of control over these funds, which further symbolize the development of union power.

But the most spectacular change and at the same time the most significant growth in union power since 1933 has been on the political front. This trend developed its great initial urge after 1935 from the C. I. O. unions. The entire C. I. O. appeared to want government intervention in the economic picture. These new unionists were adverse to the anti-statism of the earlier union movement. Minimum wages, price controls, economic planning for full employment loomed large in their thinking. Hence arose the urge that there must be a more active part in political affairs. They spearheaded a drive for ways and means to translate these goals into political action.

Whether this drive should depart from the traditional bipartisan policy of American trade unions was one of the most serious questions as the C. I. O. group brought American labor face to face with political ambition. For a time as Labor's Non-Partisan League entered certain candidates of its own in primaries and in New York State went on the ballot as the American Labor Party it appeared that a third party would result. However, with the rise of C. I. O.'s Political Action Committee in 1943 and its goal of "effective action on the political front," followed later by A. F. L.'s League for Political Education, both have for the time being confirmed labor suport for a continued bipartisan political structure. This support of the biparty system is one of the most important developments thus far from labor's entry into politics.

I quite agree with the observation of Mr. Saposs that organized labor has moved away from voluntarism. In this connection it would indeed be an ambitious undertaking to make any complete list of things which organized labor wants from government. A few of them would be:

1. More federal public housing
2. Government ownership and control of all atomic energy
3. More public power
4. A bigger TVA
5. More Social Security
6. Repeal of the Taft-Hartley Act
7. A higher minimum wage
8. More government assistance for agriculture

9. A broad program of federal aid for education, extending all the way from a bigger school lunch program to aid for adult education.

This list of demands, of course, reflects the trend toward a sweeping reliance on government. It likewise reflects the broad legislative interests of organized labor's members. This trend of organized labor's program right now, as one of my colleagues has indicated, is toward the welfare state concept.

The trend has also been to use the resources of the union members to this end. The expenditure of $1,000,000 by the Non-Partisan League in the 1936 elections attracted attention at that time as a most significant development. With labor's present 18 million members, and aims to obtain contributions from each, the expenditures for political purposes today have multiplied. Even at the mid-term elections in 1954 a great deal more was spent than by the Non-Partisan League in 1936.

Labor has been learning also the technique of using the services of its many members to win elections. At election time they ring doorbells, contact voters by telephone, use automobiles, give speeches, circulate literature, put up posters, and carry campaign placards. This trend for union members to do political work represents one of the most important developments. There are 18 million potential political missionaries in the union movement. It is doubtful if even the most enthusiastic supporter of political activity by labor realizes the source of power embodied in this army of potential personal workers, or how many millions of dollars it is worth to a political party thus supported. A business man in a Midwest community where the candidates supported by labor recently won a local election said to me: "The labor candidates won because the workers rolled up their sleeves and worked to win."

Both business men and others are realizing this fact increasingly as the great army of union members acquire more political know-how, and are marshaling their strength through a merger.

No one controls labor votes but the communications machine, through the merger, will be a tremendously important one. 77,000 locals are a huge number, and each local must be expected to have at least several opinion leaders, and some might have hundreds.

The big question is, what other *economic* segment has a communications machine of such proportions?

The hope expressed in a union publication a few years ago has become pretty much of a reality:

"All of us must register
"All of us must vote
"All of us must help get out the vote
"All of us must contribute to campaign expenses
"The non-political union is becoming a thing of the past. Government decisions constantly affect labor."

All of these statements are pretty much taken for granted today. An aspect of this entire trend which is proving highly important is that organized labor appears to have principal interest in action by the *federal* government. The way the international unions have placed their principal headquarters in Washington, and have constructed spacious buildings for their activities bespeaks this interest in the national scene. Why this has all come about is clear only in part. It may be in a sense because of a series of historical events and accidents—the Wagner Act, the Walsh-Healey Act, the Fair Labor Standards Act, the Federal Corrupt Practices Act, the Taft-Hartley issue, the interest of the federal government in workmen's compensation, the drive of the CIO-PAC in 1944 to reelect President Roosevelt, the surprising success in reelecting President Truman in 1948—all of these doings focus attention on the federal scene. Even apart from them, however, it appears that most of organized labor prefers to rely on federal action. If success is achieved in obtaining the welfare state that has been mentioned here today, that success will almost surely be at the federal level.

In discussing this tendency of labor to rely on federal power I would be less than forthright unless I emphasized that most business men feel we already have far too much government. In this connection they fear that far too many powers have been concentrated in Washington. They would like, in accord with many suggestions recently made, to see a sizeable portion of authority clearly assigned to the states.

I would be less than forthright too if I failed to suggest that many of these same business men believe much of our greatest progress has been due to activity at the state level. In the past the forty-eight states have been laboratories of legislative experiment, and the best rules tend to come to the fore. This is what happened in such unrelated developments as unnegotiable instruments and the law of

sales. Unfortunately, it is pointed out, such a thing can not very well happen today in the field of labor law and closely related fields, because the federal government is pre-empting the field. It is not at all unlikely that for a long time to come much of our history of government will be determined by how the issue of federal-state authority is resolved.

As we have looked at the apparent great reliance of organized labor on action at the federal level, we certainly should not overlook action at the international level. George Meany's statement the other day in which he criticized Nehru and Tito "as aides and allies of Communism in fact and in effect, if not in diplomatic verbiage" is an example of the great part labor plays today in the international field. I have seen evidence of this myself in that I went a number of times as a member of the Employer Delegation to the International Labor Conferences. Through these meetings I repeatedly saw the importance of American Labor in the international sphere. Indicative of this trend is the fact that the Department of State has thirty labor attaches assigned to its embassies abroad. There are in turn six labor attaches of other governments in Washington.

I am going to conclude by raising some questions which none of us can answer for sure today. The way they will ultimately be answered, however, will determine much as to the future of our country. How large will the labor unions ultimately become? Will the unions be successful in their pending drive to organize the still unorganized? As unions gain more power are they going to show a tendency to discipline themselves effectively? Will they rather become victims of their own power and antagonize public opinion so there will be restrictive legislation? To what extent will management functions be invaded in the future? Will the unions accumulate assets relatively as fast in the next decade as they have in the past? If so, will this accumulation of wealth change the character of the unions? How successful are the unions going to be politically? Are they going to succeed in pushing the welfare state concept so far that they will effect a change in our concept of the role of government?

AFL-CIO

ARTHUR J. GOLDBERG

THE MERGER of the AFL and the CIO has had its roots deep in the early manifestations of trade union organization in the United States. There has always been a dynamic pull towards unity in American labor; in 1955 it was an underlying factor in this biggest, most significant of all labor mergers in modern world history. Nowhere else at any time have two labor organizations of the size and scope of the AFL and the CIO been able to come together—willingly, cooperatively, honorably. The merger of these two federations is a most significant event in our nation's industrial history.

But it is fair to ask: what will be the impact of labor unity on, say, the waitress in San Diego, the glass worker in Missouri, the textile worker in South Carolina? How will merger affect the millions of people outside the labor movement who may be directly concerned because they deal with unions as employers or as public officials? What, indeed, will be the effect of AFL-CIO merger on the public as a whole?

Obviously, the impact of the merger is unlikely to be felt immediately by most Americans. But it is equally obvious that the existence of an organization with 15,000,000 members, if it measures up to the hopes which have accompanied its creation, will definitely have long-range effects. I am convinced that these effects will be beneficial to the workers and to the national welfare. On the basis of labor history and of my own observations within the labor movement, I have confidence that the AFL-CIO will meet, with a sense of ever-increasing maturity, the very serious responsibilities that its size and influence are certain to thrust upon it.

The new federation, it is necessary to remember always, is composed at every level of its structure—from top leadership to the greenest rank-and-file members—of Americans as passionately devoted to the general welfare of the country's democratic tradition as any other group in the United States. Products of the American tradition of opposition to arrogant "bigness", they are unlikely to permit their union organization to develop a sense of arrogance. Those outside the labor movement who worry about labor's future in the unified organization, and who worry about the possibility of its producing a deleterious effect upon the national society are too often inclined to overlook the collective strength of the individual

workers—the rank-and-file workers, who, as union members, are ultimately responsible for the broad direction of union policies and programs. Those who insist on restrictive legislation to produce a socially-desirable role for labor overlook the checks and balances of democratic unions—a feature not found in any comparable degree in the great corporations. I have faith in the common sense, the hard-boiled realism and the native idealism of most union leaders and most union members. They want, and I believe they will have, a democratic labor movement devoted not only to the economic and social interests of the workers themselves, but to the general welfare of the country.

Critics of the trade unions—and perhaps some of labor's less thoughtful friends—have nevertheless interpreted the trend towards AFL-CIO merger as the development of a "labor monopoly." They profess to see a parallelism between "Big Labor" and "Big Business." This concept is false. Labor unions cannot be truthfully equated with corporations; their structures, their purposes, their method of operation are entirely different.

The new merged federation follows American labor's democratic tradition of federation by not only permitting but encouraging great diversity in the federation's structure and concept of autonomy. To plagiarize the advertising slogan, "Nobody, but nobody," in the leadership of the new federation is going to be able to dictate to the affiliated unions how they will handle their most important function: the collective bargaining relationship with the employers of their members. Yet it is here, at the center of labor's economic sphere of activity, that the critics of labor have most frequently and erroneously looked with alarm at the by-products of merger. The quite illogical fear is that merger will make the unions impregnable, with the give-and-take of bargaining completely eliminated. Yet on analysis their arguments, when refined and distilled, constitute nothing more than a reiteration of the oft-expressed conservative dream of "Balkanized" bargaining. These critics object not only to merger of federations, but also to company-wide bargaining and nation-wide unions—to the idea that workers employed by Ford and General Motors, for example, should belong to the same union.

These critics, using symbols rather than facts for their arguments, seek to build a case for application of the anti-trust laws, which were passed to regulate the empires of corporate monopoly, to labor unions. But labor is not a "giant trust"; it remains, after merger as before, a voluntary association of autonomous unions.

On the other hand, it cannot be said that "nothing will change"—that life in the labor movement after merger will be exactly as before, or that the effectiveness of labor as a factor in our national society will not be enhanced by unity. Obviously there are advantages for unions in the merger of their federations, or the new federation would never have come into existence. In seeking to appraise the labor movement of the future, the problem is to try to tread the surveyor's narrow objective path between the intense optimism of labor's most emotionally enthusiastic partisans on the one side and the alarmist pessimists of labor's most vociferous antagonists on the other.

The Impact of Unity

It is safe to say there is some definite though tangible relationship between the existence of a strong and effective federation of trade unions and the bargaining power of the individual union when it meets with employers. That relationship is composed, in fluctuating degrees of emphasis, of the individual union's knowledge that it can call, in case of emergency, upon the federation for moral or, perhaps, financial support; that the technical and organizing staffs of the Federation may be at least temporarily deployed to help the individual union; that the Federation's voice at the city, state and federal levels may speak out in its behalf, if help is needed.

The increased range of personal associations among union leaders that unity produces is another unmeasurable factor. In recent months I have come to realize the surprising extent of compartmentalization of union leaders' official relationships within each of the old federations; AFL leaders knew AFL leaders, and CIO leaders knew CIO leaders—but to an amazing extent they did not know each other except by name or nod. With the breaking down of those compartmental patterns, union leaders will certainly get to know each other better. That will lead to a greater volume of exchange of ideas and suggestions, of "professional" ideas and suggestions—from which there should be mutual benefit.

Another factor that will almost certainly influence the collective bargaining process is the probability that jurisdictional disputes will decrease as a result of merger. The new federation recognizes the integrity of both craft and industrial unions; and the various agreements of the years 1952-1955 have served to reduce raiding and jurisdictional disagreements. With the flanks of the individual union more secure, its collective bargaining representatives will be able to

meet with employers with a greater sense of assurance that their bargaining power will not be weakened by raiding expeditions from rival unions.

The collective bargaining process in individual industries will be tangibly affected, it seems to me, if the new federation proceeds successfully with its plans for major organizing drives in the unorganized sectors of American industry. In the industries which were only partially unionized at the time of the merger, further successful organizing will directly strengthen the bargaining position of the unions now functioning in those industries. And just as the influence of the CIO's early organizing achievements had a beneficial effect on the ability of many AFL unions to win better conditions for their members in 1936-1937, so large-scale organizing successes are bound to create economic ripples that will move from industry to industry.

Two things are clear. There are millions of workers now unorganized who will want democratic unionism if the case for signing a membership card is properly and effectively made to them; and there will be economic benefits not only to those workers, but to the nation as a whole, if union organization brings greater purchasing power and enhanced security to those workers and their families. In mid-1955, government statistics showed 65 million Americans were gainfully employed; of these, some 18 million were labor union members. So there is obviously a field for union organizing. That field does not include in the foreseeable future all, or even a majority, of the presently non-union 40 odd million breadwinners. Many of them are only temporarily in the labor market; millions are individual employees of small farms or the smallest types of business enterprises; and large numbers are self-employed. However, there are significant non-union areas of the economy in which the unions have been seeking to organize—with varying degrees of success—even before the merger of AFL and CIO took place. Large sectors of the chemical and synthetics industry, for instance, have no union representation. The southern textile industry, using every form of economic power and coercion, and all of the many available sections of the Taft-Hartley Act, have resisted unionism for decades. Millions of white collar workers—large numbers of them earning far less than industrial workers—have no unions.

The leaders of both the CIO and the AFL, in the months preceding merger emphasized that a primary task of the merged federation would be the launching of well-integrated, well-financed organizing campaigns.

As important as organizing—and over the long run perhaps even more important—will be the new Federation's record of activity in the fields of political action and legislation. The decade after World War II witnessed an unparelleled growth in the political awareness and sophistication of both branches of the American labor movement. With characteristic disdain for academic theorists, the AFL and CIO directed their political action efforts not toward the establishment of a labor party—as some had hoped and some had feared—but toward greater effectiveness within the American two-party system. With scarcely a dissenting third-party voice to be heard in the ranks, the unions have tried to make the Democratic and Republican parties more responsive to the aspirations of union members in the fields of labor-management relations laws and economic and social welfare programs.

Both the CIO's Political Action Committee and the AFL's Labor's League for Political Education—now combined into one committee for Political Education through the merger—did an impressive job of education and public relations. With the ending of duplication through merger, the political action work of the new federation can be reasonably expected to show both greater intensity and greater effectiveness. Yet a *caveat* is perhaps in order. The same diversity of attitude and viewpoint which we have seen in other phases of the labor movement is present in the political action realm. All unions will not inevitably agree on one candidate for any particular political office. While internal disagreements in the labor movement over the endorsement of candidates are less frequent at the national, congressional and gubernatorial levels—where the records of the candidates tend to be more clear-cut—there is frequent disagreement on the merits of candidates for local and state offices, where the attitudes of the candidates are more obscure or less related to the particular interests of the unions and their members. In any event, the unions will be effective in the political arena only so long as they truly represent the viewpoints of a majority—indeed a substantial majority—of their members.

Labor people, both leaders and rank-and-filers, are strong supporters of the secret ballot. When the individual union member walks into the privacy of the voting booth on Election Day, nobody knows better than the leaders of our democratic unions that the political action policies of his union and indirectly of the merged federation are on trial. That is insurance that union political endorsements

must reflect the attitudes of the big majority of union members or the leadership will be seriously embarrassed.

The same factors that govern political action policy within the unions also apply in the realm of legislative activity. Unity brings prospects of increased effort to win passage of bills favored by workers and their unions and the defeat of those they oppose.

The integration of the legislative departments of the AFL and CIO in Washington will make available more manpower for lobbying purposes. But labor lobbyists have always recognized that their essential strength is the interest and support of the members back home. The prestige of the new federation and the hope that is invested in it by the members of affiliated unions are certain to be transmitted to the sensitive antennae of the politicians. Of course, that does not mean the Taft-Hartley Act will be repealed or substantially improved in a matter of weeks or months after merger. It does mean that the merged federation will be a tremendous influence in support of forward-looking economic and social welfare legislation, civil rights measures, and other legislative proposals which affect or interest union members as citizens of our democracy.

With labor's growth and maturity, American unions have rapidly emerged from the status of a narrow pressure group into an area of broader interest in the general problems of the nation and the specific community. Where decades ago union members were apt to be lonely clusters of individuals in an environment almost totally hostile to their organization, labor has succeeded in large degree in throwing off its inferiority complexes and its old suspicion of "outsiders". Some observers have talked about the emergence of labor as a new middle class. I am not certain that this characterization is technically correct. But it is true that the members of the AFL and CIO have become first-class citizens where once they were more apt to be regarded as merely the people on the wrong side of the tracks. In hundreds of communities throughout the nation the development of labor movement has contributed new resources of manpower to community organizations and public life.

In the states and cities, men and women from the unions are active in community services work of every description—not just as individuals with a hobby, but as representative spokesmen for their fellow union members. Such organizations as the Red Cross, the Community Chest, the Hospital Associations, the PTA's—not to mention the Little Leagues—have found support and new ideas in

the labor movement. Time after time, the officials of these and similar groups have publicly stressed the benefits directly derived from labor participation in their affairs.

With labor unity some of the difficulties that were once experienced by these organizations in enlisting cooperation from both AFL and CIO will disappear completely. Continued participation in community affairs will strengthen the status of labor in the various localities, and the inevitable effect will be greater prestige and effectiveness for the unions.

The merged Federation will have impact not only on our domestic community but in the realm of international affairs. Although there have been peripheral differences of emphasis in the foreign policy positions of the AFL and the CIO, it seems probable that the new Federation will have little difficulty in establishing a unified and integrated outlook on world affairs. The AFL and the CIO were completely united in support of the principal programs of America's post-war foreign policy—the Marshall Plan, the Truman doctrine of containment of communist aggression and infiltration, the Point IV Progam, and active participation in the United Nations. In the International Confederation of Free Trade Unions, of which both the AFL and the CIO were charter members, there had been a strong measure of united action even prior to the merger. In the spring of 1955, with labor unity in the air, the AFL and CIO joined forces at the ICFTU's world congress at Vienna to win support for a world-wide union organizing campaign which will be concentrated in those under-developed areas where unions are weakest. The existence of a single trade union center in the United States will eliminate some of the difficulties that have previously existed in the ICFTU, and suggests that American Labor's role in the ICFTU is likely to be increasingly important.

So, the merged Federation will be active in every realm of activity that unions have occupied in the past—and perhaps in some which cannot now be foreseen.

The AFL and CIO will be the largest single organization of citizens in the United States. As such it will be a target of attack for those who have always opposed each advance of organized labor and who would perhaps prefer, in the depths of their hearts, to see no labor movement. The leaders of the new AFL and CIO must be prepared to conduct the affairs of their organization so responsibly as to reassure great numbers of people who have no deep animus

against labor that the very size of the new Federation will not be an impediment to the best workings of our American democratic system.

These people are generally well-disposed toward labor—but first of all they are devoted to the best interests of the American society as a whole. Labor leadership cannot afford to let a situation develop in which there is any difference in the minds of the public between desirable goals for the whole society and desirable goals for the labor movement. If such a situation does develop, the traditional enemies of labor will be effective in marshalling public sentiment against the new Federation and its affiliated unions.

As we have seen, an increasingly large proportion of labor leaders have come to realize the public service character of the union and its functions, and to pay increased attention to the problems of public relations. I am not now talking of public relations in the sense of news releases and gimmicks, but in the broadest sense that labor will be judged by how it acts rather than by how it says it acts.

In appraising the prospects of the new Federation, one needs to take into account the awareness that has been demonstrated of the need for keeping labor's house in order. There is, of course, a firm constitutional commitment to deal constructively with jurisdictional conflict, inter-union rivalry and penetration by racketeers and communists. One could be properly skeptical about constitutional language if all that was involved were words. But as a person who has observed these unity negotiations at first hand, I can say that more than words are involved. There are sure indications that the leaders of the new Federation have the will to do something about these problems. It is in this assertion of will that I put my greatest faith. Because, before you can do something you must *want* to do something. The leaders of the AFL-CIO *want* to do something about jurisdictional disputes, inter-union warfare, racketeering and communist penetration.

Moreover, they *want* to do something about organizing the unorganized and in my judgment we shall have a rejuvenation of the zeal and energy without which any organizing campaign must fail.

Labor essentially has no "secrets"; yet it is true that a few labor leaders have not always recognized that, for their best interests and those of the unions, they must live in the gold fish bowl of national curiosity. William Faulkner, the author, complained recently of the loss of privacy that is the price of success or fame in America. Aside from maudlin curiosity about the details of personal life, I think this

is good. There are worse symbols than the gold fish bowl in the American democratic society.

To maintain the good will of the public, of fair-minded employers, of public officials and plain, ordinary citizens, labor will constantly have to reaffirm that it has nothing to hide and much to proclaim. It is fortunate that the men who will lead the new Federation understand this problem and draw the necessary conclusions concerning their course of conduct and the policies which they recommend to the working men and women who look to them for leadership and guidance. "What is good for America is good for labor" is an admirable and catchy slogan. But, glib as it sounds, it voices a fundamental truth that our labor movement should never forget.

In remembering it, in observing it, the American Federation of Labor and Congress of Industrial Organizations will best serve its members and the public interest. In doing so, its future growth and successes will be assured.

Part III

STATE AND FEDERAL JURISDICTION IN LABOR RELATIONS

FEDERALISM AND THE TAFT-HARTLEY ACT: A CONSTITUTIONAL CRISIS

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AMERICANS have a kind of inbred faith in federalism as a system of government. We like the idea, and believe that it works so well that we hold it out to Europeans as a model, and we ask them why they do not get together and form a United States of Europe. While we are entirely justified in our admiration for our system of federalism, we have little awareness of the difficulties inherent in its operation, and tend rather to believe that the Civil War settled whatever problems there were. Occasionally issues are raised which call our attention to our federal structure, but they are ordinarily presented in such a general way that we look upon them as "political" in nature and find some cause for wonderment that the party of Jefferson seems now to stand for "centralization" while the party of Hamilton wants "to return more responsibility to the states."

The fact is that, from the time of the debates at the convention which framed the Constitution right down to and including the present, the day-to-day working of our federal system has demanded the utmost care and thought of the most skillful and ingenious statesmen. For the federal structure is no structure at all but an extremely complex mechanism, and Madison was not its "architect" but its consummately artful designer. By virtue of the astonishing skill with which this mechanism was originally designed, it has been able to outlast all other similar machines and to survive a hundred and sixty odd years of terrific stresses and strains. But in order to survive, it has required the services of hundreds of skilled artisans, the lesser Madisons, who have patched up this part and redesigned that, devised new tools and invented new parts, while keeping the mechanism so well oiled that only occasionally, at least since the Civil War, have the creakings and groanings of the grand old machine been audible to the public in general.

The genius of our federal system, the secret of its amazing durability, is certainly to be found not only in its elements of built-in flexibility, but also in the devotion and craftsmanship of those who have attended to its operations. The master craftsmen have been the Justices of our Supreme Court. For we have largely committed

to that Court the task of resolving the problems of federalism, of adjusting—or, as it is called, accommodating—the competing claims of power into a harmonious, workable system.

One of the areas in which such problems arise involves the "supremacy clause" of the Federal Constitution, the clause which provides that "the laws of the United States . . . . shall be the supreme law of the land." Congress, because it enacts "the laws of the United States," has the original responsibility for the administration of this aspect of federalism. But all too frequently Congress, acting without adequate consideration for the consequences of its exercise of this supreme power, has caused serious dislocations in the federal structure by upsetting traditional procedures and long-established methods of control without providing adequate substitutes. At a hearing on proposed amendments to the Taft-Hartley Act, Senator Goldwater was astonished when a witness stated that "the laws of the United States shall be the supreme law of the land." He demanded to know what basis the witness had for such a view and when the witness replied that his statement was based on the Constitution, Senator Goldwater said, "The Congress has to be given that right by the States by agreement; is that right?" [1] Apparently Senator Goldwater was profoundly shocked by such a subversive opinion as to the supremacy of federal law, for he later asked another witness, "Do you feel, as attorney general of Nebraska, that that is a true statement, that in this particular field the federal law is the supreme law of the land?" [2]

While Senator Goldwater's ignorance of the basic principles of the federal system is no doubt exceptional, many acts of Congress present the Supreme Court with almost insoluble problems of accommodation within the structure of federalism. Notable recent examples are the Wagner Act, and to a sharply increased degree, the Taft-Hartley Act. This legislation has produced a situation of such extraordinary difficulty that if we used the language of our English cousins we would say that we were now in the throes of a constitutional crisis.

The field of regulation of interstate commerce presents the most persistently trying problems of federalism. The question of the extent of Federal power over interstate commerce has been resolved

[1] Hearings before Committee on Labor and Public Welfare on Proposed Revisions of the Labor-Management Relations Act of 1947, 83d Cong., 1st Sess. (1953) at p. 606.
[2] Id. at p. 879.

in the area of labor relations by the recognition of national competence with, for all practical purposes, very little limitation. But, in upholding the power of Congress to deal with labor relations, the Court, while resolving one question of federalism, was precipitating even more difficult questions. For under our constitutional doctrine (adopted to accommodate the federal system to earlier crises), the states may regulate in broad areas of interstate commerce in which Congress has the supreme power, but they may regulate only so long as Congress has refrained from regulation in these areas. When Congress chooses to act in such an area, the states are excluded and have no further power to regulate in that part of those areas which is the subject of the Congressional regulation. Since, of course, the areas and the boundaries are not definable in exact terms, like geographical areas and boundaries, but in terms of subject matter, the Court is faced with the problem of accommodation of federal and state power. This problem can be one of enormous difficulty, where, as in the case of the National Labor Relations Act, "Congress has not seen fit to lay down even the most general of guides to construction of the Act, as it sometimes does, by saying that its regulation either shall or shall not exclude state action." [3]

Before the adoption of the Wagner Act, substantially all governmental regulation of labor-management relations, except on the railroads and shipping lines, was the function of the states. There were traditional state procedures dealing with strikes, picketing, boycotts, enforcement of collective agreements, administration of union funds, control of membership and other intra-union concerns, and all other aspects of labor relations. These procedures were exclusive. The Federal government had no procedures whatsoever to deal with these problems. Indeed, it was generally thought that under our federal system most of these matters were outside the scope of national power.

By the adoption of the Wagner Act, the Congress undertook to regulate certain aspects of labor relations. Its power to do so was upheld by the Court. Narrowly stated, what the Wagner Act sought to do was to protect the right of workers to organize and bargain collectively free from employer interference. It seems clear from the background and history of the Wagner Act that Congress did not expect that the achievement of these ends would create any major dislocation in the pre-existing system of regulation. Employers were

[3] Bethlehem Steel Co. v. New York State Labor Relations Board, 330 U. S. 767, 771 (1947).

forbidden to interfere with certain activities of their employees. As to all other matters things would remain as they were, with the traditional systems of state regulation untouched. But, although the Act set up procedures which were designed only to protect employees from interference by employers with their rights, those rights were stated in such a general way that the question immediately arose as to what part of the traditional state procedures the national government had "preempted."

The area of national action was greatly broadened by adoption of the Taft-Hartley Act, and the problems of federalism were sharply accentuated, because in that Act Congress dealt in one way or another with every single one of those aspects of labor relations over which the states had traditionally exercised power. Once more it seems likely that, except for certain limited areas where fairly specific provision was made for exclusive state or exclusive federal power, Congress expected that its regulation would be superimposed on the existing system of state regulation and that the states would continue to handle the day-by-day problems of labor relations in much the same way as they had always handled them. But the federal system is too complex, and the problems of labor relations are too complex, for such a simple solution. The new legislation quite clearly could not be superimposed. It had to be fitted into the going system, and it is this problem of accommodation which Congress nonchalantly handed to the Supreme Court without, as the Court has said, "even the most general of guides." The problem cannot be solved with the tools available to the Court, even by those skilled artisans of federalism who are its Justices. It is this impossibility which has precipitated the present constitutional crisis.

Some of the details will be developed by my learned colleagues. I will confine myself to pointing out a few examples, and to discussing at greater length one or two of the problems which, because they may be thought of as "fringe issues," my colleagues will not touch upon.

In the control of strikes and picketing, the difficulties which arise from the failure to accommodate national and state power are of both a practical and a theoretical character. For example, the fact that the procedures of the National Labor Relations Board operate at a much slower pace than do the local procedures is of considerable practical significance. Certain types of secondary boycotts are enjoinable under both federal and state law. Preemption by the Federal

government in this field means merely that such boycotts may continue for a period of several weeks, whereas if the state could act, these boycotts would be terminated in a matter of days or even hours. It is no wonder that boycotting unions are heard in the state courts today loudly proclaiming that they are engaging in activities which are forbidden by the National Labor Relations Act and therefore beyond the boundaries of the jurisdiction of the state courts. As one union leader said to me, "The Taft-Hartley Act lets a union carry on a boycott for a month or two, and any boycott that has to go on longer than that ought to be called off anyhow."

Other difficulties arise out of the nature of the relationship between the National Labor Relations Act and the jurisdiction of the Board set up to enforce that Act. Section 7 of the Act gives employees the right to engage in "concerted activities for the purpose of collective bargaining or other mutual aid or protection." The "concerted activities" which are thus protected clearly include such activities as certain types of strikes and picketing. But the jurisdiction of the Board extends only to protecting these rights against *employer* interference with them. For example, if an *employer* discharges an employee for striking, the jurisdiction of the Board can be invoked and the Board can order the employee reinstated (with back wages) if the strike was of the type entitled to Section 7 protection. But when the State of Michigan interferes with the right by adopting a statute which requires a majority vote of employees before a strike can be called, or the State of Wisconsin forbids all strikes on public utilities, there is no way at all in which the Board's jurisdiction can be invoked since there has been no employer interference, But in these situations, the right to strike is held by the Supreme Court to be protected by Section 7 against *state* interference. [4]

This same type of jurisdictional question arises in connection with stranger picketing. By definition, such pickets are not employees of the picketed employer at all, so the Board will never under any circumstances be able to determine whether the picketing is a protected concerted activity, except that under certain circumstances it might find an unfair labor practice, because the employer could not interfere with it in such a way as to bring it within the Board's jurisdiction. And yet it may be protected by Section 7, and if it is, it cannot be enjoined by a state court.

[4] See International Union v. O'Brien, 339 U. S. 454 (1950); Amalgamated Ass'n v. W. E. R. B., 340 U. S. 383 (1951).

As the cases have developed, the proposed solutions of the difficulties of accommodating federal and state action have tended toward the classification of activities such as strikes and picketing into three categories, those which are protected by Section 7, those which are unfair labor practices under Section 8, and those which are neither. The idea of the classification is that since federal power has been exercised in the first two categories, the states are excluded, but that the states may act with respect to activities which fall into the third category.

Some activities, though not many, may be thought of as falling relatively clearly into the first or second of the categories. A peaceful strike for higher wages is protected, and outside state power.[5] A discharge resulting from enforcement of an invalid union security clause is an unfair labor practice, and therefore also outside state power.[6] But the lines between, the lines where the categories join, are very difficult of determination and are being worked out in the thousands of varying situations by decisions of the Board and of the federal courts of appeal which review the Board decisions. For example, since there is no indication in the Act itself of what concerted activities are not protected (except that some such activities are made unfair labor practices) the Board has had to decide on the rather vague basis of the general policy of the Act as to whether the protection covers such activities as petitioning for the appointment or discharge of a supervisor,[7] protesting a change of foremen,[8] wild-cat strikes,[9] refusing overtime work,[10] refusing to cross a picket line,[11] strikes of seamen,[12] strikes in violation of a collective agreement,[13] quitting in protest at the brevity of a notice of lay off,[14] sympathy strikes,[15] endangering valuable equipment by going on strike,[16] strikes called for the purpose of forcing employers to commit illegal acts,[17] sit-down

[5] International Union v. O'Brien, 339 U. S. 454 (1950).
[6] Plankinton Packing Co. v. W. E. R. B., 338 U. S. 588 (1950).
[7] See N. L. R. B. v. Phoenix Mutual Life Ins. Co., 167 F. 2d 983 (1948); Joanna Cotton Mills v. N. R. L. B., 176 F. 2d 749 (1949).
[8] See N.L.R.B. v. Reynolds International Pen Co., 162 F. 2d 680 (1947).
[9] See N. L. R. B. v. Draper Corporation, 145 F. 2d 199.
[10] See Conn. v. N. L. R. B., 108 F. 2d 390 (1939).
[11] See N. L. R. B. v. Ill. Bell Telephone Co., 189 F. 2d 124 (1951).
[12] See Southern S. S. Co. v. N. L. R. B., 316 U. S. 31 (1942).
[13] N. L. R. B. v. Sands Mfg. Co., 306 U. S. 332 (1939).
[14] See N. L. R. B. v. Jamestown Veneer & Plywood Co., 194 F. 2d 192 (1952).
[15] See N. L. R. B. v. Warner Bros. Co., 191 F. 2d 217 (1951).
[16] See U. S. Steel Co. v. N. L. R. B., 196 F. 2d 459 (1952).
[17] See N. L. R. B. v. Indiana Desk Co., 149 F. 2d 987 (1945).

strikes,[18] intermittent work stoppages,[19] urging a boycott of the employer's products,[20] disloyalty to the employer,[21] and picketing for recognition while representation proceedings are pending.[22] In almost all the foregoing instances the Board and the reviewing courts have disagreed. And yet the process of decision involved in the protected-unfair labor practice-unprotected classification implies an initial decision in a lower state court or other agency as to whether the activity complained of is protected or not, since such a decision must be made in order to determine whether the state court or other agency can act. This enormous and difficult burden of threading their way through hundreds of complex Board cases is thrust upon courts at every level down to the local magistrates and justices of the peace. (In fact the lower the courts, the more important their decision, since it may in actual fact determine the outcome of the controversy whatever the final legal decision weeks later on appeal.) And, to complicate the problem further, the local courts will be called upon to decide whether the activities in question are protected or unprotected in situations where there is no guidance whatever to be derived from Board decisions, because they are situations in which, there being no employer interference, the Board has no jurisdiction. It seems obvious enough that this atomistic application of the mechanics of federalism cannot work.

But even more difficult is the alternative suggested in the case of Garner v. Teamsters.[23] In that case the lower court found that the union was picketing Garner for the purpose of "coercing" him into "compelling or influencing [his] employees to join the union." Since the pickets were not Garner's employees, there was no way that the matter could possibly have gone to the Board for a decision as to whether the picketing was or was not protected. However, it was possible, though by no means certain, that the picketing constituted an unfair labor practice under the Act. Having already, in other cases, in effect charged the state courts with the impossible task of deciding whether labor activities were or were not protected, the Supreme Court perhaps hesitated to come to the bold conclusion that state courts also had to decide whether activities were or were not

[18] See N. L. R. B. v. Fansteel Metallurgical Corp., 306 U. S. 240 (1939).
[19] See International v. W. E. R. B., 336 U. S. 245 (1949).
[20] See Hoover Co. v. N. L. R. B., 191 F. 2d 380 (1951).
[21] See N. L. R. B. v. Local, 346 U. S. 464 (1953).
[22] See N. L. R. B. v. Electronics Equipment Co., 194 F. 2d 650 (1952).
[23] 346 U. S. 485 (1953).

unfair labor practices. At any rate, the Court held that the state could not act because the activity *might* be an unfair labor practice, and if it was not that it *might* be protected. However great the difficulty of defining what is protected, what is unprotected, and what is an unfair labor practice, that difficulty is almost infinitely multiplied by the necessity of defining what *might* be protected, unprotected or an unfair labor practice.

But this situation is in a sense only a theoretical confusion compared with the questions which arise as to the finding of facts in particular situations. This last step in the insoluble maze is illustrated by the Thayer case.[24] In that case the Massachusetts court enjoined a strike, holding that it had the power to do so both because the strike was in the category of unprotected activity, since it was being conducted in violation of a collective agreement containing a no-strike clause, and because the strike was being carried on with mass picketing and coercion. This was one of the cases which did eventually reach the Board because an employer-employee relationship was involved. The Board found that the collective agreement had been made with a company-dominated union and that there was neither mass picketing nor coercion. It held therefore that the strike was a protected activity under the National Act. The Massachusetts court had been wholly without power to issue the injunction.

Now consider the situation which would have occurred if both the Massachusetts court decision and the Board decision had reached the Supreme Court of the United States. That Court would have been bound by the facts as found by the Massachusetts court, and it would therefore have upheld the Massachusetts decision (unless, of course, under the Garner case it was held to be within that general area which *might* involve an unfair labor practice). Then faced with the later Board decision, the Court would have had to uphold the Board's ruling that the Massachusetts court was without power to act. This kind of "potentiality of conflict" extends to every situation which might arise, because it is possible that the Board might take a different view of the facts from the State agency. If the Board has, as it claims, exclusive jurisdiction to decide the facts, state courts have no power to act at all, even in situations in which the Board, if called upon to act, might hold the activity unprotected.

The practical impossibility of this result is illustrated by taking as an example the control of violence in connection with picketing.

[24] 99 N. L. R. B. 165 (1952); N. L. R. B. v. Thayer Co., 213 F. 748 (1954).

In one of its earlier efforts at accommodation of state and federal power under the Act, the Supreme Court in the Allen Bradley case upheld a state court injunction against violent picketing on the ground that the national act did not regulate such conduct [25] (i. e. that it was unprotected). This of course was not strictly true even under the Wagner Act under which the case was decided, because the Board then, as later in the Thayer case, might have been called upon in connection with the discharge of employees, to determine whether the alleged violence had actually occurred. And under the Taft-Hartley Act, the very conduct which was the basis for the state court injunction in Allen Bradley might well constitute an unfair labor practice. Either of these points is theoretically sufficient to exclude the state's exercise of power. Even if it were possible to accept this result, a result which would mean in effect the complete inhibition of control of picketing by injunction—on the ground, doubtful in fact, that violence could be left to the processes of the criminal law—there would still be the question of whether a Wisconsin policeman could properly arrest a picket on the charge that he was throwing bricks through the plant window or assaulting a "loyal" employee. After all, the "potentiality of conflict" is equally apparent in this case, since the Board might later decide that the employee was in fact doing neither of the acts charged, and, on the contrary, was peacefully engaging in an activity which is protected by federal law.

So much for strikes and picketing. The difficulties created by Congress' disregard of the problems of federalism have been most apparent in that area. But the possibilities of difficulty are much wider. The National Act, for example, provides that employees may bargain through representatives of their own choosing. A state may not be able to limit that choice by imposing as qualifications of business agents, such conditions as citizenship, no felony convictions, and good moral character.[26] If employees wish to be represented by a union which does not admit Negroes, can New York prevent that result by requiring all unions to admit to membership without discrimination? How far can the states go in regulating the internal affairs of unions, for example by requiring periodic elections, audits of union funds, etc.? Do the provisions of the National Act which regulate welfare funds, and which, as has been so amply demonstrated by recent investigations, are completely inadequate, preclude adequate

[25] Allen Bradley Local vs. W.E.R.B., 315 U. S. 437, 62 S. Ct. 706 (1942).
[26] See Hill v. Florida, 325 U. S. 538 (1945).

regulation by the states? Do the criminal penalties of section 302 exclude the possibility of state prosecution of union officials for bribery and extortion? A recent Oregon case suggests that the National Act by "entrusting" certain areas to collective bargaining has limited the power of the states to legislate in these areas.[27] Consider the implications of this doctrine for fields such as safety legislation, welfare and pension funds and arbitration procedures.

One of the knottiest problems of federalism is posed by Section 301 of the Act, which purports to give a remedy in the federal courts for breach of collective agreements. The Constitution provides that the federal courts can exercise this kind of jurisdiction only in cases which involve national law. Therefore Section 301 can be fitted into the federal system only if either (1) there is a general uniform federal law governing collective agreements (such a law would have to be created by the federal courts, of course) or (2) Congress can make all state laws on this subject federal laws merely by making collective agreements enforceable in the federal courts. There are great difficulties in the way of accepting the second of these alternatives (e. g. what is the federal-state law in a state where there is no state law on collective agreements because collective agreements are not enforceable in the state courts?). The lower courts almost unanimously chose the first alternative and began to build up a federal law of collective agreements, displacing state law on the subject. Presumably, under this theory, the state courts would have to follow federal law, and therefore all the law of collective agreements would be the new law built up in the Federal courts.

When the first case involving Section 301 reached the Supreme Court, that group of experts in federalism divided 3-2-1-2, with Mr. Justice Harlan not participating, on how to fit this new concept into the federal system.[28] Mr. Justice Frankfurter, Mr. Justice Burton and Mr. Justice Minton thought that Congress intended to make state law applicable in the federal courts, but that this would probably be unconstitutional. Mr. Chief Justice Warren and Mr. Justice Clark thought that the case could be decided without considering the constitutional issue. Mr. Justice Reed found no difficulty with the constitutional issue because he believed that the statute made state law federal to the extent that state law was to be applied in the fed-

[27] Coos Bay Lumber Co. v. International Woodworkers, Ore. 279 P. 2d 508 (1955).

[28] Association of Westinghouse Salaried Employees v. Westinghouse Electric Corp., 348 U. S. 437 (1955).

eral courts, and that it made no difference in a particular case whether a federal court turned to federal or state law for the applicable rule. Mr. Justice Douglas and Mr. Justice Black believed that the statute authorized the federal courts to create a federal law for the enforcement of collective agreements. Since six of the Justices agreed that the case before them was improper under Section 301, it was unnecessary for a majority to agree on the reason. So we are left in doubt as to (1) whether Section 301 is properly interpreted as providing for a new federal law on collective agreements, a law superseding all state law on the subject, and (2) whether, if that is not the case, and state law is to be applied in the federal courts, the statute is constitutionally valid. On the first issue Black, Douglas and Reed are pro and Frankfurter, Minton and Burton, con, with the position of Warren, Clark and Harlan in doubt. On the second issue Frankfurter, Minton and Burton have grave doubts as to the constitutionality, while we do not know where the other Justices stand, except that Reed appears to take the opposite position.

Even this brief statement of certain aspects of this complex of paradoxes and anomalies will justify my designation of the present situation as a constitutional crisis. The picture of unions claiming and receiving, by virtue of the so-called "slave-labor" Taft-Hartley Act, a broader immunity from effective regulation than they have ever heretofore enjoyed, of lawyers arguing that their clients are engaged in unfair labor practices and therefore cannot be enjoined, of lower courts disregarding decisions of the Supreme Court because the practicalities of the situation seem to demand such disregard, of the Supreme Court itself groping for a way out and arriving at results which are inoperable if the principles they represent are applied to other factual situations, or simply failing to agree on any solution—this picture is a distressing one for those who believe in and admire our federal structure.

There is obviously no simple solution to these complex problems. The blame for the present situation lies squarely on the shoulders of Congress, and it is in Congress, rather than in the courts, that the solution is to be sought. The Act must be amended to provide those guides the absence of which the Court has deplored. And in the process of setting up those guides, Congress will have to study carefully and in detail the available methods of fitting its legislation into the operation of a federal system.

STATE AND FEDERAL JURISDICTION IN LABOR RELATIONS

DAVID L. BENETAR
Nordlinger, Rieglman, Benetar, and Charney

A CLOUD OF UNCERTAINTY and doubt hovers over the fields of labor relations and labor disputes and blurs the line demarking where federal regulation ends and state regulation begins. The "border clashes" engendered by this confusion are particularly vexing in these fields where the inherent strains and tensions are ample and need no extraneous stimulation.

The fundamental law governing the subject under discussion is clear. Once National Labor Relations Board jurisdiction is found to exist over an employer or even over the industry in which he is engaged, the finding excludes the co-existence of jurisdiction by any state over conduct which is federally protected or federally prohibited (*Garner v. Teamsters Union,* 346 U. S. 485). The quality of federal jurisdiction is transcendent and exclusive (*Bethlehem Steel Company v. New York Labor Relations Board,* 330 U. S. 767; *LaCrosse Telephone Corporation v. Wisconsin Employment Relations Board,* 336 U. S. 18).

Although it is thus clear that Congress attempted to forestall a contest for power between state and federal jurisdictions by the sweep of its grant to the National Labor Relations Board, it was not successful in doing so. For neither the federal statute nor the cases decided under it have clearly defined the respective limits of federal and state powers. The United States Supreme Court itself has said (*Garner v. Teamsters, supra*):

> "The National Labor Management Relations Act, as we have before pointed out, leaves much to the states, though Congress has refrained from telling us how much."

and later, in *Weber v. Anheuser-Busch, Inc.,* 348 U. S. 468, decided March 28, 1955:

> ". . . Obvious conflict, actual or potential, leads to easy judicial exclusion of state action. Such was the situation in *Garner v. Teamsters Union, supra.* But as the opinion in that case recalled, the Labor Management Relations Act, 'leaves much to the states, though Congress has refrained

> from telling us how much.' 346 U. S. at 488. This penumbral area can be rendered progressively clear only by the course of litigation. . . ."

The conflict mentioned by the Supreme Court arises usually in one of two typical situations. One of these is when a state labor board assumes jurisdiction over an employer whose interstate activities are of doubtful substantiality, or over an employer whose interstate activities are plainly substantial but not sufficient to meet the National Board's current policy standards for assuming its own jurisdiction. In cases of this kind the contest is most apt to be between the employer who resists state labor board regulation under a statute materially different from the federal statute and the state labor board. The second typical situation arises when an interstate employer sues in a state court to enjoin activities which are (or may be claimed to be) protected or prohibited by the federal statute. This paper will consider the first of these two situations and a proposed remedy for it. The solution calls for legislation.

Congress plainly intended that labor relations should be governed by a uniform law to the fullest reach of its commerce power. The provisions of Section 10 (a) of the federal Act leave no room for doubt on this subject. Under the terms of that section, the National Board is empowered to cede jurisdiction to any state or territorial agency over any cases in any industry, with certain specified exceptions, even though such cases may involve labor disputes affecting commerce, *always provided, however,* that it may not cede if the "provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith."

As recently as 1954, Congress, by its rejection of the Goldwater states-rights amendment which would have allowed states, within certain limitations, to regulate labor-management relations even in industries affecting commerce, manifested its resolve to maintain uniformity. Moreover, the uniformity which Congress intended was not limited to the area in which the National Board may from time to time decide to act—it intended uniformity throughout the area in which the National Board is empowered to act. This latter area is at least constant even if its borderlines may be open to some dispute. The former is subject to change and has been changed on numerous occasions for purely budgetary or manpower reasons.

There is no sound or logical reason why a small business man should be subject to regulation by a state labor law, which affords him and his employees considerably less protection than the national law, while his larger competitor—drawing labor from the same labor supply market—is governed by the national law, simply because of the larger firm's greater dollar volume of business. Much less is there reason—and yet it could happen if a state board may act whenever the National Board refuses to do so—that a single firm could in one year be subject to national law and in the very next year subject to a differing state law simply because the volume of its sales varied between years.

Employers and employees, in my view, in the State of New York are alike entitled to all of the protections afforded them by the Labor-Management Relations Act 1947. The New York Labor Relations Board feels it owes a particular obligation to the workers of smaller employees to see that they do not remain unregulated. That Board is well equipped to provide regulation. But why should smaller employers not have the statutory protection of the National Act which makes a union's refusal to bargain an unfair labor practice? Why should smaller employers be subject to labor board proceedings and their workers subject to labor board elections on petition of a union which has not filed anti-Communist affidavits as required by the National Act? Why should the workers of smaller employers be subject to a closed shop and hiring hall, under which their jobs and their ability to get jobs depend on their standing with their union, while their co-laborers engaged by larger employers are protected against this? Why should the smaller employer not have the statutorily guaranteed right of free speech and why should he not have the right to file an unfair labor practice charge against a union which refuses to bargain with him in good faith?

There is no sound reason for this type of arbitrary differentiation. Yet it is an inevitable consequence of the asserted doctrine that our State Board may assert jurisdiction over a company which is subject to the National Act but over which the National Board has declined to act.

I do not believe the National Act is a perfect statute. But I believe it has withstood the tests of time and experience. I believe it is a substantially better statute than the labor law under which New York State is presently operating. This state took national leadership in the adoption of its present law. But it has lost that position of

leadership by continuing the law without material change over a period of almost 20 years, despite the enormous changes in the labor picture which have occurred during the same period. There is a simple way to eliminate jurisdictional conflict. This is by conformity with the national law. Conformity would open the door to cession agreements. And it would restore, on an unassailable basis, the caseload which was lost by our state agency or, at the very least, rendered doubtful and vulnerable when the national law was changed and New York State law was not.

STATE AND FEDERAL JURISDICTION IN LABOR RELATIONS

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THE QUESTION of federal-state jurisdiction in the field of labor relations is of importance not only as a controversial legislative issue but also in the day-to-day problems of practice involving advice and litigation. It is proposed to discuss the question under the following headings:

First—Relevant Provisions of the Constitution of the United States and the Taft-Hartley Act
Second—Representation proceedings
Third—Invalidation of State Laws
Fourth—Injunctions

I. PROVISIONS OF THE CONSTITUTION OF THE UNITED STATES AND THE TAFT-HARTLEY ACT

I believe it is not considered fashionable nor is it deemed to be a mark of legal sophistication to quote the specific language of the Constitution as a determining factor in the resolution of a particular issue. We have been told that the law is what the judges say it is, but I rather believe that the simple, direct and clear words of the Supremacy Clause of Article VI of the Constitution have had some influence on the rulings of the judges on the question of federal–state jurisdiction in the field of labor law.

I should like to take as a starting point for our discussion today the declaration in the Supremacy Clause that

> "This Constitution, and the Laws of the United States which shall be made in pursuance thereof, . . . shall be the supreme law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the contrary notwithstanding."

From this Constitutional language there flows the doctrine of preemption which, stated simply, is that if Congress has occupied a field of regulation, the jurisdiction of the Federal Government is exclusive and the States may not enter. If, however, Congress has by

express declaration or implication, permitted the States to have concurrent jurisdiction, the doctrine of preemption does not apply.

One of the earliest cases on the subject is *Houston v. Moore* (1820) 5 Wheat. 1, 20-23 where Mr. Justice Washington, speaking for the Court, repudiated the "novel and unconstitutional doctrine, that in cases where State governments have a concurrent power of legislation with the National Government, they may legislate upon any subject on which Congress has acted, provided the two laws are not in terms, or in their operation, contradictory and repugnant to each other."

Another traditional statement of the principle is to be found in *Charleston and Car. R. R. v. Varville Co.,* 237 U. S. 597, 604:

> "When Congress has taken the particular subject-matter in hand coincidence is ineffective as opposition, and a State law is not to be declared a help because it attempts to go farther than Congress has seen fit to go."

It is of course well known that the Congress has taken in hand a very large area in the field of labor relations through the enactment of the Wagner and Taft-Hartley Acts.

In broad outline the Act empowers the National Labor Relations Board 1) to conduct representation proceedings under Section 9 in cases affecting commerce for the purpose of determining the exclusive bargaining representatives of the employees in a bargaining unit, 2) to protect the rights of labor by preventing unfair labor practices committed by employers and 3) to prohibit unfair labor practices committed by labor organizations.

Section 7 of the Act contains the following broad protection of the rights of employees:

> "Sec. 7. 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)." (Italics supplied)

Sections 8 (b) (1) through 8 (b) (6) of the Act contain a very detailed list of prohibited labor practices of labor organizations and their agents including secondary boycotts, jurisdictional disputes, strikes against certified unions and conduct intended to cause an employer to engage in discrimination against employees because of union or non-union membership except as authorized by Section 8 (a) (3).

Congress stated its intentions on the subject of exclusive jurisdiction in Section 10 (a) of the Act which provides that "The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in Section 8) affecting commerce. This power shall *not* be affected *by any other means* of *adjustment* or *prevention* that has been or may be established by any agreement, *law,* or otherwise . . . " (Italics supplied)

There is a further clause in Section 10 (a) which authorizes the Federal Board to cede jurisdiction to State agencies under the following circumstances:

> ". . . The Board is empowered by agreement with any agency or any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith."

It has been found in practice that no agreement of cession could be made by the Federal Board to a State agency because no state law has been found to be completely consistent with the Federal Act.

With the Constitution and the statutes as a background I should like to address myself to the federal-state issue as it arises in actual practice and in current legislative issues.

II. REPRESENTATIVE PROCEEDINGS

The Supreme Court of the United States made it clear in the case of *LaCrosse Telephone Co. and I. B. E. W. Local 953 v. Wisconsin Employment Relations Board* (Jan. 17, 1949) 336 U. S. 18, that where the National Board has jurisdiction over the representa-

tion proceedings of an industry—in this case, telephones—the State is impliedly excluded from exercising its jurisdiction, even though the National Board has not acted.

The Court relied not only upon certain differences in the Federal and State statutes, it stressed the conflicts which can arise by mere reason of the fact that two different administrative agencies are seeking to act in the same field.

> "A certification of a state board under a different or conflicting theory of representation may therefore be as readily disruptive of the practice under the federal act as if the orders of the two boards made a head-on collision. These are the very real potentials of conflict which lead us to allow supremacy to the federal scheme even though it has not yet been applied in any formal way to their employer."

See *Bethlehem Steel Co. v. N. Y. State Labor Relations Board* (April 7, 1947) 67 S. Ct. 1026, where the Court in a split opinion refused to recognize the validity of a State Board certification of foremen at a time when the National Board refused to certify foremen.

A question has arisen in this area which is described by that interesting title—"no-man's land." Since the National Board appears to have administrative power in proper cases to decline to exercise its legal jurisdiction [*Haleston Drug Stores, Inc. v. NLRB* (Feb. 15, 1951) 187 F. (2d) 418] and since the State Boards are precluded from entering the field where the Federal Board has legal jurisdiction, what is the status of the area in which the National Board declines to assert its jurisdiction? Is a gap created where the National Board chooses not to govern and the State Board is nevertheless barred from exercising its right to govern?

The question has not been answered with complete finality. The Supreme Court, however, has given the anxious observers of the law a few hints. Thus, in *Weber v. Anheuser-Busch* (March 28, 1955) 348 U. S. 593, Mr. Justice Frankfurter speaking for all members of the Court, except Mr. Justice Black who concurred in the result and Mr. Justice Harlan who did not participate, described the holding in *LaCrosse* as follows:

> ". . . a State may not certify a union as the collective bargaining agency for employees where the Federal Board, *if called upon, would use* its own certification procedure." (Italics supplied.)

Another possible indicator is to be found in *Building Trades Council v. Kinard Construction Company* (Jan. 18, 1954) 346 U. S. 333 where the Court stated that

> "Since there has been no clear showing that Respondent has applied to the National Labor Relations Board for appropriate relief, *or that it would be futile to do so,* the Court does not pass upon the question suggested by the opinion below of whether the State court could grant its own relief should the Board decline to exercise its jurisdiction."

We believe that a more real issue is created by the National Board's release of July 1954 expanding the scope of the area in which it would decline to assert jurisdiction. The fact is, that, even if a State Board has the constitutional power to act in the so-called no-man's land arising from the Board's administrative refusal of jurisdiction, there are only 12 States in which there are State Boards authorized to conduct representation proceedings. In the remaining 36 States, the Board's refusal to assert jurisdiction means that in the area covered by such refusal there is no peaceful procedure of law through which the right of a union to secure recognition can be established.

It is our view that certain aspects of the National Board's rulings of July 1954 are lacking in logic and will not effectuate the policy of the Act.

For example, the Board refuses to apply Federal law to public utility companies doing a gross annual business of less than $3,000,000 a year. The effect of this ruling is to exempt almost all Rural Electrification Cooperatives from the coverage of the Federal law. There are approximately 1000 R. E. A. cooperatives in the United States but only one meets the new test of $3,000,000 gross annual business.

Where is the logic in the National Board's decision to return the labor relations of the R. E. A. Cooperatives to the States? These R. E. A. Cooperatives do not borrow their money from the States. They have borrowed over 2½ billion dollars from the Federal Treasury at low interest rates and for long amortization periods. If the rural electrification program is such a matter of concern to the Federal Government that billions of the federal taxpayers' money must be made available to the cooperatives in competition with private enterprise, then the labor relations of the same cooperatives should also be under Federal law.

We are also of the view that the National Board's refusal to assert jurisdiction in the case of radio and television stations with gross annual revenues up to $200,000 is equally questionable. The Federal interest in these instrumentalities of communication is apparent. They are part of the national system of wire communication and Federal licensing procedures must be gone through before the franchise to use the frequency channel is secured. Yet the Act which is supposed to assure peaceful relations in this industry is frustrated by administrative decision. And this in the face of the provision in Section 10(a) forbidding the National Board to cede jurisdiction to a State Board even under an identical law if *communications* are involved except where predominantly local in character.

The leading case which sets forth the grounds relied on by the Board in establishing its new rules on non-assertion of jurisdiction is *Breeding Transfer Company* (Oct. 28, 1954) 110 NLRB No. 64. This case was decided by the narrow margin of a 3-2 vote. The minority members in their dissents did not content themselves with ordinary expressions of their difference of opinion. They bluntly accused the majority of usurping legislative power and of acting arbitrarily and capriciously.

Member Murdock made the following statements in his dissent:

> "In summary, it is my firm conviction that the new standards are in basic conflict with the Act and the legal responsibilities which it imposes on this agency. They are premised upon the view that there should be a reallocation of authority between the Federal government and the states in the regulation of labor relations, with the Federal Government and this Board surrendering jurisdiction in wide areas. Such action inescapably entails a usurpation of legislative power by an administrative agency, contrary to the principle of separation of powers under our constitutional system. There is no necessity or justification for this retrenchment based upon budgetary limitations or other administrative necessities. . . .
>
> "The importance and grave consequences of the new jurisdictional standards of the Board can scarcely be overstated. Hundreds of thousands of employees and employers are now deprived, by fiat of this Board, of the protections and restraints afforded by both the Taft-Hartley Act and the Wagner Act which it amended. Bluntly speaking, and there is reason for bluntness, these employees and labor organizations in these

areas of industry are now left free to commit each and every one of the unfair labor practices condemned in those statutes as dangerous to the economic and industrial health of this nation. Such practices will now receive neither notice nor action on the part of this agency. The problems of representation for these employees—problems which we have learned through hard experience mature into the cancer of industrial warfare and problems which this Board was especially established to solve by peaceful means—will be settled in the future—if at all, only by contestants armed with the weapons of strike, lockout, boycott, blacklist and the like . . .

". . . it was ascertained that at *least 50 percent of gas, water, power, and public transit firms over which the Board had previously asserted jurisdiction would be excluded as a result of the $3,000,000 receipts test actually adopted by the Board, while another 10 percent would be in doubt,* This conclusion is affirmed by Federal Power Commission data showing that 79 percent of the electric utilities in the country have less than $3,000,000 in yearly receipts. Yet these public utilities furnish admittedly vital services and employ more than 690,000 employees. . . .

"According to statistics furnished by the Federal Communications Commission, approximately *80 percent of the nation's radio stations employing about 50 percent of the workers in that field will be excluded* from the Board's jurisdiction as a result of the adoption of the $300,000 yearly receipts test for such enterprises announced in the July press releases. . . .

"If any lingering doubt could exist as to my conclusion that the majority's action in divesting the Board of jurisdiction in wide areas simply to invest the states with the opportunity to regulate labor relations therein is contrary to the mandate of the Act, Section 10(a) supplies a final and incontrovertible answer. In that section Congress specifically dealt with the question whether any part of the authority to deal with unfair labor practices affecting commerce vested by the Act in the Board might be surrendered to the states. It provided that only in extremely limited circumstances could the Board do this and then by an agreement with the appropriate state agency. It further limited the industries in which it could be done. It further set forth the all-embracing prohibition

against cession of jurisdiction to states where 'the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith.' We are thus confronted with the considered judgment of the Congress which enacted the Taft-Hartley Act, that there should be no surrender of the Federal Authority now vested in this Board to the states where a state has a similar statute whose provisions with respect to the cases ceded is not 'inconsistent with the corresponding provision of this Act.' It is a well established principle of statutory construction that *expressio unius est exclusio alterius.* The specification of the particular circumstances under which cession to states is permitted excludes all other circumstances from the permitted authority. . . .

"I must add one final *caveat* lest the instant decision and the new standards which it illustrates give thought of victory to either the opponents or proponents of collective bargaining. The slash in the Board's jurisdiction now consummated is not a curtailment of employee rights alone or employer rights alone. *Both* the Wagner Act, as amended, and the Taft-Hartley Act have been curtailed by this action. If comfort is to be taken by anyone, it belongs to those eliminated from the Act who wish to violate the restrictions and rights contained in those statutes and who may now do so with impunity. It is the employee who wishes, freely, to engage in collective bargaining and the employer faced with boycott, forced bargaining, or worse, who will accept and suffer the inevitable consequences of this action. To the extent that they do so, the economic health of this nation must unquestionably be harmed, and the statutory duty of this Board must, inevitably, be evaded."

Member Peterson made the following statement as the principal ground of his dissent:

"In summary, I believe that the Board has the legal authority to establish a jurisdictional plan such as has been enunciated by the majority. However, this should not be interpreted as an indication that I agree with the basis upon which the new plan was formulated or with all of its features. For a detailed analysis of why I am unable to accept the new juris-

dictional plan as announced, I shall turn now to a discussion of the majority opinion in this case.

"My principal objection to the new plan stems from what strikes me as its arbitrary and categorical character. To say, as I have, that the Board has discretion to decide how or in what circumstances the policies of the Act will be effectuated by asserting or declining jurisdiction, is not to say that such discretion can be exercised in an unrestrained or capricious manner. Yet, this appears to me to be the net effect, although doubtless not intended, of the action taken by the majority in promulgating the new standards. I do not find any real effort to explain what criteria have been utilized in arriving at the new standards or why the changes which have been made are advisable—if indeed they are. Mere use of such trite phrases as 'pronounced impact' and 'business is truly local'—without more, does not suffice. A complex issue is involved here which is not appropriate for dogmatic disposition. In my opinion, it is an obligation of this Board in dealing with a matter as fundamental and vital as this to state explicitly how it reached its conclusion to curtail drastically the Board's area of jurisdiction, and why; employers, labor organizations, and several million employees are entitled to know why they are being deprived of rights apparently vouchsafed them in the Act."

A concrete illustration of the adverse consequences resulting from the Board's position on the matter of jurisdiction is to be found in the Miami hotel situation. The Board's implementation of the non-assertion of jurisdiction doctrine has returned labor relations at these hotels to the old rules of industrial warfare. In the place and stead of orderly procedures for determining the wishes of the employees by peaceful balloting supervised by the Federal Government there has been substituted the kind of bitter industrial strife which was supposed to have been ended by the Wagner and Taft-Hartley Acts.

An unusual administrative procedure was adopted by the Board in establishing the new rules governing its non-assertion of jurisdiction. The Board announced its conclusions by press releases issued in July of 1954. Almost three months passed, however, before the Board made public the written opinions stating the facts and reasons on the basis of which the rulings were made. No satisfactory explanation has been given for the Board's abandonment of the usual pro-

cedure of writing its opinions and justifications *before* and not *after* its decisions.

It is obvious that there is a cloud hanging over the Board's procedures and disposition of the matter of where it will, and where it will not, exercise jurisdiction. A careful and impartial review of this question, by an appropriate committee of the Congress, would be in the interest of the Board and the public alike.

III. INVALIDATION OF STATE LABOR LAWS WHICH CONFLICT WITH FEDERAL LABOR LEGISLATION

The broad scope of the rights of the employees protected by Section 7 and other sections of the Taft-Hartley Act has resulted in the invalidation of state laws intended to restrict labor.

Even before the enactment of Taft-Hartley the question was posed under the Wagner Act. The Supreme Court ruled in *Hill v. Florida* (June 11, 1945) 65 S. Ct. 1373 that a State Law under which a union and its business manager were enjoined from functioning as such because the business manager had not secured a license from the State and the union had not filed certain reports conflicted with Sec. 7 of the Act which authorized employees to exercise full freedom of choice in selecting their bargaining representatives.

In *UAW v. O'Brien* (May 8, 1950) 339 U. S. 454, the Supreme Court held a law of the State of Michigan requiring a 20 day strike notice and majority authorization of a strike invalid because it entered the field staked out by Congress in Section 7 which safeguarded the exercise by employees of the right to bargain in "concerted activities."

In the case of *Amalgamated Association v. Wisconsin Employment Relations Board* (Feb. 26, 1951) 340 U. S. 783 Chief Justice Vinson stressed the fact that Section 7 of the Act safeguards for employees in industries affecting commerce the "right . . . to engage in . . . concerted activities for the purpose of collective bargaining or other mutual aid or protection" and equated this language with the right to strike. The language of Section 7 of the Federal statute was a principal ground for the invalidation of the law of the State of Wisconsin prohibiting strikes and lockouts on public utility properties and requiring compulsory arbitration of labor-management disputes on such properties.

The Court also relied upon legislative history showing Congressional opposition to compulsory arbitration. The Chief Justice

quoted the following statement made by the late Senator Taft during the debates on the Act:

> "But if we impose compulsory arbitration, or if we give the Government power to fix wages at which men must work for another year, or for two years to come, I do not see how in the end we can escape a collective economy. If we give the Government power to fix wages, I do not see how we can take from the Government the power to fix prices; and if the Government fixes wages and prices, we soon reach the point where all industry is under Government control, and finally there is a complete socialization of our economy."

All State statutes in the field of labor relations are not repugnant to the Federal Act. An important area, in which State Acts are legally operative is so-called "Right-to-Work" legislation.

Although the Taft-Hartley Act regulates the field of union security, it expressly opened the door to State action. Section 14(b) of the Act provides that "Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial Law."

Eighteen States in the South and Mid-West have so-called "Right-to-Work" laws on their books which are valid in the field of interstate commerece only because of this authorization given in section 14(b) of the Taft-Hartley Act.

Labor takes the view that these laws are misnamed and that their actual purpose and intent is to weaken the trade unions with a consequent adverse effect on their power to bargain collectively for wages, hours and working conditions.

There is judicial support for labor's position that the title "Right-to-Work" is an inaccurate description of the legislation enacted under such title. The Idaho Supreme Court has ruled in the case of *Petition of Idaho State Federation of Labor* (June 30, 1954) 272 P. (2d) 707 that the title is defective as the distinctive means of describing such legislation sought to be brought forward by way of the Idaho initiative procedure.

Certain it is that the average working man does not view legislation prohibiting any and all forms of union security as conferring any rights upon him. Perhaps the best evidence of this sentiment is

to be found in the union security elections held under the Taft-Hartley Act. During the period of 4 years from the enactment of the law to October 1951 when the election procedure was terminated by amendment, the National Labor Relations Board held 46,199 polls and 97% of these elections resulted in approval of the type of union shop permitted by the Taft-Hartley Act. The results in these polls were not achieved by narrow majorities. Almost 92% of the total number of 5,547,478 ballots were cast in favor of the union shop. (6 CCH Labor Law Journal 359) Is it capable of belief that this preponderant opinion of workingmen was registered by them in favor of a proposal to deprive themselves of the right to work?

Section 14(b) of the Taft-Hartley Act has become a controversial legislative issue. The American Federation of Labor and the Building Trades Department of the Federation have sponsored a move to repeal Section 14(b). (S. 1269—84th Cong. 1st Sess.)

I would suggest that in considering the issues raised by this matter it might be well to inquire as to whether there is a substantial question of States Rights. It is somehow difficult to think of either the Wagner Act or the Taft-Hartley Act as based on a states-rights philosophy. The very scope and extent of the labor restrictions contained in the Taft-Hartley Act represented a serious extension of Federal power and a diminution in the power of the States in the field of labor law. Furthermore there is a section of the Act—14(a)—which is drafted in terms which are the very opposite of the States-Rights position. I refer to the language in this Section which provides that

> ". . . no employer subject to this Act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or *local,* relating to collective bargaining." (Italics supplied)

Finally, it should be noted that the permission granted to the States in Section 14(b) to enact more restrictive union security legislation, is also accorded to the Territories. Since these latter instrumentalities of Government are entirely Federal in character their inclusion in Section 14(b) would appear to negate the theory that the section had its foundation in a theory of State Sovereignty.

If Section 14(b) had such a foundation, would it not have provided that the States could adopt legislation in the area of union security which would be within the complete discretion of the State

Legislature subject only to Constitutional restraints? Section 14(b) does not cede jurisdiction to the States to legislate as they see fit on the subject of union security. Section 14(b) gives the States a choice only as to whether they wish to legislate more severe restrictions than are imposed by the union security regulations of the Federal Act.

The trade unions are supporting the object of uniform Federal legislation in the field of union security. A principal reason for this position is the adverse effect of diversity upon the economic welfare of the States which have chosen to refuse to enact so-called Right-to-Work laws.

There are important legislative precedents in support of the repeal of Section 14(b). In 1951 the late Senator Taft and Vice President Nixon, then Senator from California, sponsored a bill (S. 1973) which would have repealed Section 14(b) insofar as the building and construction industry was concerned. This bill was adopted unanimously by the U. S. Senate on May 12, 1952 but was not reached for a vote in the House.

The Congress did enact amendments to the Railway Labor Act in 1951 which established a uniform Federal law regulating union security in the railroad industry and specifically provided in language reminiscent of the Supremacy Clause of the Constitution that such Federal law "should operate, notwithstanding any other provisions of . . . any other statute or law of . . . any State . . ."

I believe that organized labor takes the view that it is anomalous for one union security agreement in commerce in a particular city in Virginia to be criminal under the State law and another agreement in the same city to be legal, though identical in terms, because the latter happens to be in the railroad industry. Uniform Federal legislation for all industries in commerce would resolve such anomalies.

IV. INJUNCTIONS

There has been extensive litigation on the question of the effect of the Federal Act on the power of the State courts to issue labor injunctions. The decisions of the courts have helped to reduce the area of uncertainty in this field.

Indeed the Supreme Court of the United States has given the lower courts, and the Bar, a summarization of the applicable rules in the case of *Weber v. Anheuser-Busch* (March 28, 1955) 348 U. S. 593.

The Court divides the cases on labor conduct into three categories depending on whether such conduct is 1) protected, 2) prohibited or 3) neither protected nor prohibited by the Federal Act.

In the first situation the Court has ruled that "a State may not prohibit the exercise of rights which the Federal Acts protect." The cases which I have previously discussed: *Hill v. Florida, UAW v. O'Brien* and *Amalgamated Association v. Wisconsin Employment Relations Board* all involved State court injunctions which were reversed for this reason.

In the second situation the Court has ruled that "A State may not enjoin under its own labor statute conduct which has been made an 'unfair labor practice' under the Federal statutes." The leading case on this point is *Garner v. Teamsters L. U. No. 776* (Dec. 14, 1953) 346 U. S. 485. The lower State court there enjoined peaceful picketing for organizational purposes on the theory it was in violation of Sec. 6(c) of the Pennsylvania statute which is identical with Sec. 8(a) (3) of the Federal Act.

The Pennsylvania Supreme Court reversed on the ground that

> ". . . such provisions for a comprehensive remedy [as are contained in the Federal Act] precluded any State action by way of a different or additional remedy for the correction of the identical grievance."

The Supreme Court of the United States affirmed the Supreme Court of Pennsylvania and in doing so, followed previous directives of the Court expressed in cases not related to labor law. Thus, in *Missouri Pacific R. R. v. Porter* (1926) 273 U. S. 341, 345-346, Mr. Justice Butler speaking for a unanimous court ruled invalid a state law regulating liability for loss of property on the basis of exclusive Federal jurisdiction. The Court stated that

> "Congress must be deemed to have determined that the rule laid down and the means provided [by the Cormack and Cummins amendments to the Interstate Commerce Act] to enforce it are sufficient and that no other regulation is necessary. Its power to regulate such commerce . . . is supreme; and as that power has been exerted, state laws have no application. They cannot be applied in coincidence with, as complementary to, or as in opposition to, Federal enactments which disclose the intention of Congress to enter a field of regulation that is within its jurisdiction."

In the third situation, i. e. where the labor conduct is neither protected nor prohibited by the Federal Act the Court has ruled that certain exercises of State authority have not been excluded by the Federal law.

Included among such cases are *Allen Bradley Local 111 U. E. v. Wisconsin Employment Relations Board* (1942) 315 U. S. 740 where the State was allowed to enjoin such conduct as mass picketing, and threats of bodily injury and property damage to employers.

In *Garner* the Court said that the State continued to have the right to exercise its historic powers over "such traditionally local matters as public safety and order and the use of streets and highways."

Also included by the Court in this category is *International Union v. Wisconsin Employment Relations Board* (1949) 336 U. S. 245 where the State validly enjoined intermittent unannounced work stoppages.

There remains the question of the area described by the phrase "no-man's land". This is a question which will undoubtedly be resolved by the ordinary course of litigation. The only indications of the Supreme Court on this point are the statements in *Anheuser-Busch v. Kinard* to which I have referred in my discussion of representation proceedings.

The procedure for resolving the Federal-State question in particular cases is of great importance because of the time factor in labor disputes.

An injunction issued improvidently by a lower State court will frequently resolve the issue in a labor dispute if the only recourse is to the appellate procedure in the State and thereafter by way of appeal or petition for writ of certiorari to the Supreme Court of the United States. The final adjudication will therefore have no effect on the actual dispute. Nevertheless, the Supreme Court has refused to recognize a right of a private party to secure an order from a Federal District Court enjoining the beneficiary of a State Court injunction from availing himself of the benefits of the State decree even though it is admitted that the State court had no power to issue such decree. *Amalgamated Clothing Workers v. Richman* (April 4, 1955) 348 U. S. 643.

The Court takes the view that the State courts will act properly in the light of the decisions which have clarified the preemption rules.

The decision of the Louisiana Supreme Court in *Gulf Shipside*

Storage Co. v. Moore (March 21, 1955) following the *Garner* rule and other State court decisions tends to support this view.

The summarization of rules by the Court in *Weber v. Anheuser-Busch* should also be helpful in this regard.

There is available, however, to the National Board a procedure for securing such Federal Court injunction in aid of its jurisdiction. *Capital Service Co. v. NLRB* 347 U. S. 501. And the court has intimated in the *Richman* case that the Board may have the power under its decision in the *Carter* case (90 NLRB 2020) to file unfair labor practice complaints against employers seeking to make unwarranted use of the State court injunction process.

I believe that although no one can claim that the Law on exclusive jurisdiction in the field of labor injunctions is simple and devoid of difficulty; nevertheless the course of litigation over the last decade or more has served to bring a large measure of certainty into the question of the selection of the proper forum. There is, therefore, no need for further legislation on this particular matter. Indeed, the adoption of some of the proposals which have been made for granting greater leeway to the State courts would only serve to require the relitigation of issues long since decided.

Part IV

CONTRIBUTIONS AND NEEDS OF COMPANY RESEARCH IN INDUSTRIAL RELATIONS

INDUSTRIAL RELATIONS RESEARCH IN INDUSTRY: DEFINITION AND ORGANIZATIONAL LOCATION

SANDER W. WIRPEL
Inland Steel Company

RESEARCH IN INDUSTRY in the technologies is a well accepted, widely applied and heavily financed activity. Research in industry in the social sciences—or more specifically in industrial relations—is generally a new and growing activity. It exists within the corporate structure in only a relatively few companies and has had problems of gaining wide acceptance within the companies where such activities have been established. Industrial relations research has spread slowly from company to company as a direct function within the corporate structure. A more rapid and broader expansion of research has occurred where industry has made use of the industrial relations centers of the various universities and colleges and where it has retained management consultants.

These discussions cover three areas in the broad arena of "Contributions and Needs of Company Research in Industrial Relations." The first area is the types of research being done by companies and the contributions they are making to general knowledge of industrial relations. The second area is industry's use of outside research organizations such as those sponsored by universities and typified by the Survey Research Center of the University of Michigan or the Industrial Relations Center at the University of Chicago. The final area involves the dynamics of reaching the boss.

Messrs. Bender, Hood and Radom, the authors of the three papers, suggested that the Chairman undertake two tasks in launching the meeting. One was to define what we meant by research in the sense of specifying what is and what is not company research in industrial relations. The other was to discuss some of the criteria useful in determining the proper organizational location of the research function in industry.

Webster defines research as a careful search, a close searching; studious inquiry; usually, critical and exhaustive investigation or experimentation having for its aim the revision of accepted conclusions, in the light of newly discovered facts.

For further guidance, I reviewed the constitution of the Industrial Relations Research Association and found that it specifies that:

The purposes of this Association are:

1. the encouragement of research in all aspects of the field of labor—social, political, economic, legal, and psychological—including employer and employee organization, labor relations, personnel administration, social security, and labor legislation;
2. the promotion of full discussion and exchange of ideas regarding the planning and conduct of research in this field;
3. the dissemination of the significant results of such research: and
4. the improvement of the materials and methods of instruction in the field of labor.

I would define industrial relations research as an art wherein the matters studied do not give final answers or reveal universal laws that fit into some schema as in pure science, but do lead to an understanding of ways of improving our way of life. It is the study of problems which call for policy decisions on the part of administrators in business, in unions and in government. Therefore, it is research largely on current problems, on emerging new issues and is strongly flavored by historical research on our past as a basis for understanding of the present and anticipation of the future.

Industrial relations research should, in my mind, be defined so as to exclude survey activity typified by the questionnaire designed to find out wage rates or fringe benefits in various companies, or comparisons of contract clauses or company policies. Such activities are data gathering, not research. The *analysis* of such data may make a contribution to our understanding and our knowledge, but the gathering of the data itself is not research. All too frequently, data gathering is called research by those in management circles who should know better.

Industrial relations research as conducted within a company must not be a form of "gestapo"—or a device used by management to check up on the operation of the various sections and departments of the company. In some companies, the so-called Research Department is thought of and used by management as a report-gathering organization which can evaluate the performance of various departments or individuals in the company. Industrial relations research in industry must not, if it is to fulfill its high purpose, become involved in any such role. Rather, its focus should be on problem-solving and developing the guideposts for aiding management in making the best possible policy decisions. Such research obviously involves

value judgments. In fact, industrial relations research "is the study of values arising in the minds, intuitions and emotions of individuals as these values become embodied in group organization and action." [1]

From the point of view of some of us in industry, research frequently must deal with applied rather than fundamental research due to the emphasis upon the problem-policy motivations which lie behind the establishment of the research department in the first place and upon the sorts of assignments the boss thinks up which structure the research in the second place. However, as J. Douglas Brown pointed out in his presidential address in 1952, fundamental research has meaning only in relation to the fundamental laws of pure science. Industrial relations is an art and is likely, he says, "to remain so as long as human behavior, both individual and group is largely unpredictable." [2]

Industrial relations research involves the process of resolving observations into judgments and thus is essentially inductive. The findings or conclusions reached should be relevant to the conditions observed in the study and relevant to the broader area of industrial relations where appropriate. To the degree that research projects can have relevancy to more than the specific conditions studied, they become valuable additions to our fundamental knowledge.

Company research departments often are subject to pressure to focus upon the "quickie on policy recommendations." Frequently they become involved when a crisis develops and are expected to find out all they can in a few brief hours on a given subject and come up with some sound conclusions as a basis for policy recommendations. This so-called "bread and butter" activity thrust upon a research department is clearly not research, but frequently is a necessary service which is expected of the department. But, effective research departments are able to educate the boss to utilize his research department by assigning to them the task of attacking basic problems and to the need for the application of "the integrity of craftsmanship" [3] to their solution. Solutions rarely are quickly found. More often they involve long and costly study with seemingly slow progress. They require patience and understanding on the part of the boss.

[1] J. Douglas Brown, "University Research in Industrial Relations," *Proceedings of the Fifth Annual Meeting of the Industrial Relations Research Association,* December, 1952, Madison, Wisconsin, p. 6

[2] Ibid, p. 5.

[3] See, J. Robert Oppenheim, "Prospects in the Arts and Sciences" *New York Times,* December 27, 1954.

Let us briefly look at some considerations as to where, in the organizational structure, the industrial relations research department should be located.

I would venture to guess that the number of companies in the United States which have a formally designated industrial relations research section or department is not much over 100. (Of course, many that do not have such a departmennt nevertheless undertake research projects—on their own or in collaboration with outside agencies such as the University Industrial Relations Centers.) However, it is likely that only where a separate department exists some continuity of the research endeavor is sustained. Further, it is likely that, since research in industrial relations is a relatively new thing in the experience of most members of management, it takes a long and continuous effort on the part of the research department to "sell" itself. In the absence of a formal department, research tends to be a one-shot proposition: "here is a problem, solve it and thank you very much—don't call us, we'll call you—when (if?) we need you again." Therefore, I would list as a criterion, that the industrial relations research function should be a formally recognized function preferably the responsibility of a section or department assigned this as its sole responsibility in the larger companies or as a major responsibility along with others at smaller companies with more limited resources.

In general, with the hierarchial pattern of management wherein all authority stems from the top and there is accountability to the top management levels, the scope of the sorts of problems for which the research department will be responsible suggests the advisability of reporting to top management levels. Further, the handicaps of the newness of this function in industry would be more easily overcome with the authority and backing of top management levels. Thus, there are at least two good reasons for reporting to at least a vice-president or equivalent level in most large companies as well as in many smaller ones.

Reporting to the top level may require the physical location of the department at the company's general office. This may result in being physically remote from the field work— particularly in multi-plant set-ups. This may prove to be disadvantageous to some degree and require additional time in the field developing relationships and involving the local supervision in a project. In some cases, a field research staff at major plant locations would be a helpful adjunct to the conduct of many a research project.

Thus, we have indicated that because of the need for communication and the nature and scope of the responsibilities of a research department, it should be in direct contact with the top management levels of a company and physically located at the general office where possible, but with access to the field where the research study itself may be located.

Another factor is that research is frequently directed toward problems which in a sense are formulated at the top because they are basic to the company's operation and probably have policy formulation as an end result. Thus, the research function is most frequently needed by the man at the top and it is he who, in the last analysis, not only originates a given project but wants its results to be made known to him prior to establishing policy or taking action.

Of course, the president of a company may downgrade some of this to his vice-president in charge of industrial relations, but that is effectively at the top.

As the industrial relations research function becomes well recognized and integrated with the other parts of the enterprise, there will be a lessened need for utilizing the prestige and authority of the boss. Nevertheless, many of the department's projects will continue to stem from his needs.

Typically, the industrial relations research function is a part of the responsibilities of the broader industrial relations function. This raises an interesting question as to whether the industrial relations research function might not be another branch of the larger research function. I am suggesting that, perhaps, the industrial relations research function should be integrated with the technological research function. Many of us, in establishing our industrial relations research units have been aware of the advantages and potential returns of an inter-disciplinary approach applied to many of the problems we tackle in the industrial scene. Typically, a research department has economists, sociologists, psychologists, statisticians, anthropologists. They work together on a given project and bring to bear their special knowledge. A much more meaningful and complete analysis and understanding of the problem frequently results.

Many human relations problems today impinge upon the technological areas of the chemist, physicist, biologist, mathematician, electronics specialist, the engineer. Cannot some of them contribute something from their special knowledge to us—and we to them? Will not automation—just to name one item—involve us all?

During World War II, in England—and to some degree here—scientists of the natural, physical and social sciences were closeted together. Jointly they resolved some of the basic and pressing problems of that period of crisis with amazing results. The Institute of Advanced Study at Princeton, the Rand Corporation and other groups represent some examples of the sort of cross-fertilization among the researchers which might prove a useful thing in our industrial world. One large company, it is reported, has undertaken this approach. They have transferred their industrial relations research department to their main technological research labs where the industrial relations research department along with the technological research departments report to the chief of research. While undertaking this organizational change, they are studying it and some day, hopefully, we will know the result.

In summary then, we can say that industrial relations is an art—and industrial relations research with companies is a rather rare art. For its optimum growth and effectiveness, it requires highly trained specialists, a patient, sympathetic and sophisticated line authority to which it can report and which will reciprocate by supporting the research by lending the authority of the boss to facilitate communication and cooperation. It also requires a wise administration to maintain friendly liaisons with the boss, the people in the area studied and with the university researcher who is frequently an important part of the internal research effort as well as a counsellor, a guide and conscience for the company's research team.

INDUSTRY'S CONTRIBUTIONS TO RESEARCH IN INDUSTRIAL RELATIONS

MATTHEW RADOM
Cornell University [1]

SOME WEEKS AGO a book reviewer for the *N. Y. Times,* commenting on that fine book "Money and Motivation," by Cornell's Bill Whyte, declared that every time a factory manager looks around these days, he's sure to find a social scientist studying the people at work. The situation isn't quite that good. Industry can stand a lot more social science research than it has had.

In preparation for this paper, I contacted a number of well known social scientists and asked them to tell me about research going on in companies. They said they did not have much information on studies in companies. There was a small amount of publication on such studies, they said, and I did learn about some projects which I will talk about today and which I hope will illustrate the kinds of contributions which companies can make to industrial relations research.

One of the largest and most important projects now underway involves a number of companies using the same consultant to help these companies find ways of spotting management potential among present employees. The project is called Early Identification of Management Potential. The same methodology and procedures are being used in each company. Before I went to Cornell I had a lot to do with the job of persuading management in Standard Oil Company and its affiliates with headquarters in New York to undertake this research. In that company, all the top executives starting with the Chairman of the Board of the parent company, the President, all the Directors, Coordinators, and Department Managers and their assistant managers and the top executives in similar posts in the operating affiliates are in the project. There will be about 275 men in this group. The researchers will also look for a matched group of 275 other men in the same companies who have the comparable age, company service and education and will apply the same procedures to these men as are given the top group.

The various procedures involved are as follows:

Each person in the two populations will be interviewed to check his personnel record to insure that the data now on hand is accurate.

[1] The author is Visiting Professor, N. Y. State School of Industrial and Labor Relations, Cornell University, Ithaca, New York, on leave from Employee Relations Department, Standard Oil Company (New Jersey).

Then he will be asked many questions about himself, to bring out details of early decision making on his part, particularly with regard to choice of school and first job. This will be a patterned but not a structured interview. No attempt will be made to score the result. Following this, each man will be asked to fill out

A Work Patterns Profile (Developed by Carroll Shartle of Ohio State University).

A General Attitude Questionnaire developed by Douglas Fryer of the Consultant Firm (Richardson, Bellows, Henry & Company).

An Individual Background Survey, patterned after the Army B. I. B. This is the first of its kind, constructed especially for this project by the consultant. The personal history covers items from ages 10 to 45.

A self rating on an Executive Performance Report adapted from one now in use at United Parcel Service Company. This report uses the so-called "forced-choice" method.

A Judgment Test, developed by Fryer, consisting of a number of situations commonly faced by higher management. The situations were obtained from the early interviews with top executives in this project.

The Guilford-Zimmerman Test. Only the personality items are being used.

The E. T. S. Pictures Test. This is a projective test of motivation developed for the Office of Naval Research. The consultant in the E. I. M. P. project has permission to use this test experimentally and O. N. R. will be given the data. If this test is found to have positive correlation of any significance an effort will be made to have it made available for general use. As far as is known, this is the first tryout of this test in industry.

The Miller Analogies Test. A high level mental ability test which is used by many colleges and universities as a screen for acceptance of college seniors to graduate study level. This test is highly secured and controlled by the Psychological Corporation.

The total time required of each man in the project is estimated at about 8 hours. The last two tests I named are the only timed tests. The others can be taken by the man at his convenience.

The consultants will analyze the replies to each of the items administered to see if there are any statistically significant differences

in the way the men in the top group and those in the other group answer the questions in the various tests or questionnaires.

From what I have so briefly described you can see that this is a very comprehensive and interesting way to approach the problem of trying to find potential for management jobs. The study is based on the hypothesis that the men who are top executives will tell us in various ways about themselves. The men who are not in the top spots but who presumably had the same opportunities to get there will also tell us many things in the same tests and questionnaires given to the higher level executives. If the replies to the same questions are different, these differences may help us to uncover future executives among present employees coming along, for the questions can be used administratively. If the candidates reply in about the same way as the top executives did on questions involving early decision making in the teen years and if there are significant differences on test scores, we may be able to uncover promising candidates earlier. No one can say now that we will have this kind of result. This project is different from studies done in the past where only "successful" executives have been studied but the findings have not been tried out on a matched sample of others who might have reached the top rungs of the management ladder but didn't.

Another project underway in the same general area is one being conducted by an important affiliate of Jersey Standard in cooperation with its independent dealers. As you probably know, most petroleum companies are wholesalers who sell products to independent business men known as dealers. In this project, the company is looking for ways to identify future successful dealers. The company believes it knows those dealers who are most successful and those who are less successful in selling gasoline, motor oil, accessories and service to car owners. The dealers have agreed to be interviewed and take certain tests. There, too, the methodology is to see if the most successful dealers answer differently from the less successful ones the various tests and questions put to them.

This study, if positive results are obtained, should make a major contribution to learning much about the nature of men who sell directly to the public such highly competitive items as gasoline, electric appliances, cars, tires and other products where the companies sell to the public through dealers.

After these projects have been completed, the results validated and put into use (providing there are such results), it is hoped to publish

a complete description of the project, in professional journals. It is not likely that this will be done much before 1957 or 1958.

It is only natural that a lot of work has been concentrated on trying to find better ways to help management with the job of selection, placement and promotion. The search for quality is constant and continuous. In this search a number of companies have been willing to use quick and easy-to-give tests, especially to try to predetermine how a candidate would perform if employed or promoted. The demand for such panaceas has provided a seller's market for charlatans who have been promoting sure-fire "personality" tests, especially for picking future executives. At the moment there is on the market a ten-minute test which is being gobbled up by the unsophisticated. This so-called "personality" test was put to a real test by two organizations which gave it to known and tried people in an effort to find out what correlations, if any, existed between the test scores and actual performance. The correlations resulted in a big and glaring zero. This short and cheap test may be useful for testing something but the predictive value claimed by the purveyor is nil. It is unfortunate that these validity studies cannot be published.

I cannot blame FORTUNE'S Bill Whyte for blasting such tests and taking a hard whack at those who use them. If he relied on published information, he did not get much to look at before writing his article on the misuse and overuse of personality tests for picking executives. On the other hand, he did not mention the hard and patient work being done by a number of competent researchers such as those in the E. I. M. P. study who are trying to help management find objective measures to add more knowledge to the difficult job of selection for executive jobs.

In a related area, that of rating job performance—especially of supervisors and other members of management—most companies have a variety of forms, long and short, simple and complex, which are being used blindly. I say blindly because I wonder how many of these companies have done a thorough job of research to find out if there is any connection between what the forms contain and actual performance. My own observations and reading of literature on the subject compel me to agree with the conclusion reached by Walter Mahler in his booklet "Twenty Years of Merit Rating" that "we are still searching for the holy grail."

A few companies have broken away from the usual method—copying someone else's form—and have done some real research. I'm

glad to say that my company is one of them. We found that the graphic rating scale wasn't being used in our company because people didn't like to say on paper what they really wanted to say. By actual measurement from the old forms, we found that when required to do so, supervisors rated most people "above average." We finally developed a new way to indicate job performance on forms which, when quantified, gave us very good correlations with management ranking of the persons who were rated. All of the research was written up in a book "Made to Measure". In addition to sending a copy to every top management person and his personnel manager in all of our operating companies, we also sent copies to every college and university which has a psychology department. Nothing was held back except the scoring key. That's why the title of the book was chosen. We were reporting a method of scoring work performance for our own people. If you want to measure the job performance of your people, you will have to develop your own scoring key even though you copy the forms given in the book.

Most of us here have something to do with training. There is constant training going on of people in all levels of our organizations. How much research has been reported on the effects of training? Not very much. So when I hear of research which has been done and where the company is willing to give out its results, I lose no time in asking for results. The A. C. Sparkplug Company was interested in finding out if training its people in Creative Thinking would make any difference in the number of suggestions which could help the company improve its product and its production. The training in Creative Thinking was given to some but not to others in the company. The groups were matched and measures taken of suggestions before and after the training. It was found that those people who received the training produced more usable ideas than those who had not received the training. Here is one study, privately published, which gives clear-cut evidence through carefully designed research that it is worthwhile for A. C. Sparkplug Company, at least, to train people in Creative Thinking.

Another company which uses the case method of instruction in its training did a study to find out if this method helped its trainees to acquire skill in solving problems by learning the techniques of case study analysis. Two groups were chosen, one given the training by the case method and the other not trained. Both groups were given prob-

lems to solve in cases outlined on paper. After the men wrote their analyses and solutions, their papers were sent to a university for grading. This university uses the case method of instruction to a considerable degree and applied the same criteria for grading the papers as it uses for its own students. Here are the results: Those men who had received training in the case method got higher grades on *analysis* of the cases than those men who had not been trained. But there was no significant difference in grades between the men in both groups on *solutions* to the cases. I hope the results will be published for we all need help in designing methods to study the effects of training people. This particular study is important because we know that a lot of companies use the case method for training management.

I was very glad to hear from Jim Richard, Executive Vice President of Red Jacket Manufacturing Company of Davenport, Iowa that he published the results of some studies he initiated on how to achieve effective leadership in his company. You will find this study reported in two chapters of a book entitled "Group-Centered Leadership," authored by Thomas Gordon and published by Houghton-Mifflin this year. Jim's description of how he had to change his method of handling human relations problems in the organization is especially interesting to those of us who are trying to understand the results of studies in "Group Dynamics." It is especially noteworthy that he took the initiative to call in professional consultants to make a study of the effects of his approach to the problem. Although Red Jacket is not a large company, the results may help you to convince some of your managements that similar studies are worth trying. Mr. Richard has made a real contribution to better understanding the phenomena involved in development of leadership in an organization.

The *Harvard Business Review* carried an article recently written by Bill Merrihue of General Electric and Ray Katzell of Richardson, Bellows, Henry and Company, which describes some research done by G. E. to develop a pulse taker known as Employee Relations Index. E. R. I. is a new tool developed by G. E. for G. E. to help its management take constant readings based on data routinely collected and easily available. Such items as absentee rate, number of visits to the plant dispensary, number of grievances filed under the union contract, percentage participation in voluntary and contributory insurance and the like, appear to have definite relationships to production. Here is another sample of a piece of well designed research which I am

happy to see has been published. This research is an excellent example of a management making use of professionally trained social scientists to help it with trying to understand how to do a good job in the human relations area. If the E. R. I. works out well for G. E., the technique could have a far reaching effect on production and job satisfaction for many companies. Here again is another case where companies cannot blindly adopt the research results of another company. General Electric has added research knowledge which may help us to understand the overt manifestations of employee satisfactions or dissatisfactions on a continuing basis. But the factors which show plus or minus for G. E. in the Employee Relations Index are not necessarily reflective of the feelings of employees in other organizations. I hope many companies will do the necessary validity research to find out.

In recent years there has been a tremendous interest in getting people to read faster and many busy executives have taken training in this skill. There is enough evidence now from a few sources that people can be taught to read faster and articles have been published testifying to improved reading speed. I presume that busy people want to clear their desks of the mountains of paper that could accumulate if each piece of paper had to be carefully read. I also assume that these papers are sent to them to read because someone thought it was important for this to be done. A solution to the problem could very well be one of organization change rather than getting people to read faster. If research along this line has been done, I hope that the study will be published. All organizations could use some knowledge on how to help overcome our growing problems of cellulose indigestion.

In the short space of time allowed me on this panel I cannot possibly mention all of the excellent research which has been done over the past few years in many companies and by the Armed Forces. I take this opportunity to applaud the companies and organizations which have made use of social science to help them with finding solutions for problems in human relations. At the same time I am sorry to say that there has not been enough publication of results. I know that much of the research has not turned up solutions. Even so, we ought to know about negative results, too, so that we can use our research talent and time to explore unknown areas and try new methods to find possible answers to perplexing problems in human relations. By publication I do not mean rushing into print with dramatic headlines, to startle readers. This kind of publication often

does more harm than good. I do mean publication in professional journals or private publication which will be made available to practitioners and students in the field who would be expected to examine the results critically and constructively.

If all of us engaged in this important work make the results known we can help each other by making use of the knowledge which has been tried and found to be valid. Thus, we will be adding to a body of knowledge in the relatively unexplored field of social science.

I would like to close by addressing my remarks primarily to staff men, who, like myself, have the job of being "front men" for researchers. We are the salesmen, the persuaders, who can make an impact on line management if we can show that it is not only worthwhile to do industrial relations research but we must do such work if we are to keep our economic system and our companies dynamic. Here are a few brief thoughts which I hope will be useful to those who have a real interest in making contributions to the future of industrial relations research in industry:

1. There is a lot of important research going on in companies but we need to do much more. We have only scratched the surface of knowledge in understanding human relations in industry.
2. We can get a lot from each other but we must be willing to do the necessary work to validate research results which have been found successful in the places where the original work was done.
3. Social science research should be in the hands of professionally trained scientists. We do not turn amateurs loose in our physical science laboratories.
4. We should try to get research budgets large enough to do meaningful work. Pilot studies are useful but results should be tried out in other parts of the organization to make sure the findings on a small scale are valid for the entire organization.
5. Let us face the fact that there may be negative results. Convince our managements that we must be given a chance to find solutions but never promise that we will find them quickly or cheaply.
6. When research has been completed and the results tried out persuade our managements that we should publish the results and make the information available to other researchers.

INDUSTRY'S USE OF OUTSIDE HUMAN RELATIONS RESEARCH ORGANIZATIONS

ROBERT C. HOOD
Ansul Chemical Company

MY ASSIGNED TOPIC is "Industry's Use of Outside Human Relations Research Organizations." I would like to look at this in terms of the problem of getting research more effectively used by managements. I will also discuss the roles of the university center and the industrial relations manager in achieving this.

The problem is two-pronged. There are difficulties in making managements aware of pertinent research that can be used in their organization. But there are also equally strong difficulties in getting the research used, even when there is an awareness. This stems from the difficulty of getting the research translated into an effective action program in an organization.

I would like to deal with this subject in this way:

a. First, a look at some of the difficulties in communicating research results—difficulties that stem from the experience and personalities of both managers and of researchers. Also—a look at the problems of adequate communication in research reporting.

b. After exploring these difficulties, I would like to discuss some of the things I feel researchers can do to alleviate these problems.

c. I would like to look at some of the things that I think management (both industrial relations people and top managers) can do to help alleviate these problems. In this latter area, I will draw particularly heavily on my own experience in our company.

This is obviously no authoritative analysis of the subject. I would prefer that it be thought of as the opinion of one management person who, like the rest of us here, is deeply concerned about how to make better use of human relations research in solving the increasingly complex problems of managing a business.

One definition of research to which I subscribe is: "research is

knowledge about a phenomenon for purposes of prediction or control." A corollary statement which is equally important, I believe, is that "research is useless until it is used to guide the action of men." It is in this context that I would like to explore the problem for the next few minutes.

Why Is Industry Not Using Social Science Research More Effectively?

One cause of the difficulty is, it seems to me, the very different backgrounds, experience, and goals of the industrial manager and the social science researcher. In a sense, they come from two different cultures and they live and work in two different cultures. As a result, we have the same problem that we face in any other inter-cultural relationship—namely, the understanding of the foreign culture. Let me draw this analogy out a little further—first, from the point of view of the managers. When they set foot or eye on the foreign soil of the research culture, they usually do so with attitudes similar to travelers setting foot on foreign soil. For example, some of us have the "tourist attitude." When a tourist visits another country he is usually looking for interesting gadgets, souvenirs, and other "bargains" which he can add to his collection. He brings back these gadgets and applies them because they are not in conflict with anything he already believes or has. The manager who uses research this way tends to transfer it to his company bag and baggage with very little concern for its actual applicability to his problems. We can illustrate this through the increasing use of packaged human relations training programs. These programs employ research findings and apply them pretty indiscriminately to all situations in ways never intended, I am sure, by the researcher.

In the second category of managers who go to research land is the man who wants to find a home away from home. He is like the American tourist who thinks that residents of some European countries are barbarian because of the way they wield their knife or fork or the lack of inside plumbing, etc. In other words, he judges everything by his back-home standards and makes relatively little attempt to find out anything about the culture he is visiting. He is the man who never bothers to learn the foreign language because "the foreigners ought to speak English." Similarly, we find managers who have no patience with the "long hair" researcher and his "gobbly-gook" and fancy diagrams. This man, according to our manager, is obviously

a dreamer who has no awareness of the practical realities of running a business. Hence, his product can be of little use.

In the third category is the manager we might call the "Pilgrim." This is the manager who goes to research land as if he were going to Mecca. He goes to get the good word—not bothering to evaluate it in terms of practical application, and he brings back the gospel and applies it across the board to problems for which it may or may not be applicable.

Obviously, these are extreme analogies and yet all of us fall into some of these categories from time to time. There is a fourth category which we might call the "student traveler." He is working on a problem or a series of problems and he goes to the other culture to see what contributions it has made to the same problem. He collects all the knowledge and insight that he can about what they are doing in the foreign culture and then he screens what he finds through the sieve of his own problems in order to see what is relevant. This person has an experimental mind and he is not prone to prejudge what he finds. Rather, he is inclined to search out more and more the thinking of the people in the research culture with the thought in mind that some of what he finds is bound to be useful.

The basic problem here then is to try to find ways of getting more managers to have the student traveler's attitude when they go visiting in research land.

Why Do Managers Act This Way?

We can speculate for a minute as to why so many managers do go as tourists or boiled back-homers or pilgrims. I would guess that this probably has something to do with the sense of security of the individual manager and with his problems of resistance to change. Relative to the security factor, I know that a number of managers, believe it or not, are scared to death of the college professors. Perhaps it is because they only went to high school themselves; or maybe it is because they feel that the professors know too much and that they, the managers, will look silly. Whatever the reasons, the resulting action is often to create the myth of the "long hairs" and to stay away from them.

Other managers might stay away for another reason. They have come up the hard way and have built a successful, profitable company with high profits and low turnover. As a result, they feel pretty comfortable in the success of their own management, so why waste energy

in exploring academic research—energy that could be used in running the business.

Again, these may be extreme analogies but it seems to me they are at the heart of some of our problems.

How About Research Men?

I am not a research man but I have spent a lot of time with a number of them and I would guess that we could draw the same set of analogies for the research man's attitude as I have drawn for the manager. We have all heard of the research man who visited a company and came back from "industry land" feeling sure that an adaptation of the executive's lunch room and the entertainment expense account would be very fine ideas for his own group. It is the same tourist approach, isn't it? Then, there is the researcher who has no basic interest in the people who work in industry since they are all capitalists and morons who have no interest except in making a dollar. He is most interested in them as useful subjects for his research. He limits himself pretty much to the particular project and makes little attempt to find out very much about them as people. I am sure there are research men who believe that the only research that is meaningful in this area is that which grows out of actual management problems.

I believe we can say that probably the cultural differences between the research people and the operating management people are one basic problem.

The Problem of Research Reporting

Another factor that affects the use of research, it seems to me, is the nature of the research reporting. Let me list a few specifics that I think cause difficulties:

1. Research reports are frequently too technical for application by operating managers. The research report is incomprehensible and, therefore, it frightens the manager and he tends to ignore it.
2. Some specific research is not applied, in the reporting, to other situations. It is difficult sometimes for the layman to generalize from a specific piece of research.
3. The layman in reading a research report thinks that the research is on too small an aspect of behavior for use in a complex operating situation.

4. Industrial men with a scientific background—engineers, chemists, physicists, etc.—read research reports from the social sciences and they feel that they need more data—that the research is not definitive. They compare this to the research in the physical sciences and find it lacking. I know of more than one situation where technical men, because of their training and background, have blocked management research.
5. The research report is too tentative. The manager in reading it says, "This is too experimental. I will wait until it is further tested."
6. The researcher is sometimes afraid that a manager will use a piece of research which is related to a number of other researches, without proper analysis in relationship to other knowledge. In other words, the manager will read a specific research piece and jump to unjustified conclusions as to its application. The result usually is that the researcher is rather timorous in sharing research findings with the manager.

We could go on with the list. I simply mention these to indicate some of the things which I am sure are obvious to all of us here. They must be considered in improving the use of research by management.

How Do We Use New Research Knowledge To Change Behavior In An Organization?

The third area of difficulty, and in my mind perhaps the most significant, is the difficulty of transferring new knowledge gained from research into changed behavior in an organization. In other words, how do we handle the training function? Let me illustrate this. The Survey Research Center has made a study of Detroit Edison which indicates a relationship between absenteeism by employees and supervisory performance. This, it seems to me, is a significant piece of knowledge for every manager, but what's involved in using this knowledge? We know that giving copies of this research (which is written, incidentally, in simple English) will be interesting to our managers but what will it accomplish in the way of improved supervisory performance?

If this finding, and others similar to it, are to be effectively used, they must be part of the weight of evidence which increases his effort in upgrading supervision. Supervision does not get upgraded overnight, so the usefulness of this research to an operating business might

not be felt for months or even years after it has come to the attention of the manager or the management. The point here is that the skills of applying research results to the operating situation require a great deal of practice and effort on the part of the top managers—an effort which is often considered too great for the results to be achieved.

What Can Research People Do About It?

Obviously, a number of the things that can be done are matters of individual attitude, such as I referred to earlier. However, I would like to suggest as a starter for our thinking, some specific activities that I think might be helpful from the point of view of the researcher:

1. I think there is a need for considerably more study on how research is applied in companies. Perhaps this is something that could be undertaken by research institutes or foundations.
2. There has been some work done but I am sure more needs to be done in studying the problems of communicating research results. I should think a group such as this could make a real contribution in this area.
3. Perhaps we should bring more management people to programs at which research results are communicated. There are a number of such programs now, such as the Foundation for Research on Human Behavior, the National Training Laboratory seminars, the Harvard Business School, MIT, and others. There are also a number of research centers which are not yet including this kind of activity as part of their program.
4. We can step up the efforts to collect comparable studies on a particular subject and compendiums or summaries of research.
5. We can find ways to increase the distribution of such summaries and compendiums.
6. We can step up the efforts to provide constant help to practitioners.
7. We can promote exchange programs—emphasizing efforts to place graduate students in short-term assignments in industry.
8. We can increase the effort to "translate" technical reports into "readable" reports of findings.
9. We can encourage efforts to publish analyses of research angled at application.

These are just a few of my own thoughts and I hope that in the discussion we can amplify this further.

What Industrial Relations Oriented Managers Can Do.

Those of us in management, it seems to me, can do a number of things:

We can make more systematic effort to identify areas where help is needed. This could be in such fields as training, labor relations, appraisal, selection, etc.

We should develop better procedures for keeping in touch with university and agency sources for research in these areas.

We can take operational problems to researchers . . . talk more to them.

Let's establish continuing relationships with research organizations on a consultant basis. Bring them to the company and familiarize them with our management problems.

Encourage these consultants to look for applicable research to help solve our problems.

We can keep abreast of the work being done in various centers, both through correspondence and through personal visits.

We should have more top line managers attending seminars and conferences with researchers.

We should make more line managers in the organization aware of the contributions research can make. The goal is to have them think instinctively of checking with research sources when they have an operating problem.

Again, this is a brief starting list and any one of us in this room could, I am sure, make his own list which would probably be different. This list grows out of my own limited experience at our company. Perhaps it might be worth taking just a brief moment to describe how our management got interested in this field.

How Ansul Became Involved In This Area.

General study and reading in the field of management led me to an investigation of what research was going on. I explored the work at Harvard, Michigan, AMA, and other centers. In 1952, our industrial relations director and I attended the National Training Laboratory in Group Development where we spent several weeks with a number of research people. It became apparent to us that there was a gold mine of help in the universities. As a result, we established a

practice of encouraging our operating managers to visit research centers for consultative help on operational problems. We have received invaluable assistance on such management problems as training, cost concern, labor relations, and executive development, to name a few.

Concurrent with this, we began checking our own management practices against the existing body of knowledge. This led us to consider further contact with research people. We began inviting social scientists to the "Ansul campus" for seminars and informal discussions with our managers within the plant. This led to the use of researchers as consultant resources on various operational problems. For example, Dr. Floyd Mann of the Survey Research Center helped us develop, based on his research, the plan for our cost concern program which has saved us almost ½ million dollars in the last fiscal year. Dr. Alvin Zander from the Research Center for Group Dynamics has consulted with us on our training program.

We have used consultant help of universities and institutes to help us apply research findings to our problems. In addition to university men, we retain other consultants in the training and development field who are familiar with our problems and can help us discover and apply research knowledge to them. We are currently engaged in a program of re-evaluating our appraisal and coaching methods using this formula. With the aid of an industrial psychologist we are constantly reviewing and training our top management team.

For several years we have been using research findings as the content for in-service training. For example, last year we instituted a series of meeting improvement clinics using findings on group behavior and the skilled training method. This latter had been developed at a number of university centers and at the National Training Laboratory. The results of this program, which was given to three levels of managers, have been significant in increased productivity and reduced costs.

We are constantly working to establish among our managers a sensitivity to the existence, responsibility and usefulness of better social science research. It is not unusual to hear in a staff meeting one of our executives ask, "Has anybody done any research on this problem?"

Perhaps the most significant thing in our own company has been the application of a research or fact-finding point of view to the solution of many operational problems. The change in the handling of

our human problems has been very noticeable to me in the past few years. Where formerly we jumped to conclusions based on the experience of the men around the table, we have now established a pattern of going out and collecting data systematically as a basis for dealing with many of our human management problems. We used this method successfully in a foremen selection program, in revising our appraisal and cost concern program, in our functional reorganization, and in a number of other activities.

I mention this experience at our own company to provide a basis for my suggestions as to those areas where I think managers can do something about this problem.

What Can We Do Together?

In addition to the things that managers and researchers can do individually, let me in closing suggest a few things that I think we can do together. These are things that I am personally committed to, as a program for improving the use of research by industrial managers.

1. Meetings like this should be broadened to include the "non-converts."
2. It is possible that company groups could meet periodically with researchers from universities in their regions.
3. We can promote broader distribution among managers of announcements of seminars for research and operating people.
4. Let us encourage visits of researchers to companies (internal development programs, etc.)
   a. International Harvester "visiting professor" program.
5. Industrial managers can give broader support to institutes and research centers.
6. There must be more effort by industrial relations men to get top managers to meet with researchers.

DYNAMICS OF REACHING MANAGEMENT

W. R. G. BENDER *
E. I. du Pont de Nemours and Company Inc.

In this phase of the general subject, I plan to discuss the problems of communication between management personnel and those responsible for conducting research in the behavioral sciences.

Until recently, possibly within the last decade or so, most research effort, directed toward a better understanding of human behavior, on the part of the various disciplines, including psychology, social psychology, sociology, anthropology, physiology, and even economics, suffered somewhat because of the following:

The social, or behavioral, sciences were young and relatively new in comparison with the physical sciences; they had not matured, so to speak.

Whatever research *was* done was carried out mainly in the laboratory—*not* in the practical setting; now we have more so-called "action research" or "problem-oriented research."

The point of view, the conceptual frame of reference, was mechanistic or elementalistic; now the orientation is "dynamic."

There was a lack of integration of the behavioral sciences; there were many and varied schools of thought, and petty barriers existed between disciplines; now we hear much about the interdisciplinary approach in research without much actual experience with this task-force idea.

No honest effort to communicate on a practical basis was undertaken by the "professional personnel" in the behavioral sciences; research studies that were completed were published in technical journals that never reached the business man's desk. What did come out under the aegis of "social science" information was an overpopularization of questionable materials. Furthermore the language barrier itself was something of a major block to communication between "professional" and "layman"; this problem of vernacular and jargon is still evident today.

Finally, the feedback, and translation-into-use, of research findings was left to chance.

* In Dr. Bender's absence, his paper was read by Frank E. Wilder of Socony Mobil Oil Company, New York.

Today there is evidence of an increased interest in and actual conduct of research in the behavioral sciences, not only on the part of the "professional" but also the "layman." There likewise is considerable enthusiasm on the part of laymen to obtain answers to the question *What do we really know about human behavior?* The interest in research is manifest not only by foundations and college and university groups but to a greater extent than before within industrial firms. I am not referring to the simple operational studies, but honest-to-goodness research focused upon problems in the broad area of employee relations.

For some time my interest has been in the *effective conduct of research WITHIN the practical setting*—i.e., industry. In the experience gained over a ten-year span, it is possible to arrive at some conclusions, many of which I shall pass on to you, for what they are worth.

First of all, it is essential that anyone who expects to conduct research in the industrial setting, be someone really research-minded, therefore, willing to learn and grow. Those who become "generalizers" and/or technologists (applicators of gimmicks and packages), stop learning, hence become less and less effective in research effort, particularly *within* industry. *All the answers are not in!* Furthermore, the variables in any problem involving human behavior are many, are changing in their relationships in time, and therefore must be continuously studied.

Second, problem-orientation in the practical setting is a requisite. Despite what one who expects to conduct research might *feel* or *think* is a problem, it is necessary *to learn* from management what the real problems are. To be sure, discussion between management personnel and the so-called professional helps to clarify a problem. Out of such consultation it becomes apparent that management may not always be acquainted with *what already is known,* or may have biases about, or has difficulty of translating intellectual know-how into action. Most businessmen, if I may generalize, seem to me to be very astute when it comes to practical understanding of ways and means of dealing with problems in employee relations.

Third, the research approach to "problems" must stem from a broad, well-integrated conceptual frame of reference on the part of the researcher. This frame of reference, to which I refer, is concerned with human growth, development, and behavior, regardless of what discipline contributes, in whatever way, to the complex configuration and interrelatedness of factors. The building and maintaining of a

workable frame of reference requires constant and continuous interchange with individuals in the behavioral sciences, particularly those conducting *research,* to keep abreast of insights being developed and especially any contributions to methodology.

Fourth, research effort within industry must go forward "the way the ball bounces." In other words, the fine controls that may be exercised in a laboratory study are not always possible in the practical setting. If amenable to learning, the researcher stands to grow in stature through such "action research."

Fifth, a research person, operating in the practical setting, must key himself to face certain problems he will inevitably encounter, e. g., "getting answers in a hurry" and "being practical." The manner in which an industry operates in a highly competitive situation, and the fact that management has been influenced to some extent, through popularized notions, by the "gimmick-and-ready-answer" people in the behavioral sciences, tend to emphasize the "speed" in research effort and the practical angle.

Probably due to the mechanistic emphasis in the behavioral sciences in the past, there is a carry-over yet today of the somewhat inadequate single correlation approach in the treatment of research data. As a matter of fact, there is still the cry of "keep it simple!" Still with us are these habits: the listing of traits, the "adding up" of scores, the correlation coefficient of .56, etc. Such residue creates problems in communicating with management. There has been built up over the years an expectancy, or a hope, that behavior can be boiled down to a few simple elements and that the relationships between such elements are simple and constant.

Sixth, and *probably the most important,* is obtaining management involvement in the research, from the initial stages of consultation right through to the conclusion of a study. Getting management embroiled does not imply the notion of a "guinea pig;" it means regular contacts to discuss every phase of the research. Apparent are the values that accrue from such involvement. Over a period of time, the learning that takes place, including that on the part of the researcher, spells progress. Learning in this area, involving some change in behavior, is *slow.* It cannot be achieved either through a one-shot approach in consultation or a voluminous technical report at the close of the research. It becomes obvious that, with such involvement, the so-called problems of feedback, and translation-into-use, of findings, about which so much is written, become reduced to a minimum.

Finally, effective research requires follow-up, once findings of a study have been presented to management. Any action that has been taken and the results of such action need to be evaluated to adequately complete any research project. It occurs to me that in many studies published in the past there is no evidence that there was any use made of the much-blown-up findings. Even in some industrial firms, where studies have been conducted by outside groups (college, university, consulting firms, etc.), I have learned that *there has been no translation into use,* no subsequent action.

As can readily be seen from the above, the problems of communication, involving on the one hand management of the firm and on the other those representatives of the behavioral sciences *within* the industry, are not easily resolved, but tend to diminish in time if certain procedures are followed. To carry on research effectively, management must be involved ; under such conditions, both management *and* the research personnel stand to learn. Communication should improve, because "feelings of difference" will in time tend to dissolve, acting less and less as blocks in communicating.

Much of what has been discussed to this point has focused on the *within-industry* "dynamics of reaching management." Some of these principles, if I may refer to them as such, are applicable to those in consulting firms and in college and university groups that offer psychological and related services to industrial firms.

Therefore, an attempt will be made to provide a few more "guides" with respect to the subject of the "dynamics of reaching management."

Smaller companies, those industrial firms without a "personnel research staff," need help and guidance. Managements in these firms need to have a little confidence in the function of research. What might be helpful is to apprise them of what other, larger industrial companies are doing in research. As a matter of fact, we do a lot of interchanging with industries throughout the year, including exchange of information regarding use of "social science" knowledge and personnel and/or industrial relations research.

Perhaps another "guide" is to make use of the research technique in connection with just ordinary problems, before attempting any large scale study. Management incomprehensibility of an involved research project is such that it acts as a block to communication. A modest approach in application of research technique acts as encouragement to management.

So much depends upon the "personality makeup" of the researcher, that a matter of emphasis is justified. Acceptability of the researcher is paramount. The "long hair" look and behavior pattern do not help in establishing lines of communication with managements.

Another help, in relations with management, is for the researcher to take the BEST that is written, in a given subject area in the behavioral sciences, and to brief the material in terms management comprehends. The emphasis is upon selectivity, critical review, and preparation of materials for management consumption. In this way management learns of a resource—a means of obtaining additional insights.

Possibly some managements might benefit from judicious use of an "outside consultant," providing a high degree of selectivity is followed. A consultant, taking the *time* to observe, *learn,* and interchange with management, could be of considerable help in bridging the gap between the behavioral sciences and industrial managements. But not every person who considers himself a consultant is going to be equally effective; and *time* is essential. Nothing is going to be accomplished in one or two meetings. In this relationship much depends upon the "literacy of the social scientist" in eliminating the blocks to communication.

As a final comment, I should like to stress that there is a need today for research of a "high order." Much that has passed for research is hardly worth the effort of reading. Too much is being written and published that adds nothing (and sometimes confusion) to what is already known. Also, in the publishing of research findings, I would emphasize the importance of including not only the "positive" but also the "negative"—the mistakes, the difficulties, the "things that didn't work," and so on.

Part V

GERMAN EXPERIENCE WITH CODETERMINATION

GERMAN EXPERIENCE WITH CODETERMINATION

A PANEL DISCUSSION WITH AUDIENCE PARTICIPATION[1]

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Chairman: W. H. MCPHERSON
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MCPHERSON: The purpose of our session this afternoon is to pool our observations and compare conclusions regarding the way that codetermination has been working thus far in Germany, in the hope of reaching some degree of consensus and particularly of making clear to ourselves what our various disagreements may be.

First, just let me say a word as to the meaning of codetermination. It means an equal partnership of labor and ownership in the operation of the enterprise, and is achieved through labor representation on the supervisory and managerial boards. This form of codetermination is found in Germany only in the steel and mining industries.

In German literature on union goals, codetermination at the corporate level is linked closely with other types of union-ownership joint action at the industrial and national levels. But these other parts of the union program have not been achieved as yet, and I don't believe there is much prospect of their achievement in the near future. So we are not discussing these other types of joint action, but only the joint

[1] This session was tape-recorded, but space limitations have made it necessary to condense the papers and discussion to about half of their original length. I sincerely hope that no one's statements have been seriously warped in the process. —W. H. McPherson.

determination that exists at the corporate level. This doesn't mean that we don't realize that in German writing the idea of codetermination is closely associated with the ideas about joint action of ownership and unions on the industrial or national level; but that is not our concern here today. Also the lesser degree of union influence in German industries other than mining and steel is not particularly our concern today, although that too is sometimes referred to as a form of codetermination.

As to actual mechanics, codetermination is achieved in these two industries first on the supervisory board, which corresponds roughly to a board of directors in an American corporation, except that its powers are perhaps more limited. On the board is usually a total of eleven members, of whom 5 are appointed by labor (that is, by the works councils and unions) and 5 by ownership, leaving an additional odd member who is jointly appointed by the others. Thus there is really a 50-50 basis there between labor and ownership, as far as membership appointment is concerned. At the managerial board level, the corporation is operated by three managers: the production manager, the business manager, and the labor manager. Sometimes there may be more than one production or business manager. The labor manager is primarily a representative of labor.

We are going to discuss codetermination under several headings, with each one of the panel members making a brief initial sttaement on the particular heading he will deal with. The first topic is the *Effect of Codetermination on the Management Functions,* which will be presented by Michael Blumenthal of the Industrial Relations Section at Princeton.

BLUMENTHAL: During 1953-54, I studied ten German steel companies operating under codetermination. Most of my comments this afternoon are based on the results of this research.

I am interpreting the "management function" to include the two major organs of decision making in a German corporation: the supervisory board and the managerial board.

With regard to voting practices on the supervisory boards, three findings stand out. First, the implicit assumption of those writing the original codetermination legislation that frequent and lively battles would arise on the boards among labor and ownership representatives, reflected in sharply split votes, was not borne out in practice. In none of the ten companies examined did the neutral board member have to break a labor-ownership voting deadlock. Secondly, there appeared to

exist instead a quite remarkable degree of unanimity in board voting. Third, where the votes split, the division always occurred on the labor side. No examples of the ownership side breaking ranks were noted.

The absence of 6:5 voting splits and the frequency of unanimous voting on the supervisory boards does not necessarily mean that co-determination "worked" or "was a success." An analysis of the reasons for the absence of voting splits shows this rather clearly.

One explanation is that the functions of this board are quite limited. Many issues, over which labor-ownership controversy could arise, are not taken up by the supervisory board at all. A second reason lies in the manner in which the agenda for board meetings is determined. The drafting of the agenda is a responsibility of the managerial board; and the managers customarily submit for supervisory board approval only issues on which they have already reached agreement. The supervisory board is thus largely a ratifying organ. The third reason why controversy and split voting were so rare is that a number of specific techniques of accommodation among labor and ownership representatives have been developed under codetermination. Because of the use of these techniques, codetermination has operated rather differently than had been anticipated.

At least four such techniques of accommodation are frequently used. One is the caucus. Here, labor and ownership representatives meet separately prior to the full board meeting to discuss the issues on the agenda. The managers frequently attend the caucus, and try to "sell" the compromises they have reached among themselves to the men on their side. Thus the labor manager will work with the labor side of the supervisory board and the other managers will deal with the ownership representatives. Much potential controversy is eliminated in this way. The second technique is that of postponing or tabling issues over which agreement cannot be reached at once, rather than risking immediately the possibility of a split vote. The third method involves the appointment of an *ad hoc* committee by the board chairman when agreement cannot be reached in the full board. Such a committee has full power to settle the question in dispute. This is particularly useful where some board members are unwilling or unable to go on record as favoring some compromise for "political" reasons. In such instances they are often quite content to have the matter disposed of by a body over which they can truthfully claim to have no direct control.

The fourth method of accommodation is of special significance. For want of a better term it is best described as "horse-trading." The

Germans change only the animal in question and call it *Knhhandel.* Horse-trading refers to the practice of trading off mutual advantages among the two sides, of giving labor as much decision-making power as possible over wages and working conditions in return for a free hand for ownership in most other matters. It is probably the major reason why labor and ownership representatives have been able to work together on the supervisory and managerial boards without real difficulty.

The use of standing committees as sub-organs of the supervisory board provides an excellent illustration of horse-trading. Three or four such committees are generally set up. One may deal with wage matters, another with investments, a third with employee welfare and a fourth perhaps with engineering questions. The composition of these committees is significant. In all companies studied, labor representatives were given a majority of seats on committees dealing with wages and working conditions, while ownership representatives predominated on most of the others. It is customary for the full board to accept the recommendation of its committees without much question. This is indeed an important explanation for the absence of split voting.

But there is a further implication. Horse-trading in committee staffing means that, in practice, labor under codetermination gains more than equal power over decisions regarding a limited number of issues, primarily wages and working conditions, and in return largely relinquishes its right to exercise an equal voice in most other decisions.

This analysis of the operation of the supervisory board shows clearly the crucial role played under codetermination by the managerial board as the effective organ of day-to-day decision-making. The importance of the labor manager can therefore hardly be overemphasized. The extent to which labor can derive concrete benefits from the codetermination system depends perhaps more on him than it does on the decisions taken by the supervisory goard. Similarly, the relationship of the managers to each other and the working arrangements prevailing among them have at least as important an effect on the successful functioning of codetermination as the decision-making processes at the higher level.

The codetermination legislation provides that the labor manager has the right to participate in *all* board decisions and that the managers *jointly* share the responsibility for all board action taken. Yet, in day-to-day operations, authority over a good many matters must of necessity be delegated to each manager for his particular area of re-

sponsibility. The labor manager thus automatically does not participate in many important decisions made independently by the business and production managers and vice versa. Over some issues, notably those connected with wages and working conditions, the labor representative has more than equal power. In most other matters he has actually considerably less than an equal voice.

Each manager has the opportunity to participate in making those decisions which are taken up jointly in the more or less frequent meetings of the full managerial board. How far the labor manager's *de facto* participation in decision-making extends beyond his immediate area of responsibility depends therefore to a large degree on the particular arrangement made among the managers with respect to what can be decided individually and what must be agreed on jointly.

Significant differences existed here in the various companies. In some cases the labor manager participated widely in decisions dealing with a vast range of issues. In others, he was in fact restricted largely to his primary management responsibilities. A labor manager with breadth of training, personal strength, drive and some real ability was sometimes able to win relatively quickly the respect and cooperation of the other managers. Here a wide sharing of responsibilities might ensue. Others, who did not have these qualifications or who had to deal with very intransigent opposites, found codetermination on a broader scale much more difficult, if not impossible.

The managerial board in the ten companies in most instances was able to function smoothly, in spite of the presence of a labor representative, with at least some clearly different objectives and interests. Moreover, he was able to achieve some real gains for the labor side.

The explanation for this lies in what I have earlier called "horse-trading." This principle operated even more widely at this level than on the supervisory board. Each manager has the *de jure* right to participate in all decisions. There is, therefore, a keen awareness of interdependence arising from joint responsibility and accordingly considerable emphasis on the need for working together, along with a strong desire to find a mutually satisfactory working relationship. The answer, of course, is horse-trading: "You keep out of my affairs and I'll keep out of yours. You agree to my proposals for a new employee clubhouse, and in return I shall not interfere with your investment plans." Through such arrangements controversy and friction can be minimized. Moreover, this is the lever which the labor manager can and does use to varying degrees in achieving gains for the workforce.

A final point relates to the difficulties created for the labor manager by the inherent contradictions of the codetermination principle. He, more than anyone else among labor representation in the company, is confronted with the dilemmas arising out of his anomalous position as a representative of labor on the one hand and as a member of management on the other.

It is really surprising that he was generally able to operate so effectively in spite of this anomaly. Moreover, at least in the ten companies examined, he did so with neither a serious loss in aggressiveness nor a failure to identify himself sufficiently with the labor side.

I have already alluded to the gains in wages and working conditions achieved by the workforce under codetermination. Investigation showed that the labor manager was generally the moving force in effecting such gains. Whatever loss in aggressiveness occurred has therefore so far not been crucial.

As regards the expectation that the labor manager will become "management-oriented," it is true that little difference exists among the three managers in their outward appearance, office surroundings, and privileges accorded to them. But interviews with them soon led to the impression that certain differences in outlook and objectives persisted. The labor manager remained very much a labor man.

Perhaps the answer lies in part in the background of the men appointed to these jobs. Often they were not only life-long "professional working class champions," but also dedicated Socialists. Many of them saw these jobs as a mission, with an underlying philosophical justification and a very real, long-sought-after objective. Their thinking and their personality were geared to this philosophy. It would therefore not have been easy for them to become management-oriented. There is, of course, a real question, how future generations of labor managers, without the same dedicated background, will react in similar situations.

MCPHERSON: You mentioned the committees set up in the supervisory board and the fact that labor members usually have a majority on the wage and employee welfare committees, whereas ownership representatives usually are in the majority on the finance committee. I assume that the significance of this over-weighting is not in any possibility of outvoting the other side, but that decisions are reached in these committees on a consensus basis, just as in the board as a whole. Just what is the significance that you attach to this method?

BLUMENTHAL: That's very true, I don't think that formal votes

are generally taken on these standing committees. The point I would like to make is that the fact that there is a preponderance of labor representatives on certain committees and of ownership representatives on others reflects the spirit of horse-trading. In other words, the preponderance of weight for the labor side will be exercised and tolerated by the ownership side on certain issues, but not on others, and vice versa.

WEIGERT: Maybe there is a difference of policy between the ownership people representing bank interests and some other industries.

BLUMENTHAL: These ownership representatives in the ten companies I studied always acted as a group, regardless of whether they were representatives of banking interests or even of foreign investment interests, who were appointed to these boards. They managed somehow to stick together and to have a common line, more so than on the labor side.

MCPHERSON: I might explain that the particular reference to the influence of banks results from the fact that in Germany the proxies of the stockholders usually go not to management but to the banks.

KERR: I'm not as much impressed with the favorable effects of codetermination in Germany as Mr. Blumenthal is. I might note that his study was in steel, where it has worked longer and better than in coal; and the situation in both is much more favorable than in other industries under what is called the "general codetermination law," but which isn't codetermination at all, although it has some aspects of codetermination.

I wonder whether the position of the labor director isn't already deteriorating, partly because some of them had not been effective and had become subject to the "aristocratic embrace" of the managerial class; but also because the situation was changing in the iron and steel industry. Initially the major problems that had to be handled were labor and social problems like housing and so forth, while now the main problems are those that affect the technical manager and the business manager more than the labor manager. Thus the position of the labor manager is decaying because of the different nature of the problems facing the firm.

BLUMENTHAL: I think it is a function of personality to a large extent. I would be very surprised to see a number of labor managers I have in mind being successfully restricted to only the personnel area of activity. They had already made a place for themselves as full members of management.

WEIGERT: This split in the labor group—was that mostly a break between people who were representing the personnel of this plant and those who were named by the union?

BLUMENTHAL: That tended to be the case. Of course there were only a minority of issues on which there was a break. When there was a break, it was generally a question of members appointed by the works council and coming from the personnel of the plant being worried about the repercussions of a particular decision on their standing with the rank and file, or a question of poor communications. I know of some instances where they just didn't get together. They didn't talk things out, so that those coming from outside the plant simply took a different view.

TOLLES (Cornell): Would the local worker representatives or the union people from the outside be more likely to vote with the ownership representatives?

BLUMENTHAL: Sometimes it was one way and sometimes the other.

MCPHERSON: I would like to add a word on the question of middle management, since Mr. Blumenthal has dealt with top management. In the two plants that I looked at about three years ago, I found that codetermination was operating also at the middle-management level, in that each department head in the various departments of the personnel division had a bipartite committee of labor and staff members to formulate policies for his particular division, which then constituted recommendations made to the labor manager. Thus the participation of workers (in this case, members of the works council) through their membership on these six or eight different committees meant that they were participating in the formulation of policy on personnel questions at the lower level. As far as I know, that does not apply to the other divisions dealing with financial and production questions, but only to the personnel division.

Our second topic is the *Effect of Codetermination on the Unions* by Dr. Oscar Weigert, Special Assistant to the Commissioner of Labor Statistics.

WEIGERT: It is self-evident that codetermination has had its effects upon the West German trade union movement. Ten years of fighting for this program must have left their mark on German labor, even though many of these efforts were not successful. The Deutsche Gewerkschaftsbund (DGB) and its constituent unions, miners and metal workers, should be particularly affected by the arrangements in

coal and steel which are considered the true embodiment of co-determination.

And yet, it seems difficult to locate and to identify the effects of codetermination, and it is necessary to tolerate somewhat speculative statements. There are many reasons for uncertainty. One is the fact that the union movement has changed in several ways since Hans Boeckler's death in 1951. The big constituent unions are no longer dominated by the DGB leadership; quite the contrary! And under their influence, the union programs and policies have shifted from ideological demands to immediate action in matters such as wages and hours. Clearly, the unions' response to codetermination must have changed, together with all such basic shifts.

The impact of codetermination may be found in trade union attitudes and policies, but sometimes also in significant individual union actions. An instance of such an individual action was the 24-hour strike in steel and coal in January 1955. Its immediate cause was a speech by the industrialist Herman Reusch, one of the *revenants* in the Ruhr. He contended that in 1951 the unions had blackmailed Government and Parliament to win codetermination, and he demanded that the Coal and Steel Law be replaced by the weaker 1952 legislation. The strike was unanimously voted by the delegates of the miners' and metal workers' unions. Its general and forceful application, without much pressure or control, demonstrated that codetermination means something not only to union officials but also to the membership.

The absorption of qualified trade union officers—entirely or partly—into positions of labor directors and board members might pose a serious problem for the unions because such people are scarce and are needed for union work itself. In this respect, the effects of co-determination could be rather negative. The unions should, on the other hand, gain from insights which these men acquire.

Fears have been expressed in earlier years—and they may still prevail in certain managerial groups—that the DGB might develop a center of economic planning and direction with the aid of codetermination, and might attempt to run, through such a center, the mining and steel industries, as a first step towards their socialization. There is no indication that anything of this sort has been undertaken or even contemplated officially. Ludwig Rosenberg, member of the DGB Executive Board, wrote some time ago in an official pamphlet that through codetermination the unions recognized their responsibility not only for individual enterprises but also for the whole economy. But he

did not refer to any machinery through which this responsibility might be discharged.

In the same pamphlet, he calls codetermination "a new method to settle labor-management conflicts" and asserts that it will lead to changes in trade union practices. Rosenberg is not more specific than that, but his statements seem to indicate that the DGB expects more peaceful settlements and less open conflicts wherever codetermination exists.

There have been no economic strikes in coal mining and steel in postwar years, although strikes were voted more than once. Does this mean that the unions have been less aggressive in this economic sector where codetermination exists than in other sectors? No clear-cut answer seems to be possible to this question—but much seems to argue against a simple affirmation.

It is generally conceded that miners and steel-workers are entitled to top positions in the West German hierarchy, not only for their own sake but also for the common good. In the wage drives of the last years, their leaders have not asked for more than that, with the exception perhaps of the last conflict in steel. But in other industrial sectors too the union demands have, on the whole, been moderate, and strikes were extremely rare, although large groups of the German public are reacting with such emotion to every little strike, as though it meant a social revolution. While the miners have the general reputation of being sedate people, the metal workers' union is recognized as one of the most aggressive organizations. They do not seem to show a dampening influence from codetermination.

The DGB itself has been seriously criticized for its moderation by some of the union membership, by leaders of its constituent unions (particularly the metal workers), and by some of its American friends. Yet, men like President Walter Freitag seem to stick to this attitude even now when the original ideological DGB program has been replaced by an action program.

Is this moderation due, partly at least, to the effects of codetermination? We might hesitate to assume that, if we consider that (a) the experiences with codetermination in the coal and steel sector are not dramatic enough to impress any organization in a decisive way and that (b) the over-all program of codetermination on all layers of industry, to which the DGB was so deeply devoted, collapsed after hopeful discussion with the top employers' associations in the summer of 1950.

And yet, the *Wunschbild* (image) of a universal codetermination scheme may still be alive among some of the top men of the DGB. Their propensity to cooperate with the top leaders of management has been evident again and again—and had some remarkable results like the model mediation agreement in 1954. It may well be that the consistent readiness for such joint ventures is being strengthened by the hope of renewing at some future time and with better success the past negotiations, and thus to present to the world a German answer to the unsolved problems of industrial relations—an answer which at the same time might reconcile the opposite social schemes of West and Soviet Germany, as an essential contribution to German reunification.

A last word about another important aspect of our topic. Developments in recent years have, without doubt, impressed the West German unions with the need for greater activity at the plant level. Among the many factors responsible for this new awareness are the codetermination laws which are focused upon the individual enterprise and give imporant functions to the works councils. The rivalry between unions and works councils also enters the picture. If the unions are able to activate and strengthen their position in the individual plant, this new trend may be of decisive importance for their future.

MCPHERSON: I suggest that we defer discussion of Dr. Weigert's paper until we have heard the following one, which is closely related. The next topic is the *Effect of Codetermination on Collective Bargaining* by Peter Keller, Labor Secretary at the German Embassy in Washington.

KELLER: Ever since the principles of codetermination were applied in German coal mining and in the basic steel industry, much curiosity and speculation centered on the question to what extent and in what ways collective bargaining might be affected.

Many misgivings were voiced that labor through its influence on management would be sitting on both sides of the bargaining table, and, therefore, no genuine collective bargaining could take place. It was claimed that either the unions would restrain their demands for the benefit of the companies or, through labor's influence, management might be forced to grant unreasonable wage increases or other benefits. Only experience could show whether these doubts were justified. The recent wage dispute in the Ruhr steel mills gives a chance to observe and study some aspects of this problem.

Wage and salary policies of German corporations are the concern of the managerial board and not of the supervisory board. Of course, the supervisory board may make decisions binding on management. However, since the supervisory boards in the basic steel industry are composed of representatives of labor and share owners in equal numbers these boards are very unlikely to adopt binding wage directives but instead, they tend to leave such decisions to the managerial board.

This shows that Labor's influence on the other side of the bargaining table could be exercised only through the labor managers. Thus it might be concluded that the strength or weakness of the labor manager's position in his company is a decisive factor in collective bargaining under codetermination.

The present study of collective bargaining under codetermination is limited to the steel industry, because labor managers in coal mining have a much weaker position than their colleagues in steel. Of course, this limitation might lead to wrong conclusions. No definite conclusions can be drawn but only probabilities may be pointed out.

During the year 1954 the German steel companies subject to the codetermination law formed an employers' association of their own because they did not want to become members of the existing employers' associations, which had an anti-labor reputation. For the same reason this new group did not affiliate with the Federation of Employers' Associations.

In the fall of 1955, when the German metal workers' union asked for higher wage rates, a joint contract was in existence for both metal producing and processing companies in Northrhine-Westphalia. At the termination of this contract the companies wanted again to negotiate jointly for the basic steel industry, employing 250,000, and all other metal processing industries, employing some 650,000 persons. Only the unions' objection to joint bargaining compelled the two groups to negotiate separate contracts.

A new contract for the metal processing companies was negotiated, but in the basic steel industry the union held out for a higher increase and here, for the first time, a trade union was negotiating with an industry group in which codetermination had been firmly established for some eight years. During these negotiations, the attitude of the employers' association for the iron and steel industry did not differ too much from that of any other employers' group, nor did the union conduct its campaign by methods different from those in other industries.

This raises the question as to who exercises the dominant influence in the employers' association. This group and its leadership and working committees are not composed only of labor managers, as might be assumed because of their responsibility for labor relations. Labor relations were regarded of the utmost importance for the industry and the companies and, therefore, production and business managers take part in the activities of the employers' association. Furthermore, the influence of those managers who traditionally feel close to the share owners was increased by reason of the formation of newly organized holding companies in which codetermination does not exist, in spite of the fact that they control the affiliated companies. However, even if the stronger influence of this side may have contributed to the controversy, it has to be emphasized that the labor managers did not disagree with the point of view of their managerial colleagues but took exactly the same position.

After lengthy negotiations the union took a strike vote but did not call a strike. A new contract was negotiated on terms similar to those in the metal processing industry.

Without going into too many details, it is necessary to understand some of the difficulties under which the union had to work. For some time past the government, leading economists, and industrialists have conducted a campaign in which they urged moderation in wage demands and price increases. This rather effective campaign created a public opinion adverse to substantial wage demands. This may have been one of the reasons why the companies were so adamant in refusing the wage demands of the union. They felt that they were backed by government policies, leaders of other industries, and a large portion of public opinion.

Another handicap for the union was that the wage agreement was terminated on October 31st, while other contract provisions continued up to December 31st. Under those circumstances the union can not exercise the same flexibility in negotiations as if the whole contract had been due for renewal. Also, in spite of the fact that more than 90 per cent of all employees voted for a strike, it might not have been easy to call them out a few weeks before Christmas.

We have no way of knowing whether the position of the companies was justified when they refused the requested wage increases as unreasonable, or whether the position of the union was right when it maintained that productivity increases would have permitted the wage increases demanded by the union.

One of the peculiarities of this case was that many works council chairmen were members of the union's collective bargaining committee and decided the union's strategy, while at the same time—being so close to the labor managers of their companies—they informed them on everything they had discussed. It would be interesting to know whether the union was, as some newspapers indicated, hampered by a dispute between its militant and moderate leaders.

All these observations show that collective bargaining under co-determination is not very different from the usual procedure. Union and companies proved that they have sufficient independence to fight for their positions. But this case also indicates that the expectation that collective bargaining might become a bit more objective and less heated was not fulfilled.

An important result is the fact that the union leadership recognizes the managerial status of the labor managers. Through all the bitter words exchanged during this wage dispute unions still maintained the position that labor managers were and had to be managers of the company and not representatives of labor.

Also, the union recognizes that it neglected to discuss the wage problem with the labor managers before putting forward its official demands, in order to work out an understanding with them.

This shows that the union now understands the necessity of keeping constantly in close contact with the labor managers and maintaining a working relationship.

Future cases will have to prove whether the correction of the union's shortcomings in strategy and tactics will produce a marked change in procedures and results of collective bargaining under co-determination. Again I want to emphasize that the observations and conclusions made in connection with this case are not established definitely, but that they are only guesses, substantiated by a few facts.

SPIRO: My impression was that the steel corporations formed their own employers' association, not because they wanted to stay out of the regular association, but because they were kept out. The regular employers' association refused to let these people join because they did not consider them to be *bona fide* employers, since the labor managers as union members had a voice in determining the employers' policies; and this was the best kind of compromise that could be reached, i.e., a separate association affiliated with the regular association.

KELLER: I would not know how to argue the point at this time. What I remember is the discussion at the time it was formed.

KERR: I talked with the head of the employers' association for all of Western Germany last summer. Very definitely the National Employers' Federation does not expect to recognize the iron and steel group, because they do not want to accept labor directors as a general principle. So it is a matter of principle, at least in that Federation.

SPIRO: The way the employers' association of the steel industry operates is through an executive committee consisting of three managers—one business, one production, and one labor—who come from different companies. But the actual negotiations are conducted on their behalf by a couple of executive secretaries, so that in no case does a labor manager sit on both sides. Moreover, the collective bargaining agreements that are arrived at don't make too much difference, because they only set the minimum floor under wages and other benefits. In every case I know of, individual companies have arrived at agreements, covering only that company, with their own works councils, which give additional benefits.

KELLER: In many cases the additional wages are paid either in incentive premiums or in special payments for efficiency. Where that is the case, a change of the basic wage rates would still change the resulting effective wage. So that, even if our wage rates are minimum wage rates, raising these minimums would affect the actual wages.

SPIRO: I remember in last year's wage negotiations, one of the things that the trade union tried to get the employer to concede was to make additional benefits a function of the minimum agreement that had been arrived at. And this is, as far as I know, a concession that the employers did not make.

KELLER: It can be done in either of two ways. The company may say that instead of a wage rate of 2 marks, it will pay 2.30. Then a change in the contract provisions would not affect the actual wages. Or the company can stay at this 2 mark basic wage and say that for your personal efficiency you get 30 pf. more. If that would be the case (and normally it is so) then a change in the basic rates still affects all workers.

KERR: Don't the individual companies reserve the right as to what they are going to do about all these personal rates that they have for individuals? If they want to, they will follow along, but the contract itself does not go "across the board." That's one of the things that make it tough to have a strike. There are so few people at the minimum rate that it's awfully hard to say: "Let's go out and get the people at the minimum a wage increase," and end up with much general support.

BLUMENTHAL: I would like to comment on what Dr. Weigert said with respect to the rarity of strikes under codetermination and the difficulty of gauging what effect codetermination has on the incidence of strikes. I will fully agree with that. However, it's interesting to note that when you compare the last normal period—1925 to 1932—with 1948 to 1953, and compare the steel industry with other industries, you find that the steel industry dropped significantly in the percentage of total man-hours lost in strikes. In 1925 to 1932 steel accounted for 21 per cent of all man-hours lost. In 1948 to 1953 it accounted for 4 per cent. It had the third highest incidence of man-hours lost in those days. It is now down to sixth. Although all industries decreased in the incidence of strikes, the steel industry decreased even more. I don't know how much effect codetermination has had on this.

BERNSTEIN (Steelworkers): Perhaps I could add a few words indicating what has happened in these negotiations after the period that Mr. Keller covered. As has been said, the union had made demands both on the steel industry and the metalworking industries. An agreement was reached quite quickly for the metalworking industries at 14 pf. an hour. The union, however, wanted more for steel, basing its argument primarily upon the increase in productivity and the ability of the companies to pay. The union asked for 12 per cent, which would make around 20 pf. an hour increase. The steel companies offered 14. The union went down to 17. The companies stuck at 14. The union then called for a strike vote, which received approval of about 95 per cent of all those eligible to vote in the industry. The union then broke off negotiations to plan further action. The companies put the 14 pf. hourly increase into effect without a contract just before Christmas and retroactive to November 1. The union now found itself utterly boxed in. It decided to try to get independent agreements from the individual companies on the assumption that the labor managers would be sympathetic. The employers' association, with the unanimous consent of the labor managers, refused to do this.

Now this occurred at a time when, by accident, a labor court declared a works council election in one of the major steel plants invalid, and a new election had to be held. This was an ideal opportunity for the Communists to come in and make capital of it. For the first time they took an overwhelming majority of places on the works council, getting 17 out of 25 seats.

Two of the members of the supervisory boards are, in every case, the president and the vice-president of the works council. And in this

plant we have now a president and a vice-president of the works council who are Communists. In time those two will show up on the supervisory board.

MCPHERSON: I think we should keep in mind though in that connection that this isn't the first time that we have had a works council under Communist control in this industry. There has been at least one previous instance.

WEIGERT: In Germany just now the Communists have had some success in many cases. There is a general trend, independent of this special incident.

GOMBERG (ILGWU): I suppose there is probably a growing feeling of alienation, on the basis of hypothecating what would happen in my own union if a personnel director, representing the union, rejected the demands of the union. Either the union is suffering from schizophrenia or else the people will just abandon the institution. That seems to be what is happening.

MCPHERSON: I think we must move on now to our next topic on the *Economic Effects of Codetermination* by Clark Kerr, Chancellor of the University of California (Berkeley).

KERR: In general, I think that the economic consequences have been quite minimal. Management in terms of its expectations, claimed that codetermination would result in a huge monopoly by the trade unions and that the DGB would be running the German economy as kind of an octopus. As has been mentioned by Oscar Weiegert, that certainly has not happened at all. Likewise, management felt that there would be a great loss of secrecy, which is quite important to the German firm; and this also has not happened.

In terms of efficiency, managers said they were going to lose their prerogatives, and control would be placed in the hands of people who did not have an ownership interest. I do not think there has been any negative effect upon efficiency at all. The managers still run their plants with as much authority as they had. The workers are well disciplined. The one effect that may have happened, and this is part of a genereal move and not due just to codetermination alone, is a rather better atmosphere between managers and workers in general, a somewhat better understanding by management of the need of working with the workers and making them happy. Perhaps in the long run there is somewhat better morale, a greater sense of participation on the part of the workers and greater information. So if there is any effect on efficiency, I would say it is probably positive rather than negative.

As to the effect on wages, it is a little difficult to say. I know that McPherson, in his article in the *Industrial and Labor Relations Review* (July, 1955) pointed out that wages in coal and in iron and steel seem to have gone up rather more than the rest of the German economy, since codetermination took effect. He implied that this means that codetermination had something to do with it. I rather doubt it. As has been mentioned, the agreements have been made on an industry-wide basis, and the one occasion when they were made for iron and steel alone, they had no different result for iron and steel than for the metal industry at large. Also, you have to realize that in the German economy the coal industry has been going along very well and the metal industry has just been booming, not only because of the reconstruction of Germany, but also because of foreign sales and the whole development of the consumer durable goods industry—automobiles, refrigerators, etc.—which is sweeping all over Western Europe for the first time. It is true that in the metal industry wages have gone up more than elsewhere, but I think this is the result really of the general labor-market pressure faced by the firms and not co-determination, because I do not see the evidence that the labor directors have been any easier on wages than anybody else. However, in terms of certain additional things, perhaps they have been a little easier on Christmas bonuses and on fixing piece rates. It is pretty hard to measure that. But generally, I do not think there has been much effect on wages.

The unions also said this is going to mean no unemployment. We have not had a depression really to test out the no-unemployment argument of codetermination. There has been a slight effect, I think, in that under codetermination there has been a tendency for lay-offs to occur later, to keep the workers on in maintenance jobs, etc. They do not have seniority in German contracts, and the people are not laid off according to seniority. In fact they were laid off in the past according to the pleasure of the boss. But now they do have some advance planning, and peoeple will know that they are the first to be laid off, or the last to be laid off; and they say that women will go before men who support a family; or that people who can retire or who have some kind of disability benefit will go before people who are fully dependent on their earnings. So there is some better handling of lay-offs, but there has not been the test of a depression to see how unemployment generally would be handled.

I think the one thing which has happened is that there is a great deal more paternalism than previously. There is a great deal more

company housing—there has always been a lot in Germany—and more emphasis on vacation homes, etc. Now this is not only the result of codetermination and having labor managers, but also of the postwar situation of the Germany economy where there were so many social services that had to be supplied. It was one method of getting workers and keeping them happy. But the second thing that is important about this is that this paternalism has become joint. Instead of being solely employer paternalism it is now union-employer paternalism; and I think that is quite a move forward in the German system. I do not think individualism, as we understand it, with the worker standing on his own feet and taking care of himself, is possible in Germany. In view of that, it seems to me that it is a great step forward in democratizing the German economy—and I am not talking now in political terms alone, but social and economic too—to have this joint paternalism take the place of unilateral paternalism by the employer.

I might also mention that I think codetermination has some effect in supporting the whole cartel idea and the emphasis upon plant-egoism and industry-egoism and co-marketing boards and so forth. It works the unions into all this structure which they have in Germany.

I would like to say just one additional word, which goes a little beyond economics. It seems to me that two of the great problems in Germany are, first, how to make the German worker have a greater sense of personal independence and view himself as an individual, making up his own mind, changing jobs, and so forth; and, second, how to get a better balance of power between the workers and employers. It does not seem to me that codetermination has done much toward solving either of these problems. I do not see any real shifting of power coming out of this, from the employers to the unions. In fact, my view is that the employers are going to make as good a thing out of codetermination in Germany after World War II as they made after World War I out of the works council system, which was initially supposed to be the effective instrument to bring real power to the German working class, and instead ended up, in large part, as a system of company unions.

MCPHERSON: In the latest figures that I could get on wages, I see no indication that the mining industry has gained anything at all wage-wise over other industries sinec the time of the introduction of codetermination. The chief indication that there might be some effect in steel lies in a comparison with the metal fabricating industry.

These two industries are represented by the same union. Both have been growing rapidly under high demand, but it's only steel, and not metal fabricating, that has codetermination. When codetermination was introduced in the steel industry the average hourly earnings in steel and in metal fabricating were about the same, but in February 1955 average hourly earnings in steel were about 25 per cent ahead of those in fabricating. I'm sure that this doesn't in and of itself prove anything, but it gives a little indication that the influence of the labor managers may have been significant in this respect.

BLUMENTHAL: These statistics on average gross hourly earnings reflect not only the agreements reached on an industry basis, but also the individual agreements that the labor manager is responsible for. And if you go a little bit into the decision-making processes within each company you usually find the labor manager trying very hard to get more from the other two; so that in this great increase in steel hourly earnings (although I'm sure that to a large extent it was occasioned by the high demand for steel) perhaps to some extent codetermination is reflected.

KERR: I would agree that there has been a "softer" administration of the internal wage structure. It was handled a bit more sympathetically and that may have added up to a little something. I wouldn't think it was major, though.

One of the chief effects of codetermination is to greatly increase the strength and position of the works councils, not only in steel and coal, but everywhere, even where they don't have half on the supervisory board. That's an anti-union development of very great significance, and I think that this wave they had of wildcat strikes during 1955 has been partly because the initiative is going to the works councils with their increase in Communist influence, rather than having the initiative held by the trade unions. So I say that to the extent that the two laws enhance the works council position, they have been very detrimental to the trade unions.

WEIGERT: This is the point that I tried to cover in the last observation in my report. I understand that it is now for the first time a policy of the unions to go into the plants and bargain.

KERR: The time they show up in a plant is after there has been a wildcat strike and things are out of control, and then they show up for the first time in a decade.

COMMENT: The Chemical Workers Union, I understand, has appointed some shop stewards. I think they run in the thousands,

and in that way they are trying to counteract the influence of the works councils.

KERR: That is correct. I agree that there has been an effort in this direction, but I think the net effect has been to strengthen the works councils.

BLUMENTHAL: Regarding lay-offs, we do have some examples of what happens under codetermination. There was a slight recession in 1953-54. If you correlate the adjustment of employment to steel output and compare that to earlier periods you find that, while in earlier periods the adjustment was immediate (from one day to the next, very often) there was in 1953-54 on the average a three to five months' lag before the adjustment took place.

WEIGERT: But you don't know whether this was due to codetermination or whether management has just learned to handle this problem better.

KELLER: Codetermination delayed the layoffs as far as I know. They really tried to postpone layoffs and they could because of union influence. But that points up another thing. Codetermination as such is just a tool that you can use for worthwhile work or you can put it aside and not use it at all.

During the early years of codetermination in the steel industry, labor won concessions in proportion to the strength of the union, and when that decreased—and I think it is no secret that it did so—they could not win much more. The attitude of management, and even of the labor director in his feeling of independence, is a reflection of the strength of the union.

MCPHERSON: I would now like to present our next topic on the *Non-Economic Effects of Codetermination on the Workers.*

It seems to me that rank-and-file attitudes vary considerably from plant to plant, depending chiefly on the policies of the stockholder representatives on the supervisory and managerial boards and on the ability of the labor manager to convince the employees that he is seeking to promote their interests as much as the financial position of the firm permits. In other words, employee attitudes depend, as might well be expected, upon the degree of success achieved in the plant in the operation of codetermination.

Where the labor manager is competent and the stockholder representatives seek in good faith to develeop successful cooperation, rather than to limit in every possible way the influence of labor, the workers seem to have a genuine feeling of participation and responsibility.

Most of the workers I talked to stressed particularly their conviction that "codetermination means co-responsibility." This feeling of responsibility on the part of a large portion of the work force shows itself in employee initiative and a fairly widespread capacity for self-discipline. Several foremen told me that they now need to devote less time to supervision.

In some plants codetermination appears to have resulted in improved channels of communication and more frequent consultation. Several employees expressed their delight at the solicitation of their views and suggestions by foremen; and foremen in turn, attested to similar consultation on the part of their superiors. Communication channels were formerly one-way streets, on which the only vehicles were commands and instructions. Now they have become two-way thoroughfares carrying a variety of traffic. This transformation in some plants seems to have made a vivid impression on many employees.

This change has been accompanied by a decrease in formality and subservience. One worker summed up this whole situation when he said: "Now the workers are regarded as *men*." This relaxation in the old German attitude of employee subservience is to some degree a consequence of the war and the common catastrophe and is found to a slight extent in industries other than steel and mining, but I think it has been carried much further in these latter industries. To be sure, similar results in communications and business relations have been attained in other countries by entirely different methods, but I think that those who know the German scene will agree that the development there in these respects has been markedly expedited by co-determination.

While many workers believe that codetermination has brought them major gains in wages, in job security, in welfare benefits, and especially in status, there are many others who are unenthusiastic and even critical. As was to be expected, disillusion has been widespread. Many major innovations in German social legislation, as for example the Works Council Act of 1920, have been introduced amid such exaggerated expectations that the results were sure to be disappointing to the extreme optimists. There has been a similar experience with the present law.

Codetermination has of course operated in some plants less successfully than in others. Many of the labor managers have proven to be inadequate for their difficult positions; and their high salaries have

been a target for Communist propaganda. Many German workers do not realize that the labor manager must have a major concern for the successful operation of the establishment and cannot be solely a proponent of every employee desire. Thus there is a widespread feeling in some plants that the labor manager has been a traitor to the workers and has been "seduced" by high salary. And this feeling is not always without justification.

In summary, it may be said that employee attitudes toward codetermination range from great enthusiasm to strong scepticism. Some of those in the latter group are now inclined to reject the whole idea of codetermination. The more prevalent attitude of the workers and union officials, however, is one of fighting for the strengthening and extension of *Mitbestimmung.*

Our final topic is the *Political Aspects of Codetermination* by Herbert Spiro of the Department of Government at Harvard.

SPIRO: Most Germans would, I think, be quite surprised to find that codetermination is the sole subject of discussion by a panel held under the auspices of this Research Association which is concerned, according to its name, with Industrial Relations. They would be surprised for two reasons: first, because they tend to think of codetermination primarily as a political issue; and second, because they don't know the term "industrial relations" or, so far as their awareness goes, the facts described by the term.

When the Occupation Powers began to restore increasing measures of self-government to the Germans, codetermination became from the outset one of the major political issues in the Federal Republic. The immediate cause of this was the need for legalizing by German legislation the practice which had grown up under British Occupation auspices (though on German initiative). But there were other causes which went deeper.

The German Trade Union Federation (DGB) composed as it was and is of politically and ideologically heterogeneous elements, had made the retention and extension of codetermination its number one goal and rallying point. This was a smart move on the part of its leaders, since codetermination was the one thing on which Marxists, Protestants, Roman Catholics, and even unionists of a straightforward material-interest orientation could all agree, though each of course for different reasons.

Some Social Democrats looked on codetermination as a stepping stone towards the socialization of basic industries. But even those

who feared that it might work as a deterrent to socialization, recognized that their Party would have to support this demand of the DGB, simply because of the predominantly Social Democratic membership of the Unions, and both because and in spite of the fact that the DGB was avowedly neutral in partisan politics.

The situation of the Christian Democratic Union—Chancellor Adenauer's party—was less unequivocal. The CDU is an even more conglomerate organization than the DGB, and includes among its followers Roman Catholics and Protestants and voters of all sorts of economic, social, and geographical backgrounds. Codetermination appeared to be a very "Christian" institution, especially in terms of Roman Catholic social doctrine with its corporatist leanings. Besides, the CDU thought it wise to support its adherents among the leaders and members of the DGB, in order not to lose potentially "Christian" unionists to the Social Democrats.

The other parties in Adenauer's first coalition government, on the other hand, generally opposed codetermination. The free-enterprise minded Free Democrats especially could not stomach it, for obvious reasons. As a result, the law governing codetermination in the iron, steel, and coal industries was passed by an unusual coalition of SPD and CDU, against the votes of other members of the governing coalition, in May 1951.

The unions immediately started to campaign for the extension of codetermination to the rest of the economy, and the SPD acted as their political spearhead. But this time, the government pushed through a bill which was opposed by both DGB and SPD, because it did not go far enough. The "Law on the Constitution of the Enterprise," passed in October 1952, gives labor only one-third of the members of the supervisor boards—none of them union-appointed—and provides for no labor share in management. The DGB therefore chose to interpret this legislation as a great defeat. This led them to throw their support to the SPD in the federal election of 1953. Adenauer's great victory in that election encouraged the enemies of codetermination to mount a general attack on it and on its greatest protagonist, the DGB.

This attack moved by way of the holding companies which were then regaining control of the once de-cartelized, now re-cartelized steel and coal industries. Since the holding companies were not primarily engaged in the production of steel and coal, it was held that they should be governed by the Constitution of the Enterprise Act,

under which labor's influence was so much weaker. In 1954, the courts decided against the unions on this issue. Thereupon, the DGB, the SPD, and the laborite left wing of the CDU called for legislation to extend the special law to the holding companies since it was there, they argued, that the most important decisions are made.

As of today, no such law has been passed and the controversy has not been settled. The "Personnel Representation Law" of 1955, governing the equivalent of codetermination in the public service, also went counter to many demands of both DGB and SPD. Consequently, codetermination is still a political issue today. It is likely to flare up again whenever such currently overshadowing issues as reunification and re-armament recede into the background.

Meanwhile, however, the practice of codetermination goes on. But, as I suggested at the outset, most Germans would never think of it in connection with what we call "industrial relations." Rather, most of them think of codetermination in connection with the class struggle and with ideologies, the traditional philosophical weapons of the class struggle. After all, ideology has meant the system of ideas, ideals, and beliefs held by a class, ever since wide currency was given to the word by the arch-exponent of class struggle, Karl Marx. Class struggle still dominates German political consciousness, even though probably to a lesser extent than formerly.

My own impression is that the practice of codetermination has contributed to the weakening of the reality and the consciousness of class struggle in Germany. Those who have participated in codetermination often had to recognize that members of the opposite class were not as evil as they had been led to believe. They found out that it was vain, if not vicious, to do what they used to do all the time, and turn to one ideology in search of solutions to practical problems. These closed systems of knowledge simply do not provide answers for men who shoulder concrete responsibilities.

In this way, the practice of codetermination has been making for an approach to their problems, on the part of employers, employees, and their respective organizations, which is less dogmatic and more pragmatic, less ideological and more interest-minded. Other forces in West Germany are pushing in the same direction. My own expectation and—for their sake—my hope is that in the long run codetermination may help to do a very thorough job in this respect. If this happens, and if Germans in industry and labor should then not only have something like industrial and labor relations in this country, but

also believe that they have it, the student of industrial relations will finally come into his own in Germany too.

But this last statement makes sense only if we think of the specialist in labor relations as having a very narrow focus indeed, and that, of course, is not true of anyone here.

CRONIN (National Catholic Welfare Conf.): Has any consideration been given to the possible impact of the rather extensive mutual exchange program between Germany and the United States? I wonder if the human relations development might be to some degree attributable to this exchange and not necessarily to codetermination.

WEIGERT: I have tried to rethink the whole question of the effect of the Exchange Program. We sent these people out in large numbers and many of them were perhaps not fully able to understand foreign cultures, and their messages and their missions may have been a failure to a large degree. But in the field of labor, at least, I have come to feel that we must review anew the results of this exchange. Take, for instance, the changes in the attitude of German labor unions, which seems to me very much influenced by certain fundamental thinking on this side of the ocean—this moving away from pure ideologies to a much more realistic and pragmatic attitude. And there are certain changes in France, where you have in recent years a very satisfactory incidence of collective agreements; and then the changes that you find among employers in Italy, where you see a new attitude to industrial relations, which is very much in line with American thinking. We may not have been nearly as much of a failure as some of us have thought in our attempts as missionaries for certain fundamental ideas of industrial relations.

CRONIN: That's our experience. I have the feeling that there has been more of an impact than many realize.

KERR: There has certainly been a general softening of the ideological lines in Germany. Codetermination I think is partly a result of that; it's also partly a cause of it. The Socialists aren't really Socialists any more.

While I think the Exchange Program accomplished something, also the POW's did something. I've run across a lot of Germans who had their eyes opened by being prisoners of war in the United States.

I'd like to say one thing about Mayoism though. I think that Mayoism works in the opposite direction. Mayoism gives to the managerial class a kind of a respectable, democratic ideology for their elitist point of view. And I'm rather concerned that human

relations with the Mayo emphasis may be working in the opposite direction.

MCPHERSON: We have in the group here today, a number of experts on this question and those whose views we would very much value. Professor Goetz Briefs had long been a close student of this subject. Could we have a comment from you, Professor Briefs?

BRIEFS (Georgetown University): I am gratified by today's discussion. My views about codetermination have been stated in my book, and you know my standpoint. I thought it was no business of unions to charge themselves with responsibility for management. The discussion today has more or less proven to me that that standpoint was correct.

Was the game worth the candle? If union-management paternalism is all that has come out of it, that could be had at less cost to the union and probably at less cost to management.

Let me mention finally one experience. The mining directors, who were not yet under the Act at that time, were all afraid. They expected absolute chaos. I saw some of the same people later and asked them how it was going. "Wonderful, wonderful," they said, "Everything is in perfect order." And one of them added, *"Der Arbeitsdirektor frisst mir aus der Hand."*

I would say that in one respect my fears were not substantiated. I was afraid there would be much more of a tug-of-war in the companies and in the plants. I am very happy now to see that they have found the wisdom of the old French saying: *"Messieurs, on va s'arranger."* ("We shall get along"—until the next depression.)

MCPHERSON: There have been at least a couple of very good doctoral dissertations on codetermination and we would like very much to hear from their authors. Professor Beal, do you care to comment?

BEAL (University of Bridgeport): I think that the German union people, at the end of the war were just as much afraid that there would be strife with the employers as the employers were afraid that the unions would cause strife. Codetermination permitted a marriage between these two, underlined by something that had been drilled into the mentality of large numbers of German workers, that is the welfare, unity, and progress of the German nation. In that sense, it seems to me that codetermination exactly filled the bill at that time. It was something on which the ideological differences between Socialists and Christian trade unionists were submerged.

Since the war there has been no organic link between the unions and the plants. Union members do not belong to a local, as they do here in the United States, but to a national industrial union. (They would have belonged to just one big union, if we had not put a stop to it at the very beginning of the occupation.) Consequently, there is this gap between the workers and the unions. The only practicable means of worker expression comes from works councils, which in turn are influenced by the political organizations in the plants. That seems to me to be the danger only recently brought to the surface through this incident of the works council election in the Ruhr.

MCPHERSON: May we hear also from Professor Shuchman?

SHUCHMAN: Codetermination means to the Germans much more than what you have been discussing here today. Codetermination was a plan for reorganizing the German economic system. Its intention was to plan the economic organization from the very top down into the plant. Its intention was not to raise wages particularly nor to improve human relations in the plant, except as by-products. The major goal of codetermination was to set up a council system, including industry councils and a national economic council, which would give labor a voice in the decisions regarding investment, savings, etc. throughout the entire economic organization. But they didn't get that. Consequently, whatever goes on in the plants is without the guidance of the councils, which is so very necessary in planning the economy. They cannot expect a great deal from codetermination in the plant until the political climate in Germany changes to bring the Social Democratic Party to power and give them the council legislation. Then they will have a system, which I call Democratic Corporatism, through which they intend to plan the entire economic organization. I think if you lose track of that, you have missed the intention of codetermination completely.

MCPHERSON: I'm sure that the other members of the panel, like myself, are champing at the bit, but I have shut them off to give the rest of you a chance. May we hear next from Paul Fisher?

FISHER (ICA): I will start with Peter Keller's remark that codetermination is a tool. I am interested in Clark Kerr's attempt to evaluate the effect of this tool on the economy. He was perhaps a little bit over-generous in respect to lay-off provisions. There is an elaborate system of lay-off provisions in various laws. It would be the administration of these provisions that could be softened, but the

question arises whether the softening effect is attributable to co-determination or not.

I thought that one of his ideas was very suggestive, but I am not quite sure that I grasped it fully—the idea of joint union-management paternalism. It may very well be that actually we have returned to normalcy—German normalcy. It may be that we don't have joint union-management paternalism, but that we have German paternalism.

There is one institution, which perhaps we shouldn't have skipped over so fast, namely the works council. The works council to be sure was not very effective as an economic institution, but National Socialism was able to use this institution for its own purposes. The danger arises that any totalitarian regime in the future may perhaps be able to use the institution of codetermination to the same nefarious end as National Socialism used the works councils.

It would seem to me therefore, that the institution is only as good and as powerful as the social forces which make use of it. Some possibility thus remains that codetermination and the works councils may develop into something very worth while.

BERTRAM (TVA): Whatever codetermination may be, it won't be what the people who fought for it expected it would be. Meanwhile, just like the works councils, codetermination will do the same harm to sound labor-management relations in Germany. It will prevent the trade unions from becoming honest-to-goodness, factory-type organizations. The works councils prevented the trade unions from becoming a bargaining partner at the plant level, and I think codetermination is another tool that keeps the trade unions out of the plant.

ZEMPEL (Department of Labor): We had in the early post-war years some reports indicating a relative degree of social harmony in the plant operations under codetermination. Germany was then in a period of organization and reconstruction and expansion. If you agree more or less on the basic issues, of course you can make these adjustments and do this horse-trading and have this limited area of labor-management cooperation. But when sharp divisions occur and the unions become militant, then the labor managers have got to decide which side they're on. Instead of the unions infiltrating the management, it seems that management is infiltrating the labor managers. And when the time comes, I think they will decide which side their bread is buttered on, and it will be with management, where they really belong.

Clark Kerr mentioned something about the works councils engaging in wildcat strikes. Wildcat strikes aren't unknown in other countries by local workshop organizations or even those that are structurally a part of the trade unions. I question whether they've become so significant in Germany as compared to other countries—say Great Britain—as to indicate that the works council has really become in a sense a competing center of power to trade unions.

Works councils aren't in Germany because the trade unions wanted them, of course. They're there because the unions had to come to terms with the popular movement after World War I. They rationalized it by speaking of the councils as the long arm of the union. They couldn't avoid it again after World War II, because the workers immediately formed plant organizations. Again, the unions rationalized it. They said this is educational and we've got to have it, regardless of all the arguments of Military Government personnel against it. In the long run, with increasing union militancy, they will find some means of effectuating more control at the plant level. It seems to me that when the dust finally settles on this, we will probably say that codetermination was a historical factor and it had some effect; but it will become institutionalized and accepted by employers and workers, and they'll go on to other matters within the sphere of collective bargaining, and codetermination will move out of the sphere of being a political matter.

QUESTION: What are the sanctions behind codetermination? Here in the United States we have the economic power of the union, once it is organized, to lend strength to this institution. Where are the comparable sanctions or the forces that can make codetermination effective?

ANSWER: They can always resort to the same sanctions that organized labor does here—in the end the strike.

MCPHERSON: May I also suggest that this experience in the works council election in the Ruhr that was mentioned earlier is an indication of a very strong sanction. Management is interested in avoiding the radicalization of the work force. An indication of increasing radicalism may be a stronger sanction than the strike.

HOENIGER: I would like to call attention to the fact that this panel is dealing with codetermination only in the corporate enterprise. It was made possible by a change in the corporation law, which was prepared for a long period during the 1920's and enacted into a law

under the Nazis. But it isn't a Nazi law and therefore it's still valid. This law incorporated an idea which is, in practice, totally strange to the American scene. In Germany this idea was expressed by saying that the corporation is something more than the equitable interest of the stockholders. They call the corporation an enterprise *per se,* which exists to some extent independent of the stockholders. The result of this idea was that the rights of the stockholders in what you have called the supervisory board (which is actually the policy-making board and is more than supervisory) were limited. The rights of this supervisory board were considerably limited, particularly the right of determining the profits, voting on the financial statements, and so on. This was a very important development that is called in Germany the *Unternehmung an sich.* This paved the way at least legalistically, to bring someone else into the supervisory board.

The idea that the corporation was more than the sum of the stockholders is an idea that was proclaimed in this country by Professor Adams of Columbia thirty or fifty years ago and proclaimed in Germany in the early twenties by Rathenau in his book on the Corporation—on the *Aktienwesen.* It was stated in 1923 by Keynes in a similar book. None of them have been taken into consideration by the previous statements. I consider this a very important fact, but up to now no one has called attention to it.

Codetermination is—to use Professor Reich's word—*ersatz* (or substitute) ideology. Since there was no other generally acceptable ideology available, the united labor movement had to get an ersatz ideology. And this ersatz ideology is practically indoctrinated into the young functionaries of the unions. Therefore it's not so important what has been achieved through codetermination. It is an idea; and in Germany there is need for such an idea. They would like to change the corporate status and later on, the entire enterprise status. This is at least a goal. They may be very far from achieving it now.

BLUMENTHAL: The one factor that I think is probably most responsible for ham-stringing the labor manager in pressing labor demands is what you may call the "principle of the united front," to which the three managers strongly adhere. That is, the three of them believe that, especially in their relations toward the supervisory board and in their relations to outsiders, they must appear as a united front. They will argue among themselves, but will then try to arrive at a consensus. That is why the labor manager in many instances is forced to give in and perhaps agree to 14 pf. rather than 17.

MCPHERSON: I regret that I must now adjourn our session, since we are long past our official closing time. The discussion today has revealed widespread agreement on many points. It has also shown some interesting instances of disagreement. In one or two cases these disagreements involve questions of fact that can be easily resolved by subsequent investigations, but mostly they concern shadings of interpretation. For example, it is agreed that there have been certain economic and psychological changes in the steel industry, but some of us think that these are in part due to codetermination, while others doubt that codetermination has had a significant influence. Those in the latter group emphasize the presence of other causal variables and the impossibility of segregating their impact. It is my impression that the former group includes most of those who have interviewed rank-and-file workers and supervisors in the lower echelons or have made an intensive study in individual plants. There is perhaps also some variation of impressions between those of us who looked at the situation two or three years ago and those who have viewed conditions more recently.

Our discussants have pointed out two significant trends in German industry, but no mention has been made of their long-run incompatibility. These are the trends toward intensification of labor-management conflict and toward increasing managerial awareness of modern American concepts of labor relations.

Finally, there is a clear-cut difference of emphasis between those of us who have a keen interest in the current experiment in the steel and mining industries and those who follow the tendency of German writers to focus attention on a more philosophical or Utopian consideration of schemes for a broader system of industrial control.

And now let me adjourn the meeting quickly before anyone challenges these impressions. I appreciate very much the valuable contributions from our audience and thank especially the panel members for their fine presentations.

Part VI

UNEMPLOYMENT COMPENSATION IN A PRIVATE ENTERPRISE ECONOMY

THE PRESENT STATUS OF UNEMPLOYMENT INSURANCE IN THE UNITED STATES[1]

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I

ABSENCE OF AGREEMENT ON OBJECTIVES OF UNEMPLOYMENT INSURANCE

UNEMPLOYMENT INSURANCE in the United States has now been in existence for nearly two decades. This is not a long period in the history of a social insurance institution. It is perhaps long enough, however, for us to hazard an appraisal of its performance, to identify the areas in which progress has been made and to indicate in what manner this important institution may be said to have failed or succeeded in its mission.

The making of such an appraisal is beset with several difficulties. There are, in the first place, no objective criteria, firmly established and widely accepted for judging the performance of this legislation. There is little agreement about what unemployment insurance is supposed to accomplish. Since the program has been in operation for nearly 20 years, this is quite startling in itself. The Social Security Technical Staff of the Committee on Ways and Means, 79th Congress, in its report on *Issues on Social Security* wrote: "There are no criteria which will permit a precise measure of the adequacy of benefits or duration. Moreover, there is no agreed body of principles

[1] The following citations provide statistical and other data upon which I have relied: *Social Security Financing,* I. C. Merriam, Federal Security Agency, Social Security Administration, Division of Research and Statistics, Bureau Report, No. 17, 1952, pp. 53-80; "The Development of Unemployment Insurance in the United States," Arthur Larson and Merril G. Murray, *Vanderbilt Law Review,* February 1955, pp. 181-217; "Twenty Years of Unemployment Insurance in the USA 1935-1955," *Employment Security Review,* August, 1955; *Annual Report,* Federal Advisory Council on Unemployment Security, fiscal year 1954, Bureau of Employment Security, 1955; A digest of the *Survey of Unemployment Compensation Beneficiaries in Pittsburgh, Pa.,* (Duquesne University Study) Bureau of Employment Security, October, 1955; *Adequacy of Benefits Under Unemployment Insurance,* A staff report prepared for the Federal Advisory Council, February, 1952; M. K. Bloom "Measuring Effect of Unemployment Benefits on the Economy," *Journal of the American Statistical Association,* September, 1954, pp. 1–7; "Social Security Programs and Economic Stability," I. C. Merriam, National Bureau of Economic Research, 1954; "Graphic Analysis of Six Representative State Laws," *The Advisor,* 1954; February 15, 1955; *Economic Report of the President,* January, 1954.

which can be used to evaluate amounts, duration or disqualification; what is considered to be appropriate . . . depends . . . on what is considered to be the basic objectives of unemployment compensation. There seems to be no general agreement as to these basic objectives. . . ."

Failure to reach a closer agreement is to be explained by at least two factors. The first is the dispersion of policy decision on these matters among the 48 states. Differences in economic circumstances and political views explain in part the great diversity which exists among the states with respect to the critical issues in unemployment insurance. In sharp contrast to Old Age and Survivors' Insurance where only agreement by the nation's Congress is essential, in unemployment insurance what may be considered as a reasonable objective in one state may be quite objectionable in another. Such a situation is bound to prevail unless the Federal Government were to require minimum standards on the substantive matters involved in this legislation.

In addition, unlike Old Age and Survivors' Insurance or even other aspects of our Social Security program, unemployment insurance has a direct bearing on industrial relations, on labor turnover, and employment practices. The benefit level may under certain circumstances affect the reemployment rate; it can underwrite an uneconomic wage rate. It is intimately related to lay-off and recall policy and affects other aspects of the collective bargaining contract as well. The areas of public disagreement in unemployment insurance are far greater, tensions are more apparent, and there is stronger resistance to compromise.

Failure to clarify objectives and secure wider agreement concerning the role of unemployment insurance in our economy may also be explained by the level of employment which has prevailed since the system began to function. Except for very brief periods, the jobless insurance plan has not been subjected to a severe test. Benefit payments were begun in 1938. In the fall months of 1939 the war had begun. By 1940, employment levels in American industry began to mount; lay-offs were few and for short duration. Between 1942 and 1945 the unemployment insurance reserves were aided by full employment at high-wage levels. Nor did the war's end seriously strain the program. Reconversion was more rapid than expected. And now, ten years later the postwar boom is still on and promises to last longer. The recession in 1949 and that of 1954 were not sufficiently serious

in the number of jobless nor in the duration of their unemployment to strain the insurance reserves except in two or three states.

Neither the general public nor the legislators have been compelled to think hard about the soundness, the solvency or the adequacy of our unemployment insurance plan. Except for short-term lay-offs and for frictional unemployment, the results of high employment levels coupled with union seniority rules has been that a considerable proportion of those laid off have represented marginal groups in the lower wage and skill levels. The capacity of our present plan to meet the needs of the regular labor force during a severe recession or recessions is still to be tested.

The adoption of supplementary unemployment benefits through collective bargaining has brought into sharp focus some of the shortcomings of unemployment insurance in many states. When a large corporation concludes that 60 to 65 per cent of take-home pay is essential for the maintenance of its employees during lay-offs, it will be considerably more difficult to defend the adequancy of a benefit which is less than 50% for a majority of the beneficiaries and less than 40% for a large proportion of those who receive such benefits.

An appraisal of the present status of unemployment insurance must also be concerned not only with whether the state is meeting the needs of the workers but with other matters as well. Is it bolstering the economy? Is it soundly financed? Is it too costly? Is it being abused? Is is progressing rapidly enough to meet the gaps and shortcomings which were admittedly there during the early years? Many of these questions cannot be answered to everyone's satisfaction. Enough objective data is available upon the basis of which some determination can be made as to the degree of progress which has been achieved, the gaps and limitations which prevail, and the direction which improvement must take. Within the space limitations imposed on this paper such an appraisal will be undertaken.

II

UNEMPLOYMENT INSURANCE HAS MADE SIGNIFICANT PROGRESS

First, the evidence is quite clear that unemployment insurance has made a major contribution to the needs of the unemployed and to the economy. During its history, beginning in 1936 to June, 1955 it has collected over $20 billion in payroll taxes from employers and earned over $2 billion of interest on the fund. It has paid out over $14 billion

in benefits to insured unemployed workers. It has accumulated a reserve in excess of $8.5 billion as of the end of 1955. The weekly payments are automatic. The means test has been discarded. Benefits are paid as a matter of right to eligible covered workers. As unemployment mounts, payments expand. Unemployment insurance thus serves as an efficient instrument to compensate for wage loss, to provide purchasing power and to underwrite an important segment of the wage earner's living standards. Its automatic character is especially favorable to check a business decline, by making available compensation in lieu of wages. Thus the 1945 benefit disbursement of $446 million was more than doubled to $1.1 biollion in 1946. The 1953 benefit payments of $962 million to 5.5 million claimants jumped to over $2 billion and 6.5 million claimants in 1954. These payments helped to sustain the demand for consumer goods, to prevent other unemployment, and thus to hasten the recovery from the recession.

Second, there has been a steady record of progress and improvement under the present federal-state system. This progress has not been uniform in all the states nor in all aspects of the program. It has nevertheless been sufficiently impressive to give substantial support to those who espouse the present federal-state system, under which substantive improvements depend largely on State action.

COVERAGE EXPANDED AND DURATION INCREASED

The average number of workers covered by unemployment insurance doubled from 19.9 million to 39.9 million in 1955. Many states liberalized their coverage requirements considerably beyond those called for by the federal standards. Thus, while in 1938 only 10 states covered firms with one or more employees, in 1954, 17 states did so; only 22 states still provided that only employees who work for firms with eight or more employees should be covered. Most of the liberalization in state coverage legislation took place before 1946. In 1954, however, federal action extended coverage to firms with four or more employees, thus improving the coverage provisions in 24 states in which state legislation was less liberal.

There has also been a general improvement in the legislative provisions for the duration of benefits. The original legislation providing for a duration of about sixteen weeks was soon found inadequate and produced a rather high "exhaustion rate." Twenty-seven states, with 73% of the covered workers, now provide for a

maximum duration of payments for 26 weeks; and 14 states now have a uniform potential duration, in 6 of these for 26 weeks. The smaller amount of progress in this area is no doubt a reflection of our experience with the average duration of unemployment since 1945, a period of unprecedented high employment levels and short lay-offs. For the first time since the enactment of the program nearly a dozen states are now planning or conducting "post-exhaustion studies." These will provide the necessary data on the basis of which we can determine the adequacy of the present duration provisions. While the "exhaustion rate" has still been rather high (26.8 per cent in 1954), there is some evidence to indicate that the groups most frequently affected have been marginal workers. Experience indicates that the present duration, whether on a variable or a uniform basis, is reasonably adequate for a large majority of the unemployed under present employment conditions.

WEEKLY BENEFITS INCREASED

There has also been considerable improvement in the weekly benefit amount, the most controversial of the substantive issues in unemployment insurance. The early laws provided for a weekly benefit equal to about 50% of full-time weekly earnings. The effective realization of this objective was severely restricted, however, by the imposition of a maximum weekly benefit amount. With the increase in wages during the war period, these maximums were soon raised and all states increased the maximum amounts. Average weekly benefits have advanced steadily from $19.03 in 1948, $20.48 in 1949, $20.76 in 1950, $24.03 in 1953 to $24.93 in 1954. Many improvements came in recent years and some have been inspired by a presidential recommendation and a special appeal of the Secretary of Labor sent to all Governors in 1955, urging an increase in weekly benefits during the 1955 legislative sessions.

Finally, to these gains in the improvement of unemployment insurance coverage, duration and benefit amounts one must also add the improvement in administration, the reduction in the waiting period to one week (including its entire abolition in three states), the increased efficiency and improved experience of the federal-state employment services, which play a vital role in the administration of the unemployment insurance laws and in the referral and placement of the jobless workers.

III

PROGRESS INADEQUATE—BENEFIT GAINS LAG

Coverage Limitations

While great progress has been made, our unemployment insurance program still fails in several important respects. The coverage limitations, which deny the protection of unemployment insurance to about twelve million employees, are particularly difficult to justify. Almost 2 million are still excluded in small firms. This form of protection against the risk of joblessness is no less important to the wage earner if he works for a small employer than if he works for an employer of thousands. Unemployment is not less painful if the lay-off is from a job with a state or federal government or from a job in agriculture; nor is the threat of unemployment considerably less in these activities than on other jobs. Both feasibility and equity require an extension of this coverage. Exclusion of these groups is discriminatory and unfair. If unemployment insurance is good for two-thirds of our employees, there is no logical basis for denying this protection to the others.

Social insurance can not justify treating one group of wage earners in a different manner merely because by accident they work in retail stores or for a smaller employer or because the worker is laid off by a public department rather than by a private employer. Such second-class employees, excluded from insurance plans because of alleged administrative reasons, have to go on relief, submit to a means test and face the community as a public charge. It is an undignified characterization without good cause.

The Lag in Weekly Benefits

The proponents of higher weekly unemployment insurance benefits call attention to the fact that weekly benefit amounts have declined steadily as a proportion of the average weekly wage. The original objective was for an amount approximating about one-half of the average weekly wage. As wages increased the benefit percentage declined in view of the fixed weekly maximum amount. As a result in 1954, the average weekly unemployment benefit represented only 33.5% of the average weekly wage. This was a substantial decline since 1938 when the ratio of benefits to wages was 43.4%. It declined to 40.8% in 1939 and to 39.1% in 1940. It fell more precipitously to 36.6% in 1941; to 33.6% in 1943 and remained at about that rate since then except for 1945.

These facts are not in dispute. Those who oppose further and more rapid liberalization point out that such comparisons hide the fact that many of the unemployed receive considerably in excess of one-half of their wages. Further, it is not fair to compare the average benefit of those who receive insurance payments with the average wage of covered workers.

Beneficiaries undoubtedly receive an average wage considerably lower than that of the covered group. Marginal employees possessing lower skills and receiving lower wages are laid off first; their wages are not as high as those of the entire insured group. As a result, their weekly benefit probably represents a considerably higher proportion of their wage than the over-all figures suggest.

Lay-offs under recent or current labor market conditions affect marginal groups more than others. Mass lay-offs, even for short periods, would quickly correct the difference between the average wages of covered workers and the average wages of the recipients of unemployment insurance.

It is also argued that unemployment insurance benefits are tax-free and it is not fair to compare them with average weekly wages which are subject to the withholding tax. There is some merit in this observation. However, for a married wage earner with dependents, the witholding tax would be quite nominal except for those in the highest wage brackets.

Failure of Benefits to Provide Basic Needs

For more than ten years, the controversy about the adequacy of benefits has been continued on the basis of broad assumption as to presumptive needs. Several local studies, undertaken by the state agencies, suggested that a large majority of the families drawing unemployment insurance were spending considerably more than their benefits and were thus using up savings or borrowing. One such study in an area of heavy unemployment in a small city in a rural county in Illinois in February-March, 1950 showed that families with no income except for the $20 per week unemployment benefits spent on the average of over $27 for food alone and $45 to $56 altogether, or twice the benefit during the survey week.

The Federal Advisory Council on Employment Security, recognizing the need for more definitive data, urged an expansion of research on the role of unemployment insurance in the total economic experience of the families of beneficiaries.

The findings of a recent study in the Pittsburgh area throw considerable light on the question of adequacy and suggest that little is to be gained by a prolonged debate on the side issues concerned with gross pay vs. take-home pay or the average wage of beneficiaries vs. the average wage of covered workers and similar matters. The Pittsburgh area study clearly indicates that at least as far as families in that area are concerned, the weekly unemployment insurance check does not adequately meet the need of unemployed family heads. While we are cautioned not to generalize upon a pilot study in one area, I have no hesitation in making such generalizations. The findings in this study tally with general observations and experiences of those who are familiar with the impact of unemployment in many sections of the country.

The salient findings can be briefly summarized. The cases reported a "substantial reduction in total expenditures after the onset of unemployment." The weekly insurance benefit, however, covered less than 60% of these reduced expenditures for single claimants and less than 45% for most families. As a result, for the family heads cash savings were decreased in 28% of the cases or exhausted in 14%; government bonds were cashed in 15%; relief in goods or services were received in 27%; 46% borrowed money; 40% received clothing gifts; and 33% adjusted or surrendered insurance. While nearly one-half of the family heads who were main wage earners in four-person families, had a weekly benefit in excess of 40% of the gross weekly wage, for only 7% of these claimants was the weekly benefit 50% or more of the gross weekly wage. Nor were these claimants marginal workers at the lowest skills and wages. The average income during the survey was $4359, only 5% of which came from unemployment benefits.

These findings hardly suggest that there is serious danger of the unemployed being pauperized by benefit levels which make possible the maintenance of normal living standards and thus threaten incentives and mobility. The conclusions do not apply with equal force to single claimants nor to secondary earners. Even here, the evidence hardly suggests that there is serious danger of pauperizing or malingering.

Even a cursory appraisal of the distribution of the average annual expenditures of wage earners for food, housing and utilities, for medical care and other essential and difficult to postpone items, suggest that the 50 per cent objective is not adequate to meet the essential

living needs of jobless wage earners with families. The automobile manufacturers in proposing a supplement to provide 60 to 65 per cent of take-home pay must have made a careful study of what their employees actually require in order to carry on without a serious distortion in the living standards of their employees during short lay-offs. Their proposal of underwriting 65 per cent of take-home pay for four weeks and 60 per cent for twenty weeks grew out of such budget studies. Their conclusion, now contained in the current collective bargaining contracts, comes closer to what is required to provide the sort of income security during short-time lay-offs contemplated by the framers of our unemployment insurance legislation. Further improvement in the weekly benefit amount, considerably above the gains made during the 1955 legislative sessions, must remain on the agenda for unemployment insurance and pursued vigorously in the period immediately ahead. The Federal Advisory Council on Employment Security in October, 1954, recommended that the maximum weekly benefit ceiling in each state should be raised to an amount not less than three-fifths to two-thirds of average weekly earnings in covered employment.

INADEQUATE SUPPORT OF PURCHASING POWER

Such an objective is also desirable for another reason. While unemployment compensation was not assumed to be a corrective of the business cycle, the automatic expansion of benefit payments at the beginning of the down-turn in economic activity was expected to play an important part in sustaining the level of consumer spending and thus slow the tempo of the initial decline. Experience since 1940 suggests that unemployment insurance has replaced only a relatively small proportion of the wage loss resulting from unemployment. While the general objective has been to provide about half of average wages in insurance payments, because of coverage limitations and benefit ceilings, such payments probably do not exceed 20% of the lost wages. One should not minimize the outlay of nearly two billion dollars in 1949 and somewhat more than that sum in 1954 in unemployment benefits. Its importance from the humanitarian point of view is obvious. And its contribution to the stabilization of the economy is more than nominal. Nevertheless, a recent study indicates that in the recession of 1948-1950, only about 20 per cent of the wage loss was recovered by unemployment insurance benefits. The

record of communities especially hard hit by unemployment was even less favorable. Unemployment insurance thus makes up only a relatively small part of the lost income even during a recession. Full coverage, and substantial lifting of the ceilings now holding down weekly benefits would give to unemployment insurance a more significant role in checking income decline than it has had thus far.

IMPORTANCE OF PRESERVING RELATIONSHIP OF BENEFITS TO EARNINGS

Improving benefit levels by raising the maximum amount payable is also necessary and desirable in order to relate the weekly benefits more closely to differences in earnings. We rejected the uniform weekly benefit for all wage earners, and sought to provide a formula which would vary weekly benefits with the earnings of the insured worker, subject to the minimum and maximum amounts. Such a scheme, we reasoned, was more consonant with our ideas of an enterprise economy and with the prevailing wage differentials in American industry.

The effect of the benefit ceiling, however, has been that a vast majority of the beneficiaries now receive a uniform weekly benefit, the maximum allowed under the State legislation. When 70-80% or more of the beneficiaries receive the same benefit as is true in 16 states, the maximum which can be paid, it is obvious that the objective of providing a differential benefit based on earnings is largely defeated. If the objective of providing 50 per cent of wages is coupled with a $30.00 per week maximum amount, all wages over $60.00 are not taken into account. Since, however, the average weekly wage in the manufacturing industry is over $80.00, the effect of the ceiling is to disregard a substantial portion of the normal wage in calculating the weekly benefit.

EFFECT OF TIGHTER ELIGIBILITY REQUIREMENTS

Improvements in benefits in recent years have invariably been accomplished by more severe eligibility requirements. That higher benefits require larger premiums cannot be disputed. Social insurance does not and should not lean solely or even primarily upon equity considerations, indispensable as these may be in private forms of insurance. To do so would defeat an important objective of social insurance, that of the widest practicable coverage. The evidence

suggests that improvements in benefit levels in many states have been accompanied by tightened eligibility and disqualification requirements with a resultant denial or reduction of benefits to a considerable number of workers. Such a trend must be checked and reversed or progress in the future will be at too great a price in the denial of protection of those who need such protection.

The Disqualification Problem

The evidence with regard to disqualifications is less conclusive than one would assume, considering the intensity of the controversy which has revolved around that topic for some 15 years. In many states disqualifications have become considerably more stringent for certain types of cases in recent years. These more rigid provisions have applied primarily to disqualifications for the duration of the unemployment spell or the reduction or complete cancellation of benefit rights. These may apply to voluntary leaving, to discharge for misconduct, and to refusal to accept suitable work.

One of the explanations for the increasing stringency is the fact that unemployment insurance has come to be dominated by employer influence in all or most state legislatures, possibly due to the fact that only the employer contributes to the financing of this program. It is due also to the prevailing concept that the employer should be responsible only for *his* employment. In addition, unemployment insurance has not been exceedingly popular. Whether this is due to the high levels of employment prevailing since 1940, or to an exaggerated notion of the degree of abuse and malingering is difficult to determine. To the average person, unfamiliar with the operation of the labor market, the payment of cash benefits to anyone during a period of relative labor shortage appears paradoxical.

These factors have combined to make the legislatures receptive to proposals designed to deny benefits to those who leave their work voluntarily, even for good cause, and to increase the penalties against those who fail to accept suitable work. While there is no dispute as to the extent of this development I am inclined to the view that its significance has been exaggerated. The statistical record, unfortunately, is inadequate. It appears, however, that a large proportion of those disqualified represent individuals who should not be qualified to receive weekly benefits under a plan to pay only for involuntary unemployment. A small proportion are undoubtedly the victims of the more stringent rules. I would consider complete cancellation of

benefit rights or the denial of benefits for the entire duration of unemployment as being a gross inequity. Even a twenty-week penalty appears needlessly harsh. It is the sense of injustice rather than the magnitude of the problem which explains the bitter reaction against the recent tightening in disqualifications. Employers are, in my judgment, making a serious error in pushing this trend.

Unemployment Insurance Costs Declined

The strong resistance to a more adequate unemployment insurance program is rather difficult to explain since the costs of financing unemployment benefits have not been increasing. In fact, unemployment insurance benefits as a ratio to taxable wages costs employers less today than it did 15 years ago. For most of the post-war period, unemployment benefit costs for the country as a whole probably did not exceed 1.5 per cent of taxable payrolls; the ratio to the total payroll was considerably smaller.

While the war years were abnormal, the period since 1946, when benefit costs amounted to about 1.43 per cent of wages, may be reasonably close to the average long-range costs of the existing unemployment insurance program. Such a prediction takes cognizance of the absence of a serious depression during the past 10 years. The evidence suggests that recessions may be as costly if not more costly for unemployment insurance than depressions. Most of the outlays come at the beginning of the downturn. Later, the exhaustion rate climbs and the number eligible for payments begins to decline.

If this is correct and the self-limiting aspect of unemployment insurance costs are taken into account, substantial improvement in the substantive provisions of our insurance laws can take place without imposing a serious cost burden upon employers. Even allowing for the recent increase in benefit amounts, the cost of financing the insurance benefits in the years immediately ahead, assuming a continuing of the employment pattern of the past 10 years, can be financed at about 1.5 per cent of taxable wages for the nation as a whole. A most careful estimate by S. W. Woytinsky made in 1948 concluded that for two per cent of taxable wages we can improve our insurance system to provide a uniform duration of 26 weeks, benefits approximately 50 per cent of taxable wages and dependents benefits as well. These estimates suggest that a good system of unemployment insurance is not expensive. It is cheap insurance.

THE INFLUENCE OF EXPERIENCE RATING

Many who have opposed liberalization have done so in good faith and in the belief that benefit increases are unnecessary. A more potent explanation is to be found in the experience rating system of financing our unemployment insurance laws which prevail in all states. This system makes it possible for many employers to keep their unemployment insurance costs considerably below the state or national average. Further liberalization may endanger the favorable rates enjoyed by these employers.

Whatever factors may be responsible for the rapid adoption of experience rating, and there is general agreement as to the reasons, I have come to the conclusion that the system is here and will remain; further, that it has certain desirable features which strengthen rather than weaken our unemployment insurance laws. At the same time, experience rating should not be permitted to operate in a manner which may interfere with the basic objectives of unemployment insurance. I believe it has done so. Experience rating explains in part, the increasing toughness of disqualifications and eligibility provisions. The unfavorable impact of higher benefit levels upon the insurance rate of the employers with the lowest contribution rates, influences the strong resistance to more adequate levels.

Is Improvement in Benefit Levels Possible? Should We Rely on Private Supplementation?

Is it possible to improve unemployment insurance without dismantling the present federal-state system? Can it be done without a radical change in experience rating? Three alternative methods of dealing with the problem suggest themselves. The first is the system of Supplementary Unemployment Benefits through collective bargaining. The development of private supplementation of unemployment insurance benefits has followed the fringe benefit pattern in American industrial relations. It has already been applied to old age retirement benefits, to workmen's compensation and to illness and disability. The general principle is that the public scheme at best provides only a floor of protection for the entire population. Such protection must of necessity impose only moderate costs upon the employer since these costs must be borne by all, whether there are profits or not. As a result, organized workers in a favorable bargaining position and in growing industries and profitable firms have won substantial fringe benefits supplementing public payments in several

programs. The most extensive developments have been in the retirement pension area.

The widespread dissatisfaction with the benefit levels in unemployment insurance, coupled with the slow progress made via legislation, made this matter the next logical item on the union fringe benefit agenda. And after two years of the most intensive agitation, under the pen name of the guaranteed annual wage, the idea was translated into collective bargaining contracts with the major auto producers. It has since spread to nearly all producers of autos and to some other industries, including a total of over 140 companies, covering over one million workers. The union was thus able to win through collective bargaining what it failed to secure through legislation. The limitation of unemployment insurance was thus, in part, corrected.

Private supplementation provides a certain degree of flexibility to the unemployment insurance structure. It permits the legislative benefits to remain at "reasonable" levels from the viewpoint of costs and at the same time makes possible considerable improvement in the benefits of wage earners whose employer is in a favorable profit position or whose employees are in a relatively strong bargaining position. The pressure to improve benefits would under such a development be transferred to the collective bargaining arena.

There are, however, very real limitations in this approach. Quite apart from new anomalies which supplementation has introduced, under the most optimistic forecasts it is unlikely that the private supplementation plans will affect more than several million employees. The vast majority of the wage earners covered by the unemployment insurance laws would not benefit directly from such supplementation. They may, in fact, be harmed since the union's efforts might be concentrated in winning supplementary benefits, and its pressure for improving the program through legislation may be reduced.

About 40 million employees are now provided the protection of unemployment insurance. The large majority of these are not directly affected by the provisions of collective bargaining contracts. Significant areas of employment are relatively unorganized. Substantial dependence upon the collective bargaining route to improve unemployment insurance will not aid these groups. Supplementary unemployment compensation will result in uneven provision for unemployment.

Will state action alone be adequate? Given full employment and short period lay-offs, there is not likely to be community-wide pressure for substantial improvement. A long recession and a substantial in-

crease in public welfare rolls would focus attention upon unemployment insurance and its deficiencies. Only then will we discover that our unemployment insurance program is too limited to cope in any effective fashion with serious unemployment. In the absence of such adverse economic conditions, further progress will perhaps be much slower than many would like to have. The response of the states to the recommendations in the President's Economic Report and to the urgings of the Secretary of Labor, does not indicate that there is any overwhelming eagerness to raise benefits even to the modest levels suggested by the President.

Present financing methods associated with experience rating slow liberalization and the accumulation of larger reserves for the lean years which may be ahead. A minimum tax for unemployment insurance of 1½ per cent of payroll, as was recommended by the Social Security Advisory Council in 1948, may remove this deterrent and ease benefit liberalization.

Can such a provision be adopted? To do so would require a basic revision of the unemployment insurance feature of the Federal Social Security Act. The states appear to be unalterably opposed to such revision. They fear the federalization of the unemployment insurance plan and look upon federal standards as the opening wedge bound to lead to a national plan. And they consider even the simple standard involved here, one requiring a minimum contribution rate for all employers, with experience rating to operate above that minimum, as a break in the dike holding back a flood of other standards, concerned with every substantive feature of the State laws.

To one who sees great merit in the present federal-state partnership, the dangers of some expansion in federal control appear to be less serious than the inadequacies of our unemployment insurance system.

Our unemployment insurance system should be strengthened now, under favorable economic conditions, so that it can meet the stress to which it will be exposed later. If federal standards in financing and benefits are essential to provide such improvements, we should not shirk from such a course. In my judgment, such minimum standards are essential if our unemployment insurance is to make its maximum contribution to the wage earner and to the economy.

SUPPLEMENTARY UNEMPLOYMENT BENEFITS

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A year ago at the I.R.R.A. annual meeting the discussion of Guaranteed Annual Wages was largely theoretical and speculative. Today we can discuss real plans developed through collective bargaining. These plans differ markedly from the plans originally proposed by the major unions. A definition of these new plans, called Supplementary Unemployment Benefits, or SUB, is a good springboard into a discussion of the present version of GAW. Supplementary Unemployment Benefits are variable benefits paid from a trust fund financed by an employer, to his own out-of-work employees in addition to State Unemployment Compensation.

The Ford-General Motors-U.A.W. plans have been given the most publicity. There are, however, other forms of SUB. For example, plans negotiated by the United Steelworkers of America AFL-CIO and the two largest can companies—American and Continental —and plans negotiated with the flat glass manufacturers by the United Glass and Ceramic Workers AFL-CIO. The ILGWU has joined the parade by negotiating with a group of Allentown, Pa. mills a $2.00 per day SUB for employees with 6 months service. For purposes of brief identification these plans will be called Auto Industry-UAW plans; Can Company-Steelworker plans and Glass Industry-United Glass Workers plans. The major characteristics of these plans are as follows:

The Auto Industry-UAW Plans

The employer will pay into a SUB reserve 5 cents per hour per worker. From this fund, beginning June 1, 1956 supplemental benefits will be paid if states having two-thirds of each Company's employees give assurance by legislation or opinion that SUB payments will not be considered disqualifying wages or other remuneration in determining eligibility for unemployment insurance. The SUB will be the amount which, when combined with unemployment compensation, will amount to 65 per cent of the worker's after-tax take-home pay during the first 4 to 8 weeks of unemployment. For the remaining weeks up to a maximum of 26 the total combined benefit will

amount to 60 per cent of after-tax take-home pay. SUB payments may not exceed $25. Receipt of unemployment insurance is a basic condition of eligibility for supplementary benefits. The amount and duration of SUB varies with the seniority of the employee and the ratio which the reserve at a given time bears to the total required reserve. A table setting forth these variations was made a part of the contracts. The maximum reserve, which amounts to approximately $400 per employee, may be reduced in the same proportion that SUB payments average less than $25 per week. Provisions have been made in the several contracts for alternative payments of SUB in states which do not permit the simultaneous payment of unemployment compensation and SUB.

The Can Company-Steelworkers Plans

The plans negotiated by the Steelworkers and American and Continental Can companies are similar but not identical. The provisions which follow are essentially those of the Continental Can agreement. The Company agrees to contribute 3 cents/hour/worker into a SUB reserve or into a bookkeeping account, with a contingent contribution liability of 2 cents additional per hour retroactively if necessary to meet claims against the reserve. The maximum level of the General Fund for any calendar month after December, 1957 equals 9 cents times the hours worked during the preceding 12 months ending September 30. This provides a maximum fund for a normal year of about $190 per worker. Benefits are payable to employees with 3 years service with the Company concerned in accordance with a gross weekly benefits schedule (Unemployment Compensation and SUB) for 5 wage classes written into the labor-management agreement. Additional benefits of $2.00 each are paid in all wage classes for each dependent up to 4. Under the Can Company-Steelworkers plans the maximum gross weekly benefits average 65 per cent of after-taxes take-home pay. The benefit calculation, however, uses an annual earnings schedule. Weekly supplemental benefits will be reduced proportionately with the declining level of the general fund. SUBs will be paid for periods not to exceed 52 weeks. Two weeks of employment called "weeks of eligibility" qualify a worker for one week of SUB. The contract terminates September 30, 1958.

Unlike the Continental Can Company agreement, the American Can agreement requires a straight 5 cents per hour contribution. Benefits are calculated on a weekly earnings schedule but average

about the same percentage of after-tax take-home pay as the Continental Can formula.

The Can Company-Steelworkers agreement is substantially different from the Auto Industry-UAW plans in one important respect —it stipulates that approval of states having ⅔ the individual company's employees must be obtained before *concurrent* payments of SUB and unemployment compensation will be made. But the Can Companies have agreed to pay the benefits as a lump sum even though approval by a designated number of states is not received.

Glass Industry-United Glass Workers Plans

Like the plans in the automobile and the can industries, the glass industry plan requires a contribution of 5 cents/hour/worker to a trust fund consisting of individual employee accounts with the possibility of another 5 cents in September, 1956. The maximum fund for each employee's account is $600. The fund may be used by the employee in case of lay-off or illness. Balances remain to the credit of the employee to be withdrawn when he quits the company, dies or retires. The company continues to pay the 5 cents even after the individual account reaches $600, the amount being added to the employee's vacation pay.

A similar plan was negotiated more than a year ago by the New York Electrical Contractors and the Local No. 3, IBEW. The contractors contributed $4 per week per employee into an individual employee's account. The employee was permitted to make withdrawals during periods of lay-off and disability. Balances remaining at the time of retirement were available as a supplementary retirement allowance.

The Glass Workers and the IBEW plans are in fact compulsory savings plans. This is not the first time individual compulsory savings plans have been seriously advocated as a substitute for unemployment insurance. As a matter of fact employer representatives have strongly advocated such plans as the American way of providing economic security. In 1952 Mr. Bradford B. Smith of U. S. Steel, arguing against the guaranteed annual wage demands of steel workers, recommended individual savings accounts as a more desirable substitute. The State Group Advisory Committee on Unemployment Compensation of the National Industrial Council also suggests this alternative in a recent NAM publication. The nub of the issue raised by these two approaches is that of pooling the risk—social insurance vs. sav-

ings. In the debates on the Social Security Act individual worker and individual employer unemployment accounts were supported bcause unemployment was widespread and unpredictable. Though employer reserves, and guaranteed employment plans were permitted by the Social Security Act only pooled funds seemed an adequate vehicle for unemployment benefits. The pooled fund versus individual accounts is still an issue—but much less important than 20 years ago since there is now a basic layer of income security in the federal-state unemployment insurance plans. Though still inadequate, the state plans provide a base upon which SUB can be built. Whether the supplement should be individual account or pooled reserve can safely be left to collective bargaining. Industries may choose different approaches depending upon the employment experience of the industry and the desires of workers, without endangering the long-range security of workers.

The individual account is offered as a way of meeting several of the objections levelled at the pooled reserve type of SUB plan. The individual account:

(1) preserves for long service employees, who are not likely to be laid off, an economic advantage balancing the advantage of SUBs received by short service employees.

(2) permits the use of the fund for disability as well as lay off.

(3) gives the individual employee title to the employer's contribution. If, as seems likely, the 5 cents/hour is more than enough to finance out-of-work benefits, at the present levels, the worker may draw what remains when he quits, retires or dies.

(4) requires no formal approval by state governments for benefits even though paid simultaneously with unemployment compensation.

Little interest has been shown thus far in a proposal made by Paul Raushenbush, Director of the Department of Unemployment Compensation in Wisconsin. Because of the possible conflict and uneconomical duplication of administrative procedures between the current SUB plans, and unemployment compensation and because of the inability of small employers to finance SUB plans, Mr. Raushenbush proposes that the state unemployment compensation systems permit higher contribution rates by employers who wish to provide additional

unemployment compensation for their employees. The privilege of electing additional benefit payments would be open to employers who already were paying for their own unemployment benefit bills. The state agency would offer a limited number of alternative payments (options) from which an employer could choose. While some of the cost would be paid by current contributions, actual costs would be assessed retrospectively in the early years. Ultimately, experience would indicate the amount of the advanced contribution required.

Despite obvious merits in maintaining a unified system of unemployment compensation and the economies of administration to be derived therefrom certain difficulties cannot be overlooked.

In addition to the employer's evident desire to handle benefit programs himself or through private fiduciary institutions, it seems clear that this quasi-public arrangement would not lend itself well to collective bargaining. Administration of SUB is itself a bargaining issue in some industries. The options offered by a state plan limit the scope of bargaining on SUB. The existence of private and voluntary options within the unemployment compensation framework would make it extremely difficult to determine just what the compulsory unemployment insurance system was providing. A clear-cut separation should be maintained if the evolving principle of a basic layer of public economic security plus a variable private layer designed to fit the conditions of separate industries and business organizations, is to be effective. One advantage of the Raushenbush proposal, however, is that benefits to unemployed workers would be tax free.

All plans negotiated thus far are conditional upon receiving some form of governmental approval. Some require only Bureau of Internal Revenue and Wage-Hour action indicating that contributions are deductible business expenses, and are not wages which will be counted as part of the regular rate of pay for overtime purposes. Rulings to this effect were issued to the Ford Motor Company on December 2 and September 7, 1955, respectively. The Auto Industry-UAW plans and the Can Company-Steelworkers plans in addition need rulings to the effect that SUB payments do not constitute wages or other disqualifying income for purposes of paying unemployment compensation and the payment of SUB concurrently. However, the Can Company plans provide for payment of SUB as a lump sum even though approval of concurrent payment is not obtained.

Opinions supporting the integration of SUB and unemployment compensation have been issued by the attorneys general of six states

—Michigan, New York, Connecticut, Massachusetts, New Jersey and Delaware. These states account for about 65 per cent of all Ford employees and 60 per cent of all General Motors employees. Opinions of attorneys general do not have the binding quality of court decision or legislation but they are a guide to unemployment compensation agency determinations with respect to eligibility of claimants. The principal grounds for these opinions are 1) that when paid out of a trust fund, to workers who are able and available for work, SUBs are not wages and 2) the law declares some payments disqualifying compensation in order to prevent an unemployed worker from collecting twice for the same wage loss, but since SUB merely adds to the payment for loss of wages rather than duplicating payments, SUBs are not disqualifying compensation. So long as an unemployed worker is willing, able, and available for work he is eligible for unemployment compensation in these states.

Several attorneys general have recommended that the legislature amend the law to establish clearly the position of SUB. This is a political hot potato involving much more than a simple modification of existing law—a fact to which I shall refer again in a moment. In the absence of a clarification of law by amendment the legality of the simultaneous payments of SUB and unemployment compensation may be challenged in the courts, though it is difficult to see how anyone not a party to one of the contracts can claim loss as a consequence of SUB and hence be in a position to initiate legal action to prevent the payment of unemployment compensation. Stanley Rector has said the basis of a suit would be the employer-taxpayer's loss in having to pay a higher unemployment insurance contribution because of the adverse effect of SUB on actuarial status of U. C. reserves due to the added duration of unemployment arising because of SUBs.

The Commerce and Industry Association of New York has proposed that legislation should be enacted to permit the integration of SUB and unemployment compensation only if the SUB plans meet certain standards. Arguments for this proposal rest upon two related conceptions of unemployment insurance. First, unemployment insurance is a public program which can operate effectively only if certain conditions are met, for example, that the size and duration of benefits should not discourage the search for work, or the acceptance of work when offered. Workers should receive benefits only when they are out of work through no fault of their own. SUB plans, it is held, might actually make these principles inoperative unless the plans

are limited by law. The purposes of the public programs must not be undermined by supplementary benefit plans. Second, unemployment insurance operates effectively only as each employer shoulders the cost of his own unemployment. Lengthening the duration of unemployment would eventually increase the cost of unemployment compensation to all employers, especially if employers whose contributions are less than the benefit payments to their own employees are permitted to maintain SUB plans.

The restrictions that legislatures are asked to adopt are:

(1) A percentage of wage limitation on SUB plus unemployment compensation, possibly ⅔ of a worker's average weekly wage.

(2) Employers with negative balances be prohibited from paying SUBs.

(3) Eligibility requirements and disqualifications for SUBs be equal to those of the state unemployment insurance program including the obligation to seek and accept other suitable work.

In the main, the plans recently negotiated would qualify under these conditions. Should these conditions be legislated they would serve to freeze the pattern of existing plans and prevent further experimentation. A fundamental objection to legislating standards for SUB plans is the interference with the right of labor and management to bargain collectively over wages, hours and other conditions of employment. Despite the hazards of this approach to free collective bargaining, the demand that these limitations be enacted into law will probably be used to counter any legislative efforts to state positively that SUBs do not constitute wages or other disqualifying compensation for purposes of determining eligibility for unemployment compensation.

It has been clear for some time that public unemployment insurance is subject to collective bargaining inside as well as outside of state legislatures. Amendments to state laws to accommodate SUB plans will not escape the tug of war of labor-management bargaining.

There are several aspects of the current SUB plans upon which I would like to comment before turning to the impact of Supplementary Unemployment Benefits on various parts of our economy. Eligibility requirements are for the most part more severe under SUB than under unemployment compensation. Qualifying employment must be

with a single employer and ranges from a full year in the Auto Industry-UAW plans to three years in the Can Company-Steelworkers plans. To be entitled to one week of SUB at least *2 full weeks* of employment are required. Unemployment insurance, at the maximum requires 20 weeks in covered employment to qualify for benefits regardless of the number of employers, and often a week of employment or earnings requirement can be satisfied by work on a single day in that week. SUB will not be paid unless the loss of employment was directly caused by the action of the employer. SUBs are payable only if the unemployment "was not for disciplinary reasons, and was not a consequence of (i) any strike, slowdown, work stoppage, picketing (whether or not by employees), or concerted action, at a Company Plant or Plants, or any dispute of any kind involving employees, whether at a Company Plant or Plants or elsewhere, or (ii) any fault attributable to the applicant, or (iii) any war or hostile act of a foreign power (but not governmental regulation or controls connected therewith), or (iv) sabotage or insurrection, or (v) any act of God (Ford-UAW Agreement, Article V, Section 2(4).)" Under these conditions most state laws will pay benefits immediately or with only a short suspension.

Although the UAW stated clearly in its pre-bargaining publicity that one of its purposes in promoting GAW was to neutralize the employer's pressure on unemployment compensation for additional disqualifications, it is quite unrealistic to assume that employers will ever agree, except in desperation, to the payment of out-of-work benefits when the cause of unemployment lies solely with the employee or when the cause of unemployment is something other than lack of work. One can argue convincingly that benefits should be paid under a public social insurance scheme when the wage loss is attributable to a social condition beyond the control of the employer, such as war dislocation. It is much more difficult to argue that the employer should pay under a private program for a loss for which he is in no way responsible such as refusal of suitable work or unavailability for work as determined under State law no matter how unjust the criteria used by the employment service.

Benefit formulas under the Auto Industry-UAW plans and the Can Company-Steelworkers plans set a normal benefit level of 60 per cent and 65 per cent of after-tax take-home pay. From this amount unemployment compensation is deducted leaving the amount of SUB. One effect of these formulas is to minimize the large differ-

entials which now exist in the unemployment compensation payments in the several states embraced by the companies who are parties to the various plans. Company-wide collective bargaining has already narrowed the interstate wage differentials of plants in the same company. SUB now narrows the interstate unemployment insurance differential.

The Can Company-Steelworkers plans make allowance for dependents benefits. But the Auto Industry-UAW plans ignore dependents benefits and reduce the differential in unemployment insurance between single and married workers with dependents developed in Michigan, Ohio, Connecticut and other states with dependents benefits or variable maximum benefits. For example, in Michigan SUB reduces by 40 per cent the differential in benefits between a Ford worker earning $1.75/hour with no dependents and one with four dependents. Or again, for workers earning $2.185/hour the differential between the single man's benefit and married man's benefit is reduced from $14 to $6.

The impact of high benefit levels upon incentive to work is still largely a matter of speculation. Very few facts are at hand to shed light on this problem. Nevertheless, principles of need and equity as well as the debatable issue of work incentives all argue for maintaining a substantial differential between benefits received by a young unmarried man or woman without dependents and secondary earners on one hand and men and women whose earnings are the sole support of a number of dependents on the other.

The equalization of labor cost has been a basic principle implicit in the bargaining of most of the major labor unions. The application of this principle to the issue of GAW or SUB or pensions in firms with such widely diverse circumstances as Ford and General Motors on one hand and American Motors on the other has not been easy. The SUB plan in the auto industry apparently achieves this purpose in an automatic fashion by the following measures:

(1) Uniform contribution rates of .05/hour.

(2) Within the contract period all companies will pay the same rate since it will require nearly four years (without any benefits being paid during the period) to reach a level at which contributions cease.

(3) Benefits are calculated for all companies according to the same formula. However, the duration and ultimately the

amount of SUB benefits will vary with the employment experience of the individual companies.

Hence, while operating under identical SUB agreements the employment experience of different employers will not during the three-year contract period affect cost at all, but with passage of time contributions will be affected in a substantial way by the employment experiences of the individual company.

What are likely to be the economic and social effects of SUB? Since SUB plans are still in the incubating stage, answers to this question fall strictly in the crystal ball department. But this is the point at which one arouses the greatest interest. Significantly the reception to SUB by employers and professional people has not been so pessimistic as was their reaction to collectively-bargained pensions in 1949. Generally speaking, efforts to date to describe the probable impact of SUB on various parts of our economy, though usually divergent, have been mature and realistic and have not lent themselves to violent argument. Let us look at several areas upon which SUB can be expected to exert an influence.

The question of economic impact hinges, of course, to a large extent, upon how quickly SUB will spread throughout the economy and how many workers and industries will be covered eventually. Estimates indicate that a little more than one million workers are now covered by plans. I think we can assume that in three years perhaps ½ to ¾ of all workers in unions currently showing an interest in SUB will be covered. These unions are UAW, the United Steelworkers, the United Glass and Ceramic Workers, the International Brotherhood of Teamsters, IBEW, the National Maritime Union, the ILGWU and IAM, with a combined membership of about 4,700,000. The recent five-year contract with General Electric apparently excludes IUE from this list of potential coverage. The spread of SUB plans will not be as rapid as that of private pension plans (although the spread of SUB in the auto industry has been more rapid than pensions in 1949-50)—the need is not so pervasive, SUB is not so closely tied to company personnel policies as pensions, and non-organized employers are not as likely to introduce SUB plans. The outlook is for a relatively limited growth compared to pensions—possibly a coverage of 3 to 5 million workers in the next three years. The strongest deterrent to extension may well be the unwillingness of state attorneys general or legislatures to legalize integration of SUB and unemployment compensation.

Now for the effects of SUB—*First: State unemployment compensation programs.*

Drawing conclusions upon OASI experience following the 1949-50 establishment of private pension plans, there has been an expectation that the emerging SUB plans would result in liberalizing unemployment compensation. To some extent the increase of benefits in 30 or more states last year appears attributable in part to the GAW demands of organized labor. But dissatisfaction with lagging U. C. benefits was widespread and the desire for improvement was crystallized by President Eisenhower's message on this subject in January 1954, calling for better standards of unemployment insurance. These influences notwithstanding employers generally will have greater financial incentive to resist improved benefits under unemployment compensation than under OASI, since they pay the whole cost of both unemployment compensation and SUB. Half the cost of OASI was borne by the employee. Therefore, an increase in OASI benefits provided a higher contributory benefit and a lower non-contributory pension benefit. Many employers will support increased unemployment benefits only in return for additional disqualifications or some other quid for the quo of higher benefit levels. SUB will not change this approach to unemployment compensation.

Labor unions will not be any more effective than in the past in revising unemployment compensation laws. The 3-2 defeat last November in the Ohio elections of a CIO sponsored referendum which would have increased unemployment benefits to $50 per week, extended duration of 39 weeks and provided for integration of SUB and unemployment compensation is an exaggerated example of the resistance which labor unions have experienced in pressing for liberalized unemployment compensation. SUB will not modify the basic bargaining approach which employer associations and labor unions have taken toward unemployment insurance in which the employer associations have more often than not been the victors. The influence of small unorganized employers, farmers and small town professional people, all of whom are indirectly affected by SUB is very strong in state legislatures. Revisions of unemployment insurance are those most likely to affect a compromise between their attitudes and interests and those of large scale industry and organized labor.

A crucial problem of the integrated unemployment compensation and SUB plans is the effective administration of referrals for suitable

work. The only satisfactory control over the claimant's willingness to work in any system of out-of-work benefits is referral to a suitable job. There are practical difficulties in administering job referrals even without SUB plans, for example, employment office managers cannot refer men on temporary lay-off to another employer who is looking for permanent employees. Further, local employment office managers are often obliged to cooperate with a local employer who wants to keep his labor force intact through a temporary lay-off. The employer argues that since he is paying for his workers' unemployment insurance he wants them around when he needs them. With SUB plans providing added benefits greater resistance will arise to both the offer and the willingness to accept job openings which do not provide wage and job opportunities equal to those which may eventually be available with a former employer. The administrative details of cross checking eligibility requirements, such as the actively seeking work provision of unemployment compensation and SUB plans, between the employer and the local employment office may result in confusion and will require considerable experimentation before suitable arrangements are worked out, but the job is not impossible.

Impact on Employment

The effect of SUB on industry's employment policies is somewhat unpredictable at this early stage. Professor Slichter in his Atlantic Monthly article of last September states that the effect would be negligible because the forces of the market causing employers to expand or contract operations are much stronger than the limited cost of SUB. However, superficial evidence from the Detroit area shows an increase in overtime work in the auto industry over a year ago presumably to limit the labor force against future curtailment of operations when SUB will be in effect.

SUB may push some marginal employers out of business. The impact will be related to the efficiency of the employer, or the secular trend of the entire industry, rather than the size of the firm. New York statistics show that the medium size firms, rather than the very small firms when once established, have the least stable employment—hence SUB is likely to be less damaging to the small employer than generally believed. The provision of the Auto Industry—UAW agreement requiring that an employee accept the Company's offer of other available work in the Detroit Area does provide an oppor-

tunity to stabilize employment by facilitating the mobility of workers within the Company. There would be a modest financial incentive to the employer under SUB, after the reserve has reached its maximum, in keeping his employees at work. Until then the stable employer and the unstable employer will have the same 5 cents/hour liability.

The Impact on Union-Management Relations

SUB plans may have a significant effect on one of the foundations of industrial union policy—the seniority principle. Industrial unions have sought constantly over the years to establish and widen the area of seniority. While it is true that SUB plans now give special weight to length of service, the value of SUB to senior employees is still a moot question because they already have a large measure of job security through length of service. Will not improvement in SUB plans by increased benefits or extended duration further reduce the value of seniority to these long service employees? The decline in importance of seniority as a basis of job security because of SUB plans by increased benefits or extended duration further reduce the value of seniority to these long service employees? The decline in agreements in order to give management a freer hand in organizing and distributing the work force? For example, would it not be possible to remove seniority restrictions from lay-off procedures so management could retain the most efficient employees rather than those with longest service?

Impact on Personnel Policy

The effort of personnel and training divisions of larger companies to hire and train workers in terms of job families may get a powerful stimulus from the operation of SUB. The movement to identify job families for use in selection and training stems from the need to maintain a versatile work force as well as to economize on training time and selection procedures. The Air Force in recent years has put considerable emphasis upon identifying skills common to many different jobs. With a stable labor force, observed in its extreme form in a military organization, increased emphasis upon effective selection, training in a wide range of related skills, and attention to morale building activities will pay off in greater economy and efficiency of operation.

Impact on Business Conditions

Debates on the role of purchasing power in causing or moderating business cycles have had considerable popularity in some circles since the Great Depression. It is argued that full production and full employment—in short, prosperity—can be maintained only if people have money to spend. But purchasing power is not merely money in the hands of workers. It is income of all kinds—rents, interest, profits as well as wages and salaries. Nor is purchasing power merely having money to spend. It is a relationship between money income of all types *and* the price level. SUB may add a small measure of balance to the economy, but it should be obvious that the business cycle is such a complex phenomenon that it defies a simple solution such as higher unemployment insurance benefits.

To pay SUBs according to the present plans, liquidation of reserves will be necessary. In a period of general business decline the forced sale of private securities will act as a depressant on business thus cancelling out to some extent the added purchasing power of SUBs. If SUB reserves are invested exclusively in government bonds, however, the ability of the government to absorb the sale of bonds will prevent direct downward pressure.

An Appraisal of SUB

It is fruitless to argue whether the UAW or Ford Motor Company won the fight for the guaranteed annual wage. Ford Motor Company representatives have declared that their SUB plan retains the basic principles defended by the Ford negotiators—(1) No unpredictable cost, (2) no inequity to older workers, (3) no reduced incentive to get back on the job, (4) no union voice in the management of the company or the management of the reserve, (5) administration is simple, (6) variation in duration and amount of benefit with seniority and the amount of the trust fund limits the charges against the fund and hence the Company's liability as does the present dollar limit on the size of the fund.

The Union on the other hand claims to have established the principle in industry that the employer has an obligation for the welfare of his laid-off employees—(Sumner Slichter says this principle was established in the Wisconsin Unemployment Compensation law of 1932 and in the Social Security Act of 1935). It is clear now that the Auto Workers and Steelworkers fixed a contractual obligation upon employers to pay benefits to out-of-work employees under

a private unemployment benefit system. The crucial development coming out of the negotiations was the decision to tie the company benefits to the prior determination of eligibility for unemployment insurance by the state unemployment insurance agency. This decision has given us supplementary unemployment benefits rather than a rival and conflicting private system of unemployment insurance. This agreement goes a long way toward assuring the future improvement and integrity of unemployment insurance on the one hand, and the continuation of sound union-management relations on the other.

DISCUSSION

ROBERT C. GOODWIN
Director, Bureau of Employment Security
U.S. Department of Labor

What I have to say will largely emphasize and supplement Dr. Haber's remarks, rather than disagree with the points which he has made.

Benefits were admittedly inadequate at the beginning of the program. In 1938, the average benefit amounted to only $10.94. But, starting from even this low level, benefits have not kept pace with wages of covered workers. This has been largely due to a failure to increase benefit maximums in the same proportion as increases in wages. There is the inevitable lag between increases in wages and legislative action to increase benefits. One way of overcoming this lag is the provision written into the Utah law this year that sets the maximum benefit amount in terms of a percentage of average weekly wages of all covered workers.

It is true that we have not had enough information to determine a precise and ideal level for unemployment insurance benefits. However, to justify the modest benefit levels so far recommended, there has been more than enough data. The Duquesne study of unemployment compensation beneficiaries does more than confirm what we already know, that present benefit levels are inadequate; it raises questions as to whether our sights should be raised. In the Duquesne study, the chief wage earners received an average weekly benefit of $29, but this represented only 45 percent of the reduced expenditures for most families. Even for single claimants, the average benefit of $26 represented only 60 percent of average expenditures.

Of course, unemployment insurance cannot protect an unemployed worker indefinitely. There is wide agreement that 26 weeks of benefits is a reasonable period. However, only 6 States are providing such a maximum for all claimants, while an additional 21 States pay a maximum of 26 weeks to claimants who meet certain employment or wage qualifications. The number of claimants exhausting benefits each year clearly indicates the need for more attention to this aspect of the program. In 1954, 1.8 million out of 6.6 million claimants exhausted their benefits after drawing an average of 19.6 weeks.

A number of current State studies of claimants who have exhausted their benefits should show whether our goal of a 26 week maximum is adequate.

The broad reasons for disqualifications and severe penalties in case of disqualifications have in many States gone much further than is necessary. Also, there is a trend toward limiting the payment of benefits to unemployment for which the individual employer can be held responsible. This is inconsistent with a social insurance program.

The 13 million persons who face the risk of unemployment, but whose jobs are not under the system, should receive increased attention. A large portion of those still excluded are among the more disadvantaged members of our labor force. I refer particularly to agricultural and domestic workers. The high turnover of small businesses exposes large numbers of their employees to unemployment. There are also certain administrative advantages in having no exclusion of small firms.

Our experience with the system for Federal civilian workers shows that there is a considerable amount of unemployment among government workers, and employees of State and local governments should also be covered. And our experience with the temporary program of benefits for veterans set up during the Korean War demonstrates that large numbers of men released from the armed forces have need for protection while they are readjusting themselves to civilian life.

The original benefits were cut to fit anticipated high costs. But rather than increase benefits to adequate levels as large reserves have been built up, the pressure has been to reduce taxes. The Federal Act has standards as to when an employer can give reduced taxes but places no restriction on such reductions. As a result, the original purpose of the Federal tax—to remove the element of interstate competition from the cost of the program—has entirely disappeared and, if anything, there is interstate competition for reduction in taxes.

This pressure to reduce tax rates has brought several States at one time or another to the point of endangering the solvency of their funds.

The recent President's Commission on Intergovernmental Relations gave sound advice when it said in its report: "States should be required to maintain an unemployment insurance tax structure likely to insure solvency of State funds."

KARLTON W. PIERCE
Manager, Industrial Relations Analysis Department, Ford Motor Company

I was asked to comment on Dean McConnell's paper.

In his discussion of the Glass plans, I am not sure whether or not he was advocating this individual account type of plan. I think the basic difference between that type and the Ford-UAW pooled type is the purpose which the company and union desire to serve. The individual account plan provides individual funds which can be drawn on upon lay-off, illness, quit, death, or retirement. That makes five purposes to spread it over and the unemployment benefit purpose is limited to what has been accrued in the individual's account.

The Ford-UAW pooled plan on the other hand serves *one* purpose, layoff benefits to supplement Unemployment Compensation and the pooled approach does a far better job of helping the employe who needs it—the one who is laid off. To serve this single purpose as well under the individual account plans as under the pooled plan would cost far more than the 5c per hour which goes into the pooled fund.

Dean McConnell said that the Auto Industry-UAW plans ignore dependents benefits as contrasted with the Can plans. Ford Motor Company thinking on this was that the question of direct dependents allowances is in the realm of broad social public policy rather than private collective bargaining. It seemed to us inappropriate to pay direct private benefits according to family size just as it is not appropriate to determine wage rates by family size.

However, we did not "ignore" dependents. Since the Ford-UAW plan total benefits are a percent of *after-tax* wages they automatically give different dollar amounts by family size—but based on public determination through the tax laws as to how much tax exemption is to be allowed for each dependent. For the average Ford worker under the present federal tax laws the total unemployment benefit is around $1.50 more for each dependent of an employe for the 65% benefit. If Congress should revise the income tax law to increase the present $600 exemption, this $1.50 would be increased.

Dean McConnell mentioned the argument over who "won the fight" and said that Ford Motor Company representatives have claimed victory.

Our intent has not been to claim that we won and the UAW lost in our 1955 national negotiations. We don't feel that one side "won" and the other side "lost." We think that we both "won" in that we

reached a mutually satisfactory agreement without a long strike which would have meant a great loss to the employes, the Company, and the economy.

What we have been concerned about, and what Ford spokesmen have been emphasizing, is correcting the false impression created by some that this Plan is a "Guaranteed Annual Wage." Dean McConnell even referred to it in his paper as "the present version of GAW," although his major emphasis centered around the correct concept—"Supplemental Unemployment Benefits."

So we have felt it very important to get across what the Ford Plan really is and we want to see it judged by what it is rather than by what it is not.

We believe that the "Guaranteed Annual Wage" is wrong economically, socially, and morally for our industry. Some of the reasons were that the UAW's Guaranteed Annual Wage had unlimited liability and unpredictable costs, would destroy the incentive to work, would put such questions as eligibility, disqualifications, suitability of job offers and similar issues under State Unemployment Compensation laws, into the area of day-to-day negotiations with the Union, and so on.

The Supplemental Unemployment Benefit Plan avoids the dangerous principles of a GAW.

It should be emphasized that the Company did not determine the benefit levels on the basis of what the available funds would support, but rather on the merits of the levels as such—keeping foremost in mind the very important matter of *financial incentive to want a job.*

The whole administrative concept of the Ford Plan is to tie in very precisely with existing State U. C. concepts—to support the U. C. publicly determined laws and regulations — a principle of great importance to us in designing the Plan.

We consider our Plan to be sound and consistent with the purposes of the state benefit systems. We shall continue to support integration with the state system benefits and to oppose efforts to prevent it through state legislation or otherwise.

Part VII

ARE UNION PRACTICES MONOPOLISTIC?

LABOR MONOPOLY AND ALL THAT [1]

EDWARD S. MASON
Harvard University

WHETHER LABOR UNIONS are monopolies is a question hardly worth asking and, if asked, hardly worth discussion. Whatever else a union is, it is certainly an agreement among workers not to compete for jobs. If unions are not monopolies working men have been deliberately sold a "bill of goods" for many long years by slick operators who have repeatedly promised to "take labor out of competition." The interesting questions would appear to be: of what are unions monopolists; how much market power do they have and how do they use it; are there degrees of power and types of use that call for public intervention; and, if so, are "unreasonable" manifestations of labor monopoly appropriately handled by policies primarily designed to deal with monopoly problems in product markets or is another type of policy required? It is obviously impossible adequately to discuss so broad a range of questions in the time available to us. What I propose to do is to consider some of the determinants of the degree of market power and its use by "labor monopolies" and to do a little prospecting around and about the concept of "unreasonable" power.

Unions in the Market

Monopoly power is obviously a question of degree. In commodity markets a pure seller's monopoly, if it means anything at all, can only mean that buyers confronting this seller, have no alternative except to purchase from him. But since, in some sense, all commodities and services compete with each other for consumer dollars, it follows that, to be "pure," the monopolist would have to control the sales of all goods and services. Even then he might encounter competition from the do-it-yourself contingent. Certainly, if his control falls short of all goods and services offered for sale his market power will be limited by the alternative open to buyers to spend more or less on the products of other sellers. Similarly a pure labor monopoly can only mean the total control of the supply of labor by a single seller or—if you prefer—a single negotiator for the sale of labor services.

[1] This paper is the outgrowth of a study of various aspects of the problem of labor monopoly, undertaken as a part of a larger project on monopoly and competition, financed by the Merrill Foundation for the Advancement of Financial Knowledge.

Anything short of that would confront the seller, or negotiator, with competitive limitations to his market power.

Unions are, of course, organized for purposes other than bargaining advantage. Consequently it is possible—though barely possible—to imagine a union with no market power. Unless, however, its members think there are advantages to be obtained from the employer in the area of wages, hours, and working conditions greater than could be obtained by individual negotiation, the union is not apt to be long lived. If we accept the degree of market power essential to the continued existence of a union as the lower limit, and a monopoly of all labor as the upper limit, the market power of currently functioning unions will fall somewhere between. They are all monopolists to a degree and the degree will be largely determined by their success in controlling the alternatives open to relevant groups of employers.

Each employer with whom a union negotiates must be denied access to alternative sources of labor supply. The number of employers sought to be controlled will depend on competitive relations in product markets. If product transport costs are high it may be sufficient to organize employers in a regional market only. If there exists a national market for the product, the market power of the union will depend either on organizing employees on a nation-wide basis or on devising means of excluding competing products from organized local markets. Nor may it be enough to deny all employers in a relevant product market access to alternative sources of labor supply. Under certain circumstances the market power of the union can be increased by denying the employer access to alternative labor saving techniques. Market power is dependent not only on control of the supply of labor but also on control of the supply of jobs. Finally, assuming adequate control of the supply and demand for labor among some relevant group of employers, the market power of the union may be increased if advantage can be taken of elasticities of the demand for the employers product. This may, on the one hand, involve control of the entry of new firms and, on the other, control of the price of the product sold.[2]

The market power of a union may be roughly measured by its ability to raise the price of labor above the level attainable in the

[2] The demand for labor is, of course, a derived demand and, for particular types of labor services which are complementary to others, the derived demand may be highly inelastic. Hence an organization—say a craft union—capable of taking advantage of the inelasticity may, at least in the short-run, command a high degree of market power.

absence of the union. What, for reasons of simplicity is here called price, is better thought of as some sort of utility index of acceptable combinations of wage rates, hours worked and other "working conditions." What is here called labor is some group of working men in whose interest the union negotiates. For the present we are concerned with the determinants of market power leaving for later consideration the characteristics of the unit that exploits market power. Even if a union has complete control of the supply of labor, substantial influence over the number of job opportunities, and is in a position to determine the conditions of entry of new firms and the way existing firms take advantage of the elasticity of demand for the products they market, the power of the union is still limited. There may be close substitutes for the product in question produced by firms whose employees are outside the control of the union under consideration. Furthermore, there may be a wide discrepancy between the union's judgment of its market power and the fact. This happens all the time in product markets and there is no reason to believe that unions are immune from such mistakes. A union, for example, that hopes to strengthen its market position by denying employers access to superior technology may wake up to find that demand has shifted away from the products in which it has interest to others. No union is likely to have sufficient market power to be able to ignore competitive influences from areas outside its control.

It is obvious that in the process of acquiring and using market power union activities may impinge either on the labor market or the product market. But it is not at all clear where the labor market leaves off and the product market begins. Nor, assuming we know where the product market begins, is it at all easy to determine what types of labor intervention lessen competition in the product market and what do not. If union rules deny the use of spray guns to painting contractors is competition among these contractors thereby lessened? Presumably, if there is a large number of contractors in the market and they continue to act independently of each other, competition, as the term is explained in the textbooks, remains intact.

If the labor market embraces that group of economic activities a union may seek to influence in its attempt to increase its power to improve wages, hours, and working conditions, there is really no tenable distinction between labor markets and product markets. There is literally no entrepreneurial activity in the production and sale of goods that cannot conceivably be influenced by union activities to the

advantage of union members. Certainly the attempt of the anti-trust division, preceding the decision in the Hutcheson case, to draw a distinction between "legitimate" union concern for improving wages, hours, and working conditions and "illegitimate" activities that interfered with business competition was ludicrously ineffective.[8]

Any attempt to set out the limits of the market power of unions will have to consider union activities on both sides of the market; its success in controlling not only the supply of labor but the demand for labor. And any exploration of union activities on the demand side of the labor market will inevitably penetrate deeply into the functioning of product markets.

What kind of monopoly?

Having set out some of the factors that influence the degree of monopoly or market power that a union may possess, let us turn now to a consideration of the nature of the organization that presumably

[8] It is interesting in this connection to compare the Anti-Trust Division's statement (Thurman Arnold) of "illegitimate" union practices with the A. F. of L. replies. T.N.C.E. Hearings, Part 31A, pp. 175-79.

1. "The strike of one union against another union certified by the N.L.R.B. to be the only legitimate collective bargaining agency with whom the employer can deal."

Reply: "A union certified by the N.L.R.B. may certainly be guilty of negotiating an unfavorable wage contract or imposing arbitrary dues or arbitrary leadership."

2. "A strike to erect a tariff wall around a locality."

Reply: "His illustrations prove that he considers it to be unlawful for unions to seek as much work as possible for their members. Surely it cannot be denied that efforts on the part of a labor union to increase the amount of work for its own members have a direct connection with wages."

3. "The exclusion of efficient methods or prefabricated materials from building construction."

Reply: "Surely unions may, in the language of Mr. Justice Brandeis 'join in refusing to expend their labor upon articles whose very production constitutes an attack upon the standard of living'."

4. "The refusal of unions to allow small independent firms to remain in business."

Reply: "The so-called independent contractors or vendors are in truth employees, and certainly the competitors of employees."

5. "The activities of unions in imposing and maintaining artificially fixed prices to consumers."

Reply: "The crux of the problem is, when are prices artificially fixed? Would it, for example, be an unreasonable restraint of trade for unions to enforce a price so as to maintain a living wage by cutting out sweatshop competition?"

6. "The make-work system."

Reply: "Employers will always claim that a few extra hours of work by a smaller number of employees renders useless and unnecessary a greater number of employees."

exploits this market power. An examination of business monopoly problems makes it clear that a given degree of market power, however measured, can be variously used depending, in part, on relationships among those who hold this power. Market power may be held by a single seller, a small group of sellers each of whom acts with regard to the reaction of others, a cartel, a trade association, and, no doubt, by other combinations. The market conditions external to the group may be similar but differences in relationships within the group can produce a wide variety of responses to these external conditions. Insofar as the theory of the firm has attempted explanations of business behavior in situations in which power is held by a group the members of which act independently or in some sort of collusion, it has done so by asking how firms attempting to maximize profits would act subject to various restraints imposed either by the probable reactions of other firms or by the regulations of a collusive agreement. But it has proved very difficult to specify restraints that have any claim to generality and the meaning of profit maximization under such circumstances itself becomes ambiguous. Consequently, examination of business behavior tends at this point to abandon theoretical models and to retreat into the institutional atmosphere of industry studies. The rock on which the more general analysis founders is the complexity of relations among a group possessing market power.

If we attempt to relate this experience to the study of labor monopoly, the first thing we need to recognize is that whatever else it may be, a trade union is not a seller of labor services. If a union controlling the supply of labor in a defined market were to act as a monopolistic seller of labor services, it would presumably, on the analogy of a monopolistic seller in a product market, attempt to take advantage of any differences in demand elasticities in different segments of the market via a policy of wage discrimination and, in other ways, so act as to maximize total receipts for services rendered.[4] How to distribute these receipts among union members would rationally be determined on the basis of some calculation of incentives required to bring forth the necessary services. Obviously unions not

[4] Although it is probably correct to say that, in general, unions do not act like systematic discriminators, my colleague Martin Segal has called my attention to a number of interesting examples of discriminatory action: The Rubber Workers, not only discriminate among tire-making firms but also negotiate different rates (for the same job) within one firm depending on the nature of the product and the elasticity of demand for the product. The teamsters, at least in certain geographical markets, appear to consider the elasticity of the demand for the service in setting rates for virtually identical trucking jobs.

only do not but cannot act as rational monopolistic sellers of labor services.

In the first place, even though the union is the sole negotiator in a given market there is considerable ambiguity in determining the numbers for whom it negotiates. Not all may be union members and within the union certain blocs of members may have preferred positions that, at the least, may influence acceptance gradations among wage rates. In other words, the union view of the quantity axis in the familiar diagram that depicts the results of quantity-times-price calculations is not quite the same as the perspective, say, of a seller of cement.

In the second place there is a still greater ambiguity about the nature of the unit of sale, *i.e.* of labor services. The union presumably negotiates with respect to a bundle of benefits called wages, hours, and working conditions. But "working conditions" in particular have a way of appearing on both sides of the bargain. The terms affecting "working conditions" offered by the buyer of labor services as a part of the "price" for these services may affect the size of the unit of services he in turn receives. In other words, the supply and demand functions for labor services may not be completely independent of each other.

In the third place the union is clearly not in the same position to package, ship and otherwise dispose of its product as, say, a seller of cotton grey goods. In fact, if the union does not handle its material very carefully it is not likely to have any product at all. The necessity to persuade, discipline, cajole and take the other steps required to maintain morale and cohesiveness in the organization clearly sets substantial limits to what the union can and cannot do in negotiating for the sale of labor services. For all these and other reasons the union is not a seller of labor services but a negotiator for the sale of a not very clearly defined product, representing a not very easily determinable number of men, and operating in an environment that pretty seriously limits the application of any maximizing principle.

To say, however, that a union is not a monopolistic seller of labor services is not to say that it is not a monopoly organization. If we are permitted again to draw analogies from the commodity market, the form of business monopoly that most closely resembles the union is a price cartel with sufficient control over entry and output to make its price policy effective but lacking the device of profit pooling and the powers required to make profit pooling effective. Such a cartel can

obviously not pursue the price and output policies that would be followed by a single seller operating in the same market. The prices that would maximize the profit of the various firms constituting the cartel will normally be different and consequently the cartel price has to be some sort of compromise. Since profits are not pooled each firm has an interest in its continued existence as a firm and consequently the cartel cannot do what a single seller would supposedly do, shut down inefficient facilities and attempt to minimize costs for the total output. The union is normally faced with somewhat the same problem of reconciling divergent interests and taking care of employees in high cost locations even though it might be better for the union as a whole if jobs could be concentrated in high profit concerns.

Although a cartel is not a single firm monopoly no one has any hesitation in describing it as a monopolistic organization. Nor should there be any hesitation in so characterizing a trade union. The exploitation of its market power by a cartel—or similar loose business arrangements—has been characterized by Fellner as "limited joint profit maximization."[5] Any attempt so to characterize a union's exploitation of its market position would probably have to stress the "joint" and the "limited" and play down the element of "maximization."

Structural and Performance Tests of Market Power

We have now said something about the character of the market confronted by unions and the varying degrees of "occupancy" of the market—if I may be permitted this term—that a union may possibly achieve. We have also considered briefly some of the relations between the union and its membership that might be expected to influence the way in which a market position is exploited. Given the market position and the internal organization of a union, would it be possible to say anything useful about the wages, hours, and working conditions that collective bargaining is likely to produce in that market? Or conversely, given the performance of a union as revealed in the terms and administration of its collective agreements, would it be possible to say anything about the market power possessed by the Union?

There has been a good deal of examination in recent years of at least one aspect of union "performance"—the effect of labor organization on hourly wage rates—with fairly inconclusive results. Paul Douglas, writing in 1930 found that while in the 1890's, and early years of this century "unionists were able to secure for themselves appreciably

[5] William Fellner, "Competition Among the Few," cf. in particular, Chapter VII.

higher wages and shorter hours than the mass of the workers," since 1914 "the wages in the non-union manufacturing industries have risen at least as rapidly as have those in non-manufacturing trades." [6] Arthur Ross, on the other hand, after a study of B. L. S. wage data 1933-45 concludes that, "Real hourly earnings have advanced more sharply in highly organized industries than in less unionized industries, in periods of stable or declining membership as well as periods of reorganization." [7] Studies by Dunlop [8] and Garbarino [9] cast doubt on any very strong influence of unionization on inter-industry wage structures. Clark Kerr summing up the results of these and other investigations concludes: "One consequence of contemporary institutional controls in the labor market is evident. They conduce to the single rate within the craft or industrial field which they cover. The best, although not thoroughly convincing, evidence now indicates they have surprisingly little effect, however, on inter-industry differentials, confirming the conclusions of Paul Douglas of a quarter of a century ago." [10]

If we turn to the writings of those who have most strongly emphasized the dangers of labor monopoly, we find many ominous statements about distortions of the wage structure, and sabotage of the price system but almost no factual information to support such statements.[11] Are we to conclude that because the factual investigators of union performance have found no striking evidence of significant effect on wage differentials and the theorists of labor monopoly have failed to demonstrate their case empirically, the degree of market power possessed by unions is small? Some writers appear to think so but the conclusion seems to me premature.

Similar difficulties confront judgments, based on evidence regarding business performances, of market power in product markets.

[6] Paul Douglas, "Real Wages in the United States," 1930.

[7] Arthur M. Ross, "The Influence of Unionism Upon Earnings," *Q.J.E.*, Feb. 1948, p. 284.

[8] John T. Dunlop, "Productivity and the Wage Structure," in *Income, Employment and Public Policy; Essays in Honor of Alvin H. Hansen.*

[9] J. W. Gabarino, "A Theory of Inter-Industry Wage Structure Variations," Institute of Industrial Relations, Univ. of California (1950).

[10] "Labor Markets: Their Character and Consequences," I.R.R.A. *Proceedings*, 1949, p. 78.

[11] E.g. various writings of Charles E. Lindblom, Fritz Machlup, and Henry Simons. Cf. Lindblom, *"Unions and Capitalism,"* p. 5, "Unionism will destroy the price system by what it wins rather than by the struggle to win it. It sabotages the competitive order, not because the economy cannot weather the disturbance of work stoppages but because it cannot produce high output and employment at union wage rates. Nor can the economy survive the union's systematic disorganization of markets and its persistent undercutting of managerial authority."

Repeatedly, in the administration of the antitrust laws, the courts have wisely refused to answer the question whether the prices—or some other aspects of performance—of a combination are "unreasonable," by some test of what would be reasonable under competitive conditions, and have found violation in the mere existence of the combination. And, in so far as the courts have tended to move away from "abuse of power" and toward the existence of "power itself" as evidence of monopolizing or attempting to monopolize in cases involving large firms, the tests of market power have tended to emphasize structural rather than performance considerations. If the degree of monopoly possessed by a firm is to be estimated by comparing the prices, output, investment and profits of this firm with what these prices, output, investment or profits would be if the firm were subject to competitive restraints, two major difficulties arise. First, there is the question of standards; are the restraints to be those associated with pure competition or with some sort of "workable" competition, and, if the latter, what sort? Second, there is the problem of isolating the effect of market power on the prices, output, investment and profits, under observation, from other influences. The study of business performance has its uses in estimates of market power in conjunction with structural evidence but only in rather special situations can performance tests alone yield unambiguous findings.

So far as I can see, the same difficulties plague attempts to estimate the market power of unions by means of observations of union performance. Again there is the question of standards. Are we comparing the behavior of union wage rates with the assumed behavior of wage rates in a purely competitive labor market which is apparently what Machlup has in mind?[12] Or is the standard of comparison the assumed behavior of wage rates in the absence of unionization, which is apparently what Reynolds and various other people consider to be appropriate?[13] Secondly, assuming we have chosen our standard, will we find it possible to isolate statistically the influence on wage rates, or other dimensions of performance, of union power from all the other

[12] Fritz Machlup, "Monopolistic Wage Determination as a Part of the General Problem of Monopoly," in Wage Determination and the Economics of Liberalism. U. S. Chamber of Commerce, 1947. pp. 69, 70.

[13] Lloyd Reynolds, *"The Structure of Labor Markets,"* p. 259.

Clark Kerr, "Labor Markets: Their Character and Consequences," *op. cit.* distinguishes between "perfect" labor markets in which "physical movement of workers and the wage setting process" are intermingled with the emergence of "one wage for labor," and "natural markets." He reports of the latter that all the evidence indicates a wide range of wage rates for equal qualifications—due to limited knowledge on the part of the worker and a "restricted conception of himself."

influences at work in a changing economy? A failure to establish empirically a clear connection between unionization and the terms of the wage bargain does not, to my mind, dispose of the question of labor monopoly.

In product markets, it is much easier to assemble information relevant to the market power of a firm by considering the limitations imposed by the firm's position in the market than it is by observations of the firm's performance, and I suspect this is true of the market power of unions. Needless to say, it is not at all easy, in either case, to evaluate this information. If we are to consider the area of freedom open to the union in wage negotiations as well as the limitations imposed by the external market environment, we must presumably start with the product market which defines the employers with whom, and the number of jobs with respect to which, the union will desire to negotiate. Unless all the employers in a well-defined product market are included, the union's area of freedom is bound to be severely circumscribed by the product substitution of non-union for union output. Given complete control of the jobs in a well-defined product market, the union may be able to increase its market power by setting limits to the introduction of labor-saving technological changes or by increasing the number of jobs by "featherbedding" operations. There may also be opportunities of taking advantage of demand elasticities in the sale of the product by controlling or influencing output and price. The union might be said to occupy its market fully when all opportunities of improving wages, hours, and working conditions, within the unavoidable limits imposed by the elasticity of product demands and unalterable production functions lie within its control.

The union in the course of acquiring its market position may find it necessary to engage in organizing strikes and secondary boycotts; to press for closed shops; to absorb "independent businessmen-workers" into the union or drive them out of business; to insist on the employment of non-working standby crews, and do many other things designed ultimately to improve wages, hours, and working conditions. All or most of these are "well-established practices" of trade unions and Lester admonishes us, "Merely to condemn as 'monopoly' almost every well-established practice of trade-unions serves, therefore, to confuse rather than to shed light on, the significant issues." [14] I agree that to *condemn* these practices as monopolistic is wrong since condemnation implies a judgment based on some public interest standard.

[14] Richard A. Lester, Reflections on the "Labor Monopoly Issue." *Journal of Political Economy*, Dec. 1947, p. 526.

But to *analyze* these practices in relation to the market power or degree of monopoly achieved or achievable by unions seems to me not only desirable but necessary. Needless to say, the conclusions of such analysis have no necessary relevance to a public interest finding of "unreasonable" power or "abuse of power."

I take it for granted that all these and other union practices contribute—or are thought to contribute—to improvement of wages, hours and working conditions. Consequently I agree with Lester that there is no reason for selecting out certain of these practices, such as the closed shop or industry-wide bargaining, as monopolistic, to the exclusion of others. Certainly these particular practices may in various circumstances increase the degree of union power but so does any kind of labor organizing. The union is a monopolistic arrangement by definition and it may be reasonably assumed that a union will take such steps as it can to increase the degree of its monopoly control in order the better to perform the functions for which it was organized.

At the same time it has been emphasized that the union is a very special kind of monopoly organization, negotiating on behalf of its members rather than selling their services, and constrained by various internal and external political considerations in its conduct of negotiations. There is no reason to expect then that the market power possessed by a union will be translated into a certain predictable pattern of economic performance via some sort of wage-maximizing motivations and procedures. If we turn to commodity markets the closest resemblance is a particular kind of cartel which, though it does not behave as a single monopoly seller would behave, is a monopoly organization for all that. And so is a labor union.

Unreasonable Union Power

It needs to be recognized at the outset of any discussion of "appropriate" limits to union power or use of power that this is a political question. There is no possibility, by means of an application of the principles of economics, the philosophy of the common law, or any other technique of analysis or body of doctrine, of arriving at an "optimum" solution to this problem. The determination of wages and working conditions through the process of collective bargaining is highly valued by important elements of the community not only because of "bargaining" considerations but because it permits the participation of labor in a process of industrial self-government. Under the Wagner Act collective bargaining was the preferred method of

wage determination and even under Taft-Hartley it is an approved method. But collective bargaining inevitably requires the existence of unions with a substantial degree of market power. In general the more power unions have the more rapidly unorganized sectors of the economy can be brought within the framework of collective bargaining and the more deeply union representatives can penetrate into the process of joint labor-management decision making. Those who set a high value on this process are apt to take the position that since collective bargaining is a "good thing" public policy should favor whatever measures are necessary to expand it.[15]

It is equally clear, on the other hand, that a substantial degree of union power can adversely affect the functioning of competition in both labor and product markets. I say *can* rather than *will* both because the evidence is unclear and because there is a difference between the possession and the exercise of market power. There is a substantial body of opinion favoring the maintenance of competition and, *ipso facto,* whatever measures are necessary to attain these ends. Furthermore, some attach value to continued opportunities for self-employment even in areas where so-called "businessmen-workers" are in competition with union members.[16] And others point out that individual workers can be "oppressed" by union as well as business power. Thus there appears to be a respectable set of values held by a considerable number of people that are unlikely to be realized without some check to union power and, I suppose it would have to be said, that for those who esteem highly the benefits—supposed or real—of a competitive price system, the check would need to be sharp and severe.

A conflict of *some* magnitude between the values of collective bar-

[15] Cf. for example the statement of Nathan Feinsinger in Hearings on the Taft-Hartley law before the Senate Committee on Labor and Public Welfare, 81st Congress, 1st Session, Pts. 4-6, p. 2569.

"If our national policy is to be effectuated through collective bargaining, we cannot simultaneously encourage a competing system of individual bargaining. If collective bargaining is to be free and voluntary, we cannot have governmental intervention, except to insure the conditions under which free bargaining can take place."

[16] Cf. the opinion of Frankfurter J. in the case of International Brotherhood of Teamsters, *Local 309 v. Hanke,* 339 U. S. 470 (1950) at p. 475. "Here we have a glaring instance of the interplay of competing social-economic interests and viewpoints. Unions obviously are concerned not to have union standards undermined by non-union shops. This interest penetrates into self-employer shops. On the other hand, some of our profoundest thinkers from Jefferson to Brandeis have stressed the importance to a democratic society of encouraging self-employer economic units as a counter-movement to what are deemed to be the dangers inherent in excessive concentration of economic power."

gaining and the values of competition seems to me inescapable.[17] Under these circumstances how much of the one, as against how much of the other, a democratic society will permit itself to have will, in the last analysis, be determined at the polls. All that an "independent" and "objective" student can hope to contribute is a somewhat clearer understanding of the question how much of the one of necessity has to be sacrificed in order to secure some part of the other. This seems to me a fruitful field of enquiry for those interested in public policy in this area. Even if we set a high value on collective bargaining we can recognize that there are some types of union practice that seriously damage the competitive process without adding very much to the union's ability to attain its ends. And, no doubt, similar conclusions could be reached by asking the question whether the competitive process would really be damaged very much by certain union practices that are essential to collective bargaining. But this type of inquiry is detailed and difficult, and I propose here to avoid it in favor of the much easier task of commenting on certain proposed solutions to this question of the appropriate limits to union power and its use.

Let us consider first the implications of the so-called self-interest doctrine; that so long as a union acts in its own self-interest and eschews violence and coercion no limits should be placed by government on the acquisition and use of union power. So far as federal legislation is concerned this doctrine was, of course, in effect between 1941 and 1947, after the Hutcheson decision[18] and before the enactment of Taft-Hartley.

I should like to state with respect to this doctrine three not very startling or novel propositions. There is really not much basis either

[17] This conflict is stated in somewhat exaggerated form by Neil Chamberlain in commenting on a statement of Joseph Spengler's on the monopolistic control by unions of the wage rate.

"Here is a problem couched in terms which are familiar to generations of economists bred on liberal economic traditions. But its very statement in these terms robs it of its real significance—that the developments in industrial relations represent not just a threat to the workability of the price system but a challenge to its philosophical and ethical foundations. . . . Satisfaction in the process of production, enjoyment of the job and the worker society which it represents, are important parts of living."

Joseph J. Spengler, "Power Blocs and the Formation and Content of Economic Decisions," in I. R. R. A., 1949, p. 174. Chamberlain's statement at p. 200.

[18] *U. S. v. Hutcheson,* 312 U. S. 219 (1941). In Justice Frankfurter's famous phrase, "So long as a union acts in its self-interest and does not combine with non-labor groups, the licit and the illicit under Section 20 are not to be distinguished by any judgment regarding the wisdom or unwisdom, the rightness or wrongness, the selfishness or unselfishness of the end of which the particular union activities are the means."

in logic or experience for believing that an unimpeded economic struggle among large interests groups will lead to sociably acceptable results. Government can, in fact, go rather far in limiting the acts of unions in pursuit of their interest without substantially damaging the collective bargaining process. The view that a free enterprise economy implies no constraint of the self-interest pursuits of economic units has as little validity for labor as it has for business.

There are some, of course, to whom the struggle of large groups means competition. "I have seen the suggestion made," said Justice Holmes sixty years ago, "that the conflict between employers and employed is not competition. But I venture to assume that none of my brethren would rely on that suggestion. . . . it is plain from the slightest consideration of practical affairs, or the most superficial of industrial history, that free competition means combination, and that the organization of the world, now going on fast, means an ever-increasing might and scope of combination. . . . Whether beneficial on the whole, as I think it, or detrimental, it is inevitable. . . . " [19]

Justice Holmes was a very great man but his ideas on the nature of competition, I confess, have always struck me as being rather peculiar. The stricture that unions should act only in their own interest is really not very much of a stricture, as experience since the Hutcheson case has shown, and, despite the writings of my colleague Galbraith, I do not really believe that there is an historic law to the effect that the appearance and use of power will be inevitably checked by the appearance of a countervailing power.[20] The historic forces may have to be nudged and assisted by action of the state designed to moderate the action in their own interests of economic groups. This has been found desirable, in this country at least, with respect to business enterprises and there is no reason to believe that the self-interest of labor groups is any more closely identified with the public interest than that of General Motors.[21]

Nor do I think that government intervention to limit unions in the pursuit of their interest means the end of collective bargaining. One does not have to be a supporter of Taft-Hartley to hold that after

[19] O. W. Holmes J. in *Vegelahn v. Guntner*, 167 Mass. 92 (1896). My colleague Archibald Cox calls it to my attention, however, that a review of Holmes' labor decisions reveals his position as falling substantially short of full acceptance of the self-interest doctrine.

[20] Cf. J. K. Galbraith, "American Capitalism: The concept of countervailing power."

[21] On the relation of the labor interest to the public interest see an interesting paper by E. H. Chamberlin, "The Monopoly Power of Labor," in Impact of the Union, David M. Cord Wright, Ed.

eight years' experience under that law American workers are not yet slaves. After all, as McCabe has pointed out, "The Wagner Act took unions out of the category of private clubs in which the Supreme Court found them in *Adair v. United States* and *Coppage v. Kansas.*" [22] And they have never returned to that category. There is a view, vigorously expressed by various labor leaders in Hearings on Taft-Hartley,[23] that any public interference with the self-interest pursuits of a union is incompatible with the operation of a free enterprise economy. But, in the words of Justice Holmes, "I venture to assume that none of my brethren would rely on that suggestion."

We must, of course, recognize that in the United Kingdom and the Scandinavian countries public policy in effect sets little or no limit to the self-interested action of trade unions. If we had time, and the competence, it might be useful to speculate on the lessons of this experience for the United States. Certainly on one definition of "good labor relations" it might be said that in these countries labor relations are better than they have been over the last two decades in the United States. But this definition appears to exclude from the meaning of "good labor relations" certain adverse effects on consumer interests and, in England at least, some considerable part of the good relationship between labor and management seems to have been purchased by effective collusion against the consumer.[24] In certain of the Scandi-

[22] Testimony of D. A. McCabe, Hearings, Senate Committee on Labor and Public Welfare. 1st Congress, 1st Session, Parts 1,3, p. 1564.

[23] Cf. for example, the testimony of John L. Lewis, Hearings, Senate Committee on Labor and Public Welfare, 80th Congress, 1st. Session (1947), p. 1984. The statement of William Green (op.cit. p. 992-94) is equally illuminating regarding labor attitudes toward any limitation of self-interest pursuit by unions. When Senator Ives pointed out that there was probably going to be legislation regulating secondary boycotts and jurisdictional strikes and that it was important that this legislation be as sensible as possible, Mr. Green replied in effect: (1) The present proposals are impossible; (2) it is all a very difficult question and a commission ought to be set up to study it; (3) what can Congress do about it anyway; are you going to put people in jail for refusing to work?; (4) the whole question should be left to the "House of Labor" to determine.

Philip Murray's contribution was that if there are any abuses in the labor movement the Committee should persuade "Willie" Green to sit down with "Phil" Murray to see how they can be ironed out. Op. cit. p. 1089.

[24] See, e.g., the comment of W. Arthur Lewis on the decision in *Crofter Handwoven Harris Tweed Co., Ltd. v. Veitch and Another,* 1 A11.E.R. 142 (1942) in "Overhead Costs" Ch. VI.

"Businessmen seeking to advance their private trade interest may not only combine with each other, but also bring their workers into the scheme, and promise them part of the swag; even this was hardly in doubt after the decision in *Reynolds v. Shipping Federation, Ltd.* (1923, Ch. 28). Now we know that they may use not only their own workers, but workers in any other industry who happen to belong to the same union."

navian countries, notably Norway, the management of labor relations appears to have required a large step toward the application of a public wage-price policy as an essential element in the administration of a planned economy. I am very far from contending that even this cost of attaining good labor relations is necessarily excessive. But, if these are the costs, they should be recognized and, in the political process through which public policy gets determined, they should be compared with the supposed advantages that might accompany an unimpeded pursuit of self-interest by organized labor.

There is, furthermore, the question whether institutions and policies that work in a certain way in another country would function in the same fashion in the United States. In this connection I am impressed by the words of Judge Amidon in *Great Northern Railway v. Brosseau.*[25] After pointing out that Section 20 of the Clayton Act was pretty much copied from Section 2 of the British Trades Dispute Act of 1906, he emphasizes the enormous differences in the application of these two sections in the two countries and concludes, "The contrast between the situations in England and the United States presents an impressive example of how differently the same statute works in countries whose habits of life are different."

The facts cited here refer, of course, to the early 1920's when labor relations in this country were vastly different from now. But the observations of Judge Amidon are still revelant to the question whether in this country an unlimited pursuit by trade unions of their own self-interest would tend to produce the same kind of labor-management relations as in England, with or without the presence of a Sherman Law.[26]

I do not know what the answer to this question is. Here I wish merely to emphasize that the self-interest doctrine will inevitably lead to action that impinges on various values that may, somewhat loosely, be said to be bound up with the maintenance of competition.

[25] 286 F. 414 (1923) "In Great Britain strikers and the new employees are a part of the common life of the community. They mingle freely with one another. The opportunities for peaceful persuasion are a part of the daily intercourse. There the private armed detective is unknown. . . . The writ of injunction in strike cases has been unknown in England during the period when it has attained such universal use with us."

[26] It should be noted, furthermore, that trade unions in the U. K. are substantially limited in their pursuit of self-interest by extensive foreign competition, and the balance of payments considerations involved in a heavy dependence on foreign trade, and by their association with a political party that has been and, at any time may be, asked to assume the responsibilities of government.

The self-interest doctrine then can be pushed to an extreme only by those who are willing to assign zero magnitudes to these values. If it is not to be pushed that far, what kinds of limits have been or may be suggested?

The Doctrine of Equal Bargaining Power

One of the oldest defenses of union organization depends on the supposed desirability of equalizing bargaining power between employees and employers. This argument appears in every textbook in Economics and as a statement of policy is written into paragraph 2 of the Wagner Act.[27] One clear implication of this defense is that there are appropriate limits to the power of unions. If equality in the bargaining relation is desirable a growth of union power beyond the extent necessary to secure equality would appear to be undesirable. Do we have here a useful suggestion concerning the proper distinction between reasonable and unreasonable union power?

I think not. Although there is some minimum of market power without which a union cannot bargain effectively or even exist as continuing organization, to attempt by public action to equalize power on different sides of the labor market is neither possible nor desirable. In the first place the standard suggested by the doctrine of equal bargaining power is clearly non-operational. Does the U.A.W. have greater or less bargaining power than General Motors? I don't know. Not only do I not know but neither I nor anybody else has a very good idea what information, if diligently collected, would permit an answer to that question. It is difficult enough—some would say impossible—to form an objective judgment on whether the market power of a business firm exceeds or fall short of some permissible standard. But to estimate whether a labor union and a business firm confronting each other in wage negotiations have or do not have approximately equal bargaining power seems to me, by at least another order of magnitude, more difficult.

In the second place, equality of bargaining power, if attained, has a very different significance in different market contexts. If the

[27] National Labor Relations Act of 1935.
Par. 2. "The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries."

negotiating parties are surrounded, on either side of the market, by effective competitors the results are likely to be quite different than if both are entitled to be called monopolists. The theory of bilateral monopoly tells us that stalemate is a distinct possibility and the more equal the negotiators the more likely is this possibility.

In the third place, the doctrine implicitly assumes that the attainment of equality is compatible with the efficient operation of organizations on both sides of the market. Why should this necessarily be so? If workers are unorganized we would not recommend, I presume, that firms be reduced to that size necessary to the attainment of equality of bargaining power with individual workers. Nor should we, I think, suppose that there is any virtue in the proposition that the size of the union, or of a union bargaining unit, be adapted to the scale considerations that influence the size of firms. Both firms and unions have scale problems of their own and there is no reason for believing that what is optimum on one side of the market will produce an equality of bargaining power with the optimum size on the other side of the bargaining table.

For all these reasons I suggest that the doctrine of equal bargaining power, having done its duty in the early history of trade unionism, be decently interred and quietly forgotten.

Union Interference with Business Competition

Finally, let us consider briefly the suggestion that at least one guide line to the proper limitation of union powers may be provided by considering the effect of union action on business competition. Since the Hutcheson decision there has been much discussion of this possibility and many bills designed to accomplish this objective have been presented to Congress. Unfortunately the line separating trade union action limiting competition in labor markets from trade union action limiting business competition in product markets is not self-evident. As we have seen, union efforts to improve wages, hours, and working conditions can spread rather indiscriminately among labor and product markets and business competition may be adversely affected at a number of points. Let us consider briefly some of the possibilities.

First, there is the question of the effect of union action on the number of firms in the market. Should unions be permitted to drive independent businessmen-workers out of the market? It is clear that their continuing competition may adversely affect union wage scales.

On the other hand, to eliminate them may adversely affect competition in the product market. Should unions control the entrance of new firms through what is essentially a licensing process as allegedly has been done in the Pacific Northwest under conditions locally and familiarly known as "Dave Beck's N.R.A."? Should unions exclude from a local market the competition of firms located outside the market by refusing to work on their products? This appears to have been a fairly common practice in recent years and by no means all boycotts of this sort have been attempts to organize the unorganized employees of outside competitors.

Second, there is the question of union action interfering with the independence of price and output decisions by firms within the market. Should there be allowed to be accomplished by unions what would be condemned as a *per se* violation of the antitrust laws if undertaken by business firms? My colleague Professor Cox, in what is by far the most penetrating discussion of labor and the antitrust laws that I have seen, favors an amendment of these laws condemning "agreements with employers, fixing prices, limiting production or cutting off access to a market." [28] It is not altogether clear, however, how far this condemnation is meant to go. Cox admits that union action limiting output presents a difficult problem. Were John L. Lewis' famous memorial days merely an attempt to spread the available work among union members or did they represent an attempt to maintain the price of coal by limiting output? He apparently also does not want to include in this condemnation union action designed to exclude the introduction of labor saving techniques and equipment and to "make work" by requiring the employment of non-workers, though this type of action would almost certainly be struck down by the antitrust laws if attempted by a combination of employers.

Third, there is the bothersome question of who is a worker and who is a businessman. However far one goes in supporting the self-interest activity of unions it is assumed that certain limitations to union power are provided by the arms length and independent bargaining of businessmen on the other side of the market. But what if the wages of labor are essentially a share of the proceeds and dependent on the quantity and price of the workers' output as in the case of various east and west coast fishermen's associations? In this situation the only limitation to be found is the elasticity of the demand for the

[28] Archibald Cox, "Labor and the Anti-Trust Laws; A Preliminary Analysis," to appear in the University of Pennsylvania Law Review.

product. And what may become of arms length bargaining if managerial employees up to and including the president of the company are brought within the ranks of union membership? The United Mine Workers, at least before Taft-Hartley, frequently proclaimed their aims to include organizing everyone up to and including the mine superintendent. The Wagner Act defined employee as "any employee" and, as Justice Douglas pointed out in his dissenting opinion in the Packard case, if foremen are employees so are "vice presidents, managers, assistant managers, superintendents, assistant superintendent—indeed all who are on the payroll of the company, including the president." [29] He goes on to say that if the majority view of the Court prevails, "The struggle for control or power between management and labor becomes secondary to a growing unity in their common demands on ownership" or—one might add—on the consumer.

Finally, there is the most bothersome question of all, the question of so-called "management prerogatives." We expect from our system of enforced competition, I take it, not only a limitation to business power but the maintenance of an environment in which business rivalry will produce a continuous flow of new and better products and new and better ways of producing existing products. One important presumption underlying this policy is that business has a substantial area of freedom to innovate and to explore ways of achieving cost reduction and product improvement. Union action *could* diminish this area of freedom rather drastically and this diminution *could* at all points be closely related to legitimate union concern with wages, hours and working conditions. E. Wight Bakke, in a perceptive paper on collective bargaining, points out that a business enterprise is a risk-taking organization in which management wants to preserve as much freedom of action as possible. The union, on the other hand, is a security-seeking organization, one of whose objectives is a reduction in the area of employer discretion.[30] At the Labor-Management Conference in 1945 management representatives wanted an assurance that collective bargaining would not be allowed to encroach on a specific set of "management prerogatives." The labor representatives, while recognizing that "the responsibilities of management must be preserved," took the position that collective bar-

[29] *Packard Motor Co. v. N. L. R. B.*, 330 U. S. 483.

[30] E. Wight Bakke, "Organizational Problems in Collective Bargaining," in *Wage Determination and the Economics of Liberalism*, 1947, Economic Institute of the U. S. Chamber of Commerce.

gaining is an "expanding process" which must necessarily encompass new subjects.[31] One can agree with Richard Lester that unions do not normally desire to "take over" the functions of management but at the same time be impressed by the potential limitations to the effectiveness of business competition that inhere in a gradual curtailment of management's area of freedom through the process of collective bargaining.[32]

These seem to me the principal ways in which union power may impinge upon business competition. There may be others.[33] I do not propose to attempt here an evaluation of the effects on competition of various lines of union action but wish merely to emphasize that those who consider that the appropriate limits to union power should be established at the point where union action adversely affects the process of business competition may be embracing a lot of territory.

In conclusion let me reemphasize the view that the determination of the "proper" limits to union power is not completely amenable to logic and experience. We are concerned here with values that are to some degree conflicting and how these values are to be reconciled is a part of the political process. At the same time I feel that the gulf between those who, on the one hand, believe that there is no problem of labor monopoly worth mentioning and those on the other hand who believe that it is the problem of our generation is unnecessarily wide. Is it not possible for those who set great store by collective bargaining to recognize that there are areas in which union action may encroach rather seriously on other values and where limitations may be imposed without significant injury to the process of collective bargaining itself. And is it not also possible for those who set great store by the maintenance of a competitive society to recognize that the spread of unionism does not necessarily mean that all is lost.

[31] Cf. George W. Taylor, "Government Regulation of Industrial Relations," (1948) pp. 237-38.

[32] Richard A. Lester, "Labor and Industrial Relations," p. 209.

[33] I have not discussed at all the so-called wage-price problem though this is probably the area in which there is the greatest latent concern for the effects of trade union action on the functioning of the economy. In so far as there is a wage-price problem it certainly involves the relationships of large groups, unions and firms, but it is not very amenable to analysis in terms of particular markets. Industry-wide wage increases, whether or not negotiated by industry-wide bargaining, provide an excellent rationalization for simultaneous price increases and probably facilitate price leadership. Furthermore business will be less reluctant to increase prices if "key" wage bargains bring about similar wage increases in economically adjacent industries. And such reluctance as union leaders have to pressing for a continuous succession of wage-rate increases or that business may have in granting such increases will be considerably mitigated if both groups can count on a fiscal policy that in effect guarantees full employment regardless of what happens to the price level.

DISCUSSION

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The part of Professor Mason's paper that I wish to pursue slightly concerns the extent to which empirical economic analysis can contribute to sensible policy formulation in the labor field.

Professor Mason, if I understand him correctly, offers the following line of argument:

(1) Monopoly in labor markets is after all a matter of degree. Monopoly is a variable, not an attribute, when considering the role of a trade union. The lower and upper limits to the degree of monopoly are to be sure so wide that they offer little practical help; but, in the words of the old joke, having settled the matter of principle we are now ready to negotiate about price.

(2) Any addition to union monopoly has potential advantages—the values of collective bargaining—as well as potential disadvantages in the decrease in competition.

(3) An appraisal of these alternative consequences is a matter of one's individual values; hence the decision is fundamentally political.

(4) The role for economic measurement, while present, is limited: to measure the extent of market power associated with various practices.

Agreeing fully with the first two of these points, I find myself in some disagreement with the third (the political nature of the problem) and the fourth (what the economist need measure).

Granted, at the outset, that *any* policy decision is formally political, the question arises as to the extent to which economic analysis is helpful in defining limits within which the political decision will (or should) be made.

Professor Mason provides some guidance: are there not cases where the alternative values of unionism and competition are so unevenly infringed that sensible men (brethren) can agree to allow some practices, and prohibit others?

Supposing, only for the moment, that measurement is possible, how far can economic analysis carry us? Consider a specific instance of a union practice. It will, in Dean Mason's terms make some (marginal) contribution to union effectiveness; it will simultaneously make some (marginal) incursion into "competitive" values. The

relative size of these effects can be measured by their ratio. If the ratio is high enough (if, that is, union effectiveness is greatly improved, at small cost to the competitive values) the practice is approved; otherwise it is viewed with alarm.

Any individual, given his preference among value systems can make the decision as to the critical value of the ratio (high for Simons, Lindbloom; low for John L. Lewis; intermediate for most of us)—and can perhaps identify the degree of variation from his "optimum" beyond which he will find decisions so unpalatable that he will take the next opportunity to throw the elected rascals out.

Consider next the frequency distribution of these critical ratios (with "tolerance" limits) of all individuals (voters) and pick upper and lower values of the ratio such that no more than forty per cent (say) of the electorate will be distressed. This is the range within which the matter is political. At any time, however, given reasonable homogeneity of values, intolerance, and a little luck, this purely political range should be reasonably narrow. If so, the problem is potentially economic.

We now face the key issues: (1) What sort of economic measurement is called for, and is it feasible? (2) Will given practices have sufficiently similar values in alternative occurrences—will for example the union shop yield consistently high values (of the ratio) and featherbedding consistently low ones—that it makes sense to evaluate a *practice,* in general, rather than having to evaluate every *instance* of that practice?

Still leaving the issue of measurement aside, if we can set a standard, will practices be classifiable? If not (if, that is, there is no approximate linkage between structural, institutional and behavioral patterns on the one hand with a set of performance criteria on the other) that is the end of the matter. No measurement will be helpful, no sensible legislation can be framed, and any action is purely political. To be sure, any specific case would be subject to analysis, but generalization is even more important in policy formation that in theory. If, on the other hand, associations with performance do exist (even if crude and approximate), there is scope for analysis, and the measurement of these relationships becomes central to the policy question.

The economic problem—if it exists at all, and I believe it does—then lies in attempts to define the relationships between structure and behavior with performance. I have borrowed the terminology of industrial organization deliberately. Progress *has* been made there

not only in the series of individual industry studies, but more recently in cross-sectional attempts to generalize. This has been a hard and hazardous task—made worthwhile by virtue of its necessity. In the labor field, as Professor Mason suggests, it will be at least as hard. But is it any less necessary? I confess I see no short cut.

Before considering the possibility of a short-cut type of measurement it may be useful to remind ourselves of the origin of the modern empirical approach to the problems of policy with respect to product monopoly.

Pierro Sraffa's challenge to the relevance of the classical competitive model of price and distribution theory led to the reformulation of price theory in terms of monopolistic competition. Monopolistic competition, in turn, by recognizing a *variety* of forms and degrees of monopoly associated with a *variety* of structural and institutional factors, and leading to *widely different* patterns of market behavior and performance, destroyed the classical simplicity of sound public policy. *Performance became the test, not the necessary consequence, of the degree and form of competition.* As a result we have had the fruitful empirical research of the last two decades—on which Dean Mason has in my view exercised the major influence.

Professor Mason in viewing the labor field urges us to focus upon the extent of market power. Granted that it is easier to measure market *power* than to evaluate performance, is it as helpful? In so far as the degree of market power is linked to performance, it may be. Even in such a case, measurement is required to establish the relation between structural considerations (and institutional practices) and the degree of market power—and I am haunted by the feeling that market power is a function of the number and conjunction of specific practices as well as the nature of the practice. (Is, for example, the boycott a helpful weapon in the union arsenal, if it has industry-wide bargaining?) But more basically I wonder if there is not more to the evaluation of performance than is involved in market power.

The central issue is whether market power, which is relatively easy to measure, is sufficient basis for policy decisions. Professor Mason is not suggesting that power *per se* is enough; he does seem to be suggesting that the consequences of market power are a direct function of the extent of that power. The trouble is that the degree of market power is a road with no internally satisfactory half-way house. Yet if we are to abandon the extreme atomistic position of the classical economists, we need a guide to the permissible amount of

power. Professor Mason has perceptively shown that neither "self-interest" nor "equality of bargaining power," seem very promising. Expected performance, which is a multi-dimensional thing, seems to me the only guide, and it would be a happy but unlikely circumstance if some measure of market power proved to be a reliable index of market performance. In my view, it is the *associations* of structural characteristics with performance that are critically necessary to the policy question.

Let me suggest a specific example of the kind of question that seems inescapable: Does the practice of (say) industry-wide bargaining typically lead to *worse* performance with respect to prices, the level of employment, industrial efficiency, or the incentives to innovate or invest than would be expected if the practice were prohibited? One would hardly expect a totally unambiguous answer, but the question is capable of empirical attack, and I suspect that a preponderance of evidence might emerge. If the answer were predominantly negative, I would be hard pressed to oppose the practice whatever degree of market power it might confer.

Professor Mason has used the word *wisely* to describe the decision of the courts to eschew evaluation of performance in favor of the existence of power. But while the courts are importantly involved in the interpretation and implementation of social policy they are not the sole creators of it. In the labor field there has been more than occasional evidence of legislative concern. I venture the opinion that, unlike anti-trust, policy changes in the labor field will find expression (at least initially) in legislation. Because of this, the reference to judicial wisdom is at best suggestive. But even in the purely judicial realm one might wonder whether the "wise" decision of the Court in the Aluminum case provided a wiser guide to policy than the decision in the National Lead case which (perhaps unwisely) raised the nasty question of alternative performance. Monopoly in law and in economics, Professor Mason once reminded us, may be different things. So, also, may be wisdom.

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I am happy to join with Dean Mason in proposing no solution for the problem under discussion tonight. I am inclined to agree with his implied conclusion that the truth concerning labor monopoly lies

somewhere between the extremes of the positions taken by those who find it virtually unimportant and those who conclude that it is a crucial problem of our times.

Dean Mason refers to different degrees of monopoly power of labor unions. Most of his discussion is in general terms. I agree that we must avoid the error of thinking of labor unions as undifferentiated economic institutions which can be treated as having identical characteristics. We must note the wide variety of degrees of monopoly power that prevails among unions.

Some unions have a great deal more monopoly power than do others. Contrast, for example, the strong monopoly position of many of the printing unions (highly skilled employees) with the much weaker position of the retail clerks (usually with low skills). Similarly, while there is considerable publicity concerning featherbedding and make-work provisions in union contracts, there is wide variation among unions in their recourse to these practices and in their ability to adopt them. These practices are much more significant in craft unions than in industrial unions. And among craft unions, their significance varies widely. Contrast, for example, some building trades unions and the theatrical unions, on the one hand, and machinists, on the other. Even within an industry, due to differences in technology, there are wide variations in the resort to featherbedding as is shown by the differences in practices of the railroad engineers and railway clerks. The extent of the market is also important. Unions in industries which cater to local market areas, such as unions in the newspaper field, can and do have a greater amount of monopoly power than those in industries whose products sell in a national market. Unions in industries in which the number of jobs is declining, such as musicians, endeavor by various make-work rules to combat technological changes which threaten to displace labor. Unions in expanding industries, such as automobiles, are less prone to seek to introduce such practices.

Thus, I think these illustrations make it clear that the degree of monopoly power ranges widely among unions just as it does among business concerns. Unions cannot be criticized as a group nor defended as a group in connection with many phases of the monopoly question. An interesting area for research would be the determination of the degree of monopoly power inherent in various union practices singly and in combination.

However, a mere listing of monopolistic devices does not show

the effectiveness of the monopoly power possessed by a union. The extent to which unions can exercise monopoly power, existent or implied, to raise wages or to improve working conditions will be significantly affected by the economic position of an industry and the stage of the business cycle. There has been ample evidence of the importance of the economic conditions in an industry in the developments of the past few years. For example, since 1952, average hourly earnings in manufacturing industries have risen from $1.67 to $1.91 (October 1955), or by 14.4%. Many leading industries, in which economic conditions generally were favorable, granted wage increases in each of the years 1953 to 1955. For General Motors, the increases were 7 cents, 3 cents and 7 cents in these years. For Aluminum Company of America, the increases were 8.5 cents, 8.0 cents, and 15 cents. For the rubber industry, increases were 5 cents, 6½ cents, and 12 cents. For the steel industry wage rate increases were 8.5 cents, 5.0 cents, and 15 cents. For other industries and companies in a similar position, wage increases took place in each of these three years. In a number of instances, these wage increases were supplemented by improvements in various fringe benefits such as holidays, vacations, welfare programs, pension plans, etc.

Contrast the situation in industries like cotton and woolen textiles, transit, leather, and coal mining—all of which failed to share in the general prosperity of the period. In these sectors, unions were not able to obtain increases similar to those in the industries I cited earlier. The cotton textile industry is well organized in New England but not in the South. On balance, average hourly earnings showed no change between 1952 and 1955. In 1952, the combination of a 5 cent cost of living increase and a decrease of 8½ cents under an arbitration award resulted in a net decline of 3½ cents for the northern textile mills. In 1953, cost of living decreases of 2 cents took place. In 1954, there was no change and in 1955, there was a decline of 1 cent an hour. For American Woolen Company, hourly wage rates were cut by 3 cents in 1952 and increased by 2 cents in 1953; in 1954 wages and fringes were *cut* by 10.5 cents an hour.

The experience of the coal miners is particularly pertinent in this connection. Here is a strong union with effective and resourceful leadership. This union achieved tremendous gains for its members during the war and postwar years. Nevertheless, neither wage increases nor fringe benefits were obtained in 1953 or 1954. A strong union was not able to obtain these gains in the face of a significant

deterioration in the economic position of the bituminous coal industry. The trend of output has been as follows:

	Millions of tons
1939	394.9
1946	533.9
1949	437.9
1950	516.3
1951	533.7
1952	466.8
1953	457.3
1954	392.0
1955	469.4

This sharp decline in production reflected in large measure the loss of a market for more than 100 million tons of coal because the railroads shifted to diesel engines. In September, 1955, with some pickup in demand for coal, a 15 cent an hour increase was negotiated by the coal miners, with a further 10 cent increase to come in April 1956. Of course, it may be argued that the coal miners would have done much worse in the absence of this strong union—cuts in wages and in fringes might have taken place instead of the stability which prevailed in the three years between September 1952 and September 1955. In other words, the union was able to exercise holding power. This may be true. Nevertheless, this powerful union had to remain content with no improvement while more fortunately situated unions, many of which have appeared to have less monopoly power in the past, were scoring impressive gains. This is of considerable significance in light of the well known rivalry between John L. Lewis and the leaders of these other unions.

Let me say just a few words about the importance of the general state of the economy as a factor in retarding or stimulating increases in wages, despite the relative degree of monopoly power of any union. The large gains recorded in wages and various fringes in the postwar period have been obtained against a background of sharp gains in economic activity, except for the modest recessions in 1949 and in 1954. That these recessions have been of some importance in restraining the gains of unions is indicated by the fact that there were few general wage increases in 1949 (average hourly earnings in manufacturing industries fluctuated fractionally around $1.40 in each month of that year) while in 1954 the general wage increases were among the smallest in the postwar period (average hourly earnings were 4 cents higher in 1954 than in 1953). The large postwar labor gains are to be explained in terms of high level business activity,

inflation, and labor shortages rather than in terms of the monopoly power of large unions. The significant increases in wages of all types of unskilled labor whether or not represented by unions provides an illustration of this point. I suspect that the unions have played a more important role in the *timing* of the wage increases and particularly in the introduction of various fringes than in the over-all magnitude of the gains recorded.

The importance of the economic environment also may be illustrated by the relations between Chrysler Corporation and the UAW in 1949 and 1950. On June 4, 1949 the United Automobile Workers asked Chrysler to reopen its contract to discuss pension and welfare program demands. Although the parties had agreed to pensions of $100 a month (including social security benefits) for workers past 65 with 25 years of service, an impasse was reached largely over methods of financing and administering the pension and insurance plans. Accordingly, a strike was called on January 25th. Chrysler made a concession in the method of financing late in March but the strike continued. After a strike of 100 days the men returned to work on May 4. The pension was settled at the amount agreed upon in January with some concessions concerning its funding and administration and a welfare plan was set up at a cost of 3 cents an hour (the union had asked for 4 cents).

Shortly after the strike was settled, the Korean War started. One of the first companies to raise wages was Chrysler, which renegotiated the wage clause and granted a 10 to 15 cents an hour increase on August 25, 1950 although the contract was not reopenable until July 1951. Again, in December, 1950, the contract was renegotiated. At that time, the cost of living clause was adopted and other benefits were granted. A major change in the economic climate resulted in larger economic gains on a voluntary basis than the powerful UAW had been able to obtain from the company only a short time before after a long, drawn out strike.

While general economic conditions undoubtedly affect the freedom of action to use monopoly power by a company, I think that they provide a much more effective restraint upon the use of monopoly power by a labor union. A company *can* adopt policies in pricing, output, and related matters which may vary significantly from what other businesses are doing. (It may pay a penalty for doing so). It is much more difficult and often impossible for the labor union, regardless of the extent of its monopoly power, to move against market

pressures. Labor monopolies appear to be the prisoner of the general economy to a greater extent than are industrial monopolies. Monopoly power in industry can be imposed unilaterally by a company without the consent of the buyer. But the use of monopoly power by labor unions requires the assent of the employer in the form of a contract. The power of the union may enable it to wrest somewhat larger gains from the employer than would be obtained by a weaker union but the process of negotiation can and does act as a restraining force. Moreover, the union must always keep in mind that it must live with the contract. Labor relations are on a 365 day a year basis as well as long term.

Finally, let me say a few words in favor of quantification instead of rhetoric in the area of labor monopoly. As Dean Mason has noted there has been some examination—with inconclusive results—of the effect of labor organizations on hourly wage rates. There have also been some studies of labor's share of the national income and of corporate income and the extent to which the share has been affected by labor unions. Further research of this type would be useful. But more could be done to determine the impact of specific union practices. For example, how has the growth in union strength and the development of make-work practices affected the rate of growth in productivity? In some quarters, the questionable claim is being advanced that productivity gains have been taking place at an accelerated rate in recent years. Does this mean that the over-all impact of reported make-work practices has been negligible? Or does it mean that in the absence of these union restrictions, the rate of gain in productivity would be still higher? And by how much?

Several rough calculations may be offered of the rate of gain in productivity before and after 1929 to illustrate what I have in mind. Although the big bulge in union membership took place starting in 1933, I have used 1929 as the dividing line to avoid the distortions which develop when a year of relatively low volume is used as a terminal date of productivity measurement. *Real private nonfarm product per manhour,* increased at the annual rate of 1.8% from 1909 to 1929 and 2.2% from 1929 to 1954.[1] On the other hand, when the

[1] Data are revisions by the Joint Committee on the Economic Report of estimates of John W. Kendrick, "National Productivity and Its Long-Term Projection," a paper before the Conference on Research in Income and Wealth, published in "Long-Range Economic Projections," Studies in Income and Wealth, Volume Sixteen, National Bureau of Economic Research, 1954. The Conference Board further revised the series by using later data from the U. S. Department of Commerce and Agriculture and by shifting the GNP data from 1953 to 1947 prices. 1954 data computed by the Conference Board.

recently released BLS data for *output per manhour in manufacturing industries* since 1939 are combined with earlier BLS data we find the following trends:[2]

	Annual Rate of Increase—Percent
1909-1929	3.5
1929-1939	2.5
1939-1953	1.8-2.3
1929-1953	2.1-2.4

These data show a declining annual rate of increase in manufacturing productivity since 1929. What factors account for the difference in trends nationally and in manufacturing industries? Since unionization is much more important in manufacturing industries than for the entire economy, does that factor account for the apparent declining rate of increase shown? Or does it reflect our failure to recover fully the ground lost in World War II? Comprehensive studies of the relationship between union practices and productivity gains for individual industries might throw some light on this question.[3]

As I stated at the outset, I am not attempting to answer the questions posed. However, it does seem to me that we might profitably spend more time mining the available data that bear on the effects of specific monopolistic practices of the unions and less time rehashing the well known illustrations of monopoly power, whether or not abused. Only in this way can we determine where between the extremes the real truth lies.

[2] For data for the years 1939 to 1953 see Joint Committee on the Economic Report, Hearings before the Subcommittee on Economic Stabilization, "Automation and Technological Change," 84th Congress, 1st Session, Washington, 1955, p. 315. Productivity data for the years 1909 to 1939 were obtained from U. S. Department of Labor, Bureau of Labor Statistics, "Handbook of Labor Statistics," *Bulletin No. 1016,* 1950 Edition, Washington, 1951, p. 168. A continuous series on productivity in manufacturing industries may be obtained by linking the two series through the overlapping year of 1939.

[3] NOTE: Early in 1956, the U. S. Bureau of Labor Statistics reported preliminary estimates of productivity gains equal to about 5% per year in manufacturing industries in 1954 and 1955. What is the significance of this higher rate of gain than in the preceding post war years? To what extent does it reflect the sharp increase in production in 1955 and the impact of such a rise on short term rates of gain in productivity? Inclusive of the 1954-1955 increases, the longer term annual rates of increase become 2.1-2.6% for 1939-1955 and 2.3-2.6% for 1929-1955. The relationships are the same as shown for the period ending with 1953.

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It is certainly true, as Dean Mason states, that a wide gulf has developed on this issue of "labor monopoly" between those who cannot see much substance to the use of this phrase and others who, as Mason states, regard this question as "the problem of our generation." One reason for this sharp divergence of views may be that discussion on this question invariably involves participants from either the labor or management side of the bargaining table and these individuals for some strange reason often feel strongly that their particular point of view is the correct one.

It is positively helpful, therefore, to have someone with the wide experience and practical viewpoint of Dean Mason come to grips with the "labor monopoly" issue. As I see it, the major contribution made by his discussion of the problem has been to remove in very methodical fashion the underbrush surrounding this thorny topic. He has taken the pains to analyze this "animal" called a labor union and to reach certain conclusions regarding its habitat, behavior, feeding habits, and relations with other creatures in its economic environment.

With much of this analysis I heartily agree. I particularly like his realistic recognition that labor unions do not function in a vacuum, but are restrained and limited in their conduct by such factors as the economic climate within which they operate, the forcefulness of the employers with whom they bargain, the provisions of various types of labor legislation, and of course, by the desires of their members.

In this discussion, Mason attempts to find out whether labor unions are in fact a monopoly, and if so, what kind of a monopoly. This can become a bothersome issue and I think has even created some difficulties for Dean Mason. He starts off glibly enough, remarking that, "whether labor unions are monopolies is a question hardly worth asking and, if asked, hardly worth discussion. Whatever else a union is, it is certainly an agreement among workers not to compete for jobs."

Yet when he tries to determine exactly what type of monopoly is the labor union, he recognizes that the simple principle of maximizing profit is hardly applicable to unions. For example, he says at one point in trying to describe how a union operates, "the union is not a seller of labor services but a negotiator for the sale of a not very clearly defined product, representing a not very easily determinable

number of men, and operating in an environment that pretty seriously limits the application of any maximizing principle."

In summarizing his conclusion on this point, he says:

> "At the same time it has been emphasized that the union is a very special kind of monopoly organization, negotiating on behalf of its members rather than selling their services, and constrained by various internal and external political considerations in its conduct of negotiations. There is no reason to expect then that the market power possessed by a union will be translated into a certain predictable pattern of economic performance via some sort of wage-maximizing motivations and procedures."

I find this less than satisfactory. To say on the one hand that every labor union is a monopoly, but on the other that it is a very special type of monopoly does not seem to me to be explaining very much about the nature or character of labor unions.

The basic difficulty about considering unions as monopolies arises of course because a labor union is fundamentally quite different from a business organization and the labor market is likewise vastly different from a product market.

This distinction has nowhere been better described than by Samuel Gompers in 1914 in discussing the principle that the labor of a human being is not a commodity or article of commerce.

> "In brief, the thing upon which that principle ('that the labor of a human being is not a commodity or article of commerce') is justified is as follows: Men and women are not of the same nature as the things they make. Labor power is not a product—it is ability to produce. The products of labor may be bought and sold without affecting the freedom of the one who produces or who owns them—but the labor power of an individual cannot be separated from his living body. Regulation of and conditions affecting relations under which labor power is used are a part of the lives and the bodies of men and women.
>
> "Laws which apply the same regulation to workers, and to the products made by workers, are based upon the principle that there is no difference between men and things. That theory denies workers the consideration and the rights given

to human beings. It denies the freedom and protection of free men and women."

Those who use the phrase "labor monopoly" are in effect attacking the institution of collective bargaining. Only the absence of collective bargaining could produce a labor market without any type of collective or "monopolistic" activity. However, by any practical test, a labor market without collective bargaining would still represent a monopoly—a monopoly of employers who would be able to dominate terms and conditions of employment.

Frankly, as far as I can see, the use of the term "labor monopoly" is a crude attempt to apply the language of the product market to a completely different animal, the labor market. The result is pure confusion which only serves to obscure the value of the contribution made by labor unions and collective bargaining. Let me suggest that the phrase "labor monopoly," in the words of Dean Mason, be "decently interred and quietly forgotten."

So much for the discussion on what might be called the theoretical level. When it comes to prescribing a course of conduct that society might follow in dealing with any problems raised by union practices, I find Dean Mason's paper somewhat disappointing. What he has done is not to examine specific union practices which some might call "monopolistic" but rather to discuss the question of "appropriate limits to union power and its use." The result is an interesting discussion of possible criteria by which to judge union power but few conclusions bearing on public policy in this field.

It is true that the reader is left with the impression that there may well be limits which society can impose to curb certain types of union actions. However, no definite conclusions are reached regarding any specific action that should be taken at the present time, and no changes in legislation are proposed at either the federal or state level.

It is in the final section of his paper that specific union activities are discussed. Here Mason correctly points out that some conflict is involved in our economic society between the two desirable goals of *collective bargaining* and *business competition.*

He lists four specific types of union activity which he suggests might "adversely affect" business competition.

1. "Union action on the number of firms in the market."

2. "Union action interfering with the independence of price and output decisions by firms within the market."

3. "The bothersome question of who is a worker and who is a businessman."

4. "The question of so-called 'management prerogatives'."

Dean Mason does not state, for example, whether he feels additional legislation is needed to deal with these four points. He only cites them to indicate at what points various types of union practices might, as he says, "adversely affect" business competition.

Certainly it is true that in our present-day complicated economic society, we cannot expect our labor relations to be handled in line with the theory of pure competition. To do so would mean the abolition of labor unions, a return to the individual bargaining and an employer-dominated labor market.

Since it is generally agreed that both collective bargaining and business competition are desirable goals for our economy, it is well to stimulate greater public discussion of the types of compromises that have to be made between these two goals. Let me only suggest that this discussion should not be simply confined to those union practices which might "adversely affect" business competition. We should also in all fairness discuss those aspects of management policy which might "adversely affect" collective bargaining.

In this connection, it should be noted that the statute books of both the federal and state governments already include numerous legislative provisions dealing not only with Mason's four points but with many other aspects of this problem. And in the view of many, much of this legislation has seriously impeded the collective bargaining process without adding any significant degree of business competition to the economy.

In conclusion, let me mention one overriding virtue of Dean Mason's paper: it does not once mention the recent merger of the AFL and CIO as an evidence of labor monopoly.

I would not mention this point except that the recent clamor over the implications of the merger has raised such a sandstorm of confusion that even some economists may be misled.

Consider, for example, a recent address by Henry G. Riter, 3rd, immediate past president of the National Association of Manufacturers. Speaking two days after the merger convention of the AFL-CIO, he stated:

> "Within the last 48 hours, we have seen the amassing in the hands of a few men of the greatest potential economic, and possible political power, in the history of this country."

If this striking quotation means anything, it surely means that Mr. Riter believes that the merger in and of itself represents a basic shift in the power structure not just within organized labor but also in the whole country.

But is this the case? We must remember that before the merger there were two federations of affiliated national and international unions. The change brought about on December 5 is the merger of these two federations. The constitution of the new organization, while it represents in some instances a departure from the constitutions that previously prevailed in either the AFL or the CIO, essentially retains the same type of organization, namely, a federation. The federation's authority over its constituent unions is strictly limited. They continue to be autonomous bodies largely conducting their own affairs without interference from the parent body.

What about these "few men" to whom Mr. Riter refers? It is not clear, of course, from the statement whether he is referring to the two paid officers of the new federation, to the 8 members of the Executive Committee, the 29 members of the Executive Council, or perhaps to another selected group. In any case, without arguing exactly how much authority any group of labor leaders may possess, I suggest that the number of individuals who will have some influence in the new federation is certainly no smaller than the number who have wielded some influence in operating the separate affairs of the AFL and the CIO.

Moreover, whatever their number, the allegedly "few men" have not in the past and are not likely in the future to act with a single voice. They come from different backgrounds, with different personalities, from unions with different economic environments, and with at times utterly different ideas regarding the direction in which they would like to steer the labor movement. They have not agreed in the past and it certainly would be quite a miracle if the single act of merger would somehow obliterate the diversity that has characterized the American labor movement.

Essentially, a statement such as that made by Mr. Riter falls apart on its concept of power in the labor movement. Evidently, Mr. Riter believes that within organized labor power is concentrated at the top. But is this the case? I suggest that whatever power a labor union might possess in our society is derived from its ability and the ability of its members to withhold their labor at a time when that labor is in demand by an employer.

But this power does not rest in any labor federation. The federation does not participate in collective bargaining negotiations. It has no authority to call any strike. It does not pay strike benefits, and has no authority to negotiate any strike settlement. The basic power in the trade union movement, such as it is, is the power in the hands of the local and international unions which bargain with employers, which have the authority to call for strike action, and which do pay strike benefits. The federations as such have only limited authority based on their ability to grant or deny membership in the federation. And judging from history, the power to expel or suspend from membership while important of course, is not the power to grant life or death to an individual union or group of workers.

I have spent a little time on this issue because the merger seems to have been the signal for a new campaign against organized labor. While I am sure we can all disagree about the meaning of the new AFL-CIO, I do think students of the economy should realize that the merger of these two labor federations has not suddenly created a labor Frankenstein ready to strangle the American economy.

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The concise and provocative nature of Dean Mason's admirable paper, combined with the time limits of this session, result in a difficult task for a discussant. Every page of the paper deserves discussion, but I must confine myself to a few observations which must be stated briefly and therefore somewhat dogmatically. There is much in Dean Mason's paper with which I am heartily in agreement. Of course, in this comment I must necessarily emphasize points of disagreement, but this should not create the impression that I am unaware of the paper's positive merits.

Dean Mason tells us that although labor unions are *not* monopolistic sellers of labor services, they are nevertheless correctly characterized as monopolies. Apparently Dean Mason feels that unions should be called monopolies because almost by definition they have some degree of market power, and in his lexicon any degree of market power appears to be tantamount to monopoly power. Of course, this usage is not uncommon among professional economists, especially business organization specialists; and I recognize that Mason's use of the term, "monopoly," is not intended to imply any

ethical or political judgment. Nevertheless, I question the desirability of this usage because of its political implications.

Monopoly commonly means *exclusive* control of a commodity or service in a particular market. If it is argued that a *degree* of market power is tantamount to monopoly, then firms engaged in monopolistic competition—and this means most firms—are also monopolies. But this is not the usage of the layman, who has been taught by generations of politicians to abhor monopoly. In the political arena, monopoly is a lot like sin—almost everybody says that he is against it, including its practitioners. Mason tells us that whether or not unions have *excessive* power is basically a political question, and he does not undertake to answer this question. However, I think he should recognize that, from the lay viewpoint, calling unions "monopolies" substantially pre-judges this political question.

I suggest that, instead of calling unions monopolies, it is more accurate and less inflammatory to say that certain union practices exhibit "monopoloid" tendencies. The dictionary says that the suffix, "-oid," means bearing an imperfect resemblance to the thing indicated by the preceding part of the word. I think what we are really talking about is certain union practices which bear an imperfect resemblance to the practices of true monopolies. When economists discuss political issues, it seems to me, they ought to be careful to use familiar words in their everyday meaning, or to substitute esoteric terms like "monopoloid."

Now I want to suggest reconsideration of some public policy criteria which fail to win Mason's approval. The first of these is the so-called "self-interest" doctrine. I think some clarification is in order. This doctrine, as expounded here this evening, has never been a *general* principle of governmental labor policy. Even the Wagner Act put some limitations on self-interest activities of unions, and additional restrictions were provided by contemporaneous state laws and by common law doctrines. Few neutrals would care to defend "self-interest" as a general principle of public policy, and even a few labor leaders would probably admit privately that certain of the limitations of the Taft-Hartley Act, such as those on jurisdictional disputes, are in the public interest.

The self-interest doctrine has really been a special rule of interpretation under the anti-trust laws. This rule says that, except when unions conspire with employers to help the latter violate the anti-trust laws, these laws are inapplicable to union activities. In the

limited context of anti-trust law interpretation, the self-interest doctrine makes very good sense. I suppose that one of the main reasons for asking whether union practices are monopolistic is to provide a basis for deciding whether the anti-trust laws should be applied to them. That is another reason why a loose usage of the term monopoly is undesirable. Experience has shown, I think, that the anti-trust laws are an inappropriate instrument for protecting the public interest in the area of labor-management relations. Attempts to apply anti-trust doctrines to union practices are as confusing and unrealistic as the attempts of economic theorists to apply inept analogies from the theory of the firm to the analysis of union practices. If strictly applied, the anti-trust laws could make almost all union practices illegal; even if loosely applied, we would have government by judges to an extreme degree in the labor relations field. Restrictions on union activities should be justified on their merits rather than on the basis of crude analogies, and the laws embodying such restrictions should be specific rather than general. For these reasons, I think that the self-interest doctrine continues to serve an essential function in the interpretation of the anti-trust laws.

I also want to defend what Mason calls the doctrine of equal bargaining power. Again clarification is desirable. Unlike Mason, I do not believe that it has ever been a goal of public policy to bring about perfect equality of bargaining power as between unions and employers. The Wagner Act, for example, did not set up such a goal. To paraphrase its preamble, this law sought to remedy the gross inequality of bargaining power that exists between employees who are denied the right to organize and employers who are free to organize in the corporate and other forms of ownership association. I suppose few people would dispute the general proposition that unorganized employees who are forbidden to join a union are in a substantially less favorable bargaining position than the average employer. It was this kind of *gross* inequality in bargaining power that the Wagner Act sought in some measure to correct. It certainly did not undertake to insure that in all bargaining situations the parties would have equal strength. The equalization of bargaining power in the sense of protecting the right to organize is still an essential aspect of public policy, and it would be highly premature to bury or forget it, as Mason seems to suggest.

On the other hand, it can readily be conceded that it would be most inconsistent with the basic theory of collective bargaining for

the government to undertake to "equalize" every bargaining situation throughout the economy. Collective bargaining is a dynamic process. Changing economic conditions frequently cause changes in the balance of bargaining power, and few people would argue that the government ought to keep shifting its weight from one side of the table to the other in order to neutralize the influence of economic forces on bargaining situations. I reiterate, however, that it is an entirely different matter for the government to encourage the establishment of collective bargaining institutions; and this is what "equalization" of bargaining power has really meant in the past two decades.

Although Mason calls unions monopolies, he appears to be considerably less alarmed about union practices than are our leading worriers about labor monopoly. Possibly the reason for Mason's equanimity is that he has had considerable exposure to the realities both of union behavior and of economic life generally. He also recognizes the inappropriateness of the use of orthodox economic analysis to determine whether union power is excessive. I want to supplement his brief comment on this point. The knowledge which many distinguished economists have concerning union behavior seems to be confined to garbled hearsay; others of them have been greatly impressed by a few activities of a few unions in a few localities. They are even more impressed by what they think unions might get around to doing sometime in the indefinite future.[1] When these economists introduce their caricatures of union behavior into "models" of perfectly competitive systems, they conclude that union practices are a leading menace to competition.

That kind of approach has never made much sense to me. I think that it results in a grossly exaggerated notion of the conflict between collective bargaining and competition. It is important to ask a question which those who worry about labor monopoly apparently consider irrelevant. The question is, how competitive would labor markets be in the absence of unions or union influence? Numerous studies of labor markets have tended to show that workers in general are ignorant of substantial differences in wage rates, that they are relatively immobile, that they often behave "irrationally" from the standpoint of economic theory—and that employers commonly engage in many anti-competitive labor market practices. While these studies

[1] Although Mason avoids most of the errors I am criticizing, he does seem to place excessive reliance on the "crystal ball" technique of analysis in his discussion of possible union encroachments on management prerogatives.

are something less than conclusive, they certainly provide a basis for doubting the theoerists' common *a priori* assumption—which is not supported by any factual evidence at all—that labor markets generally would be more competitive if unions had never existed than they are with unions present. Moreover, when we look beyond the labor market, we see that the vast majority of unions have little or no direct control over the entry of firms into industries, over production, over product prices, over the use of technological improvements, or over access to markets. In view of these facts, I cannot see that promotion of relatively unrestricted collective bargaining involves any substantial conflict with the competitive process as it now operates in most industries. To put the matter more briefly, the cry of "labor monopoly" is based on generally unrealistic assumptions, and really raises a false issue.

I certainly would not argue that union practices should never be subject to regulation or prohibition in the public interest. Even the unions have recently recognized the need for some public regulation of their welfare funds. Some unions do engage in particular practices which are anti-social, and there is no good reason why such practices should not be curbed by law. This kind of approach is obviously quite different from a blanket condemnation of unions as an important [illegible] to competition in our economy.

In conclusion, I venture the suggestion that the "labor monopoly" question is not only a false issue; it is also a dead issue. Collective bargaining is a firmly-established institution in this country, and nothing short of a revolution (or atomic war) is likely to destroy it in the foreseeable future. Undoubtedly the performance of this institution could be improved in some respects. Nevertheless, in a session of this kind it is important to emphasize the obvious fact that collective bargaining is a source of stability and strength in our economy, rather than a menace to it.

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The labor monopoly question is as old as unionism itself. Like the weather it blows hot and cold over the years. With the end of the near 20-year schism in American labor organization and the growth of unions fast reaching the point that "big business" unionism is now commonplace, the question of whether union practices are monopo-

listic is bound to be front-page news and political fodder. There is already every indication that the labor monopoly question will be posed and debated in the extreme, and sensationalism rather than reason will be employed to mold public opinion and elicit pro- or anti-labor support as the case may be.

Certain it is, however presented, that the labor monopoly question will blow hot over the immediate years ahead. The danger, and it is a serious one, is that the basic issues will be lost in a myriad of vituperation and public policy and action will reflect the extereme view of one or another victorious pressure group. There is need for constructive analysis and the development of reasonable guides for the formulation of public policy on labor monopoly. It is refreshing, indeed, to find in Dean Mason's paper the very kind of constructive analysis needed and the germ of a reasonable set of guides for public policy.

In this regard let me say that economists generally, and I include myself among them, have been of little help in effecting progress to this end. The very institutional approach that has encouraged fruitful research and helped fashion useful guides for the formulation of public policy in fields of banking, public utilities and even certain aspects of labor law such as minimum wage legislation, workmen's compensation, unemployment insurance, federal social insurance, and the like, has too often been astutely avoided or cavalierly dismissed with the comment that such investigation is unnecessary since the preservation of the right to organize and bargain collectively is paramount. The vast majority of research efforts on trade unions, wages and working conditions fall far short of the kind of research needed to evaluate the presence and effects of labor monopoly. While useful in understanding the nature and growth of labor organization, the patterns of collective bargaining and the comparative levels of industry wages and working conditions, research efforts in the field of labor have largely ignored, as Dean Mason suggests, the analysis of trade union activities to the end of a clearer understanding of their impact on product competition which is so essential to the formulation of public policy on labor monopoly. Nor has the theoretical economist been any more helpful. Too often he has busied himself in fitting unionism into one or another category of "seller" of labor and rigidly applied conventional market analysis for evaluation purposes. Public policy recommendations based on such analysis are no less unrealistic than those of the labor apologists at the other extreme.

There can be little disagreement with Dean Mason; labor unions seek monopoly power and exercize it in varying degree. But market analysis to the end of fashioning public policy toward labor unions is at best limited and more often than not misleading. The plain fact of the matter is that there is apparently no common denominator between behavior in product markets and labor markets. The extent or absence of competition in product markets affords a reasonable standard for fashioning public policy, and it can be said generally that actions restricting competition in product markets are more likely than not inimical to the public interest. But this cannot be said of labor markets. Moreover, with respect to the exercise of labor market power, as Dean Mason says, "there is not reason to expect . . . that the market power possessed by a union will be translated into a certain predictable pattern of economic performance . . . " Experience has shown that this is far from the case, however, with sellers in product markets. Here there is a predictable pattern of economic performance and it is a performance which free competitive societies by and large seek to minimize if not eliminate.

Where, then, does the public interest lie in relation to labor monopoly? I submit that by the very nature of the inherent difference between labor and product markets and labor unions and corporate units, the rules governing public policy toward monopolistic power in the latter are inapplicable in major part toward labor. Size of labor organization, area of bargaining and even control over labor markets cannot be presumed, as with sellers in product markets, to be conducive to actions inimical to the public interest. But this conclusion rests on the premise that unlike product markets, competition among sellers in labor markets is not generally in the public interest. Inasmuch as labor unrest and instability are more generally the result of competitive unionism, management, labor and the public alike are usually agreed in this.

In the formulation of public policy on labor practices it cannot be overemphasized that there is no necessary relationship between the market power or degree of monopoly achieved by unions and the need for public intervention. It cannot be shown that the irresponsibility of labor increases with the size of organization or geographical scope of the collective agreement. In fact, there is much in the history of trade unions and industrial relations to the contrary. Similarly, to restrict multi-employer bargaining and to confine collective agreements to a single company or community, as has been proposed in

some quarters, would provide little answer to the ills of the abuse of labor power and substitute other problems for public policy of an equal if not potentially greater nature. Proponents of this policy, I am sure, would change their tune if economic conditions were such that buyers rather than sellers of labor were in the driver's seat in collective bargaining. In industries in which wage costs are the major cost of production and there are many small, highly competitive, business units such as in printing, trucking, clothing, and the like, multi-employer bargaining over the area of competitive production serves to lessen cut-throat wage competition and provide a much-needed industry stability.

In the matter of wage determination, the preservation of free markets and the operation of the market mechanism may provide a solution in theory but it is not a practical or even desirable answer to the complexities involved. Regardless of the impact of unionism on the level of wages, fashioners of public policy need ever be mindful of the fact that wages are unique in being a price for human service and, as such, worker attitudes and behavior toward their determination are as important as the level of wages itself. Employees, in this country at least, generally choose to organize and to bargain collectively, and from a public policy point of view there is no more equitable or workable solution to getting men and management to work together over the long run than that which evolves from the bargained agreement. The general thesis that public intervention in the results of the bargain be kept to a minimum is sound policy. Experience here and abroad with alternative methods of wage determination through individual bargaining or absolute management or government control has been far from desirable and, if anything, raises even more serious public policy problems than those posed under the current system.

Powerful and area-wide unions are not only an inevitability, they are an essential part of our economy. There is nothing inherently wrong in this, but care must be taken to prevent the misuse of labor power. In this connection it would not appear that the Sherman Act is particularly well suited to deal with labor monopoly. Because of the essential differences between labor and product markets and between labor organizations and corporate units, the concentration of labor and corporate power cannot be viewed in the same light. Certainly if trade unions and employers effect a bilateral monopoly and labor joins with management to restrain trade through controlling prices, production and competitive business practices, they should be equally

subject to prosecution under the anti-trust laws. Similarly, trade unions ought not to be permitted to engage in actions of their own directly restricting competition in product markets or controlling prices free from anti-trust prosecution. Here, because of Supreme Court decisions in the Apex Hosiery and Hutcheson cases among others, it will undoubtedly be necessary to enact new legislation. Nor does the preservation of equality of bargaining power or the appearance of any so-called countervailing power remove the necessity for such public action. While a stand-off situation between big labor and big management may well result in stable labor relations, the possibilities of collusion and temptation for labor restraints on price levels and in the product market generally are great. Labor cannot be expected to act like the consumer at large, and just as management will tend to act in its self-interest the special interest of the group will be foremost with organized labor.

In conclusion, although the preservation of competition in the labor market cannot be said to be a sound basis for public action in the control of labor power, the sanctity of labor organization and collective bargaining provides an equally untenable basis for public policy. Government intervention to limit unions in their exercise of labor power will be necessary, as with other segments of the economy, when self-interest runs counter to the public interest. Public policy in this regard will need to be formulated on an *ad hoc* basis and with full recognition of the fact that in the final analysis, as Dean Mason suggests, the extent to which unions may exercise market power free of public intervention cannot be solved "by means of an application of the principles of economics, the philosophy of common law, or any other technique of analysis or body of doctrine." This is not an excuse for inaction but rather a caution to those who fashion public policy that there is no short cut to reason and good judgment in dealing with the labor monopoly question.

Part VIII

COMPARATIVE STUDIES OF FOREIGN LABOR MOVEMENTS: ROLE OF THE UNION IN THE PLANT

THE ROLE OF THE UNION IN THE SHOP IN BRITAIN

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Introduction

AS IN OTHER EUROPEAN COUNTRIES, the question of increasing industrial productivity has been a major post-war issue in Britain. The issue has been sharpened by post-war dollar shortages and by the need to increase exports in order to maintain an adequate level of imported goods. But the problem also has deeper roots. As Rostas has shown in his productivity comparisons between British and American industry, there has been a long-run decline in the British position since well before the first World War.[1] In the exigencies of the present period, the nation has accordingly been faced with the task of re-adapting machinery, industrial organization and methods to modern-day requirements.

An integral part of this general reorganization has been a careful re-appraisal of workshop practices. Interest in the workshop has been enhanced on the one hand by severe shortages of manpower and capital goods, and on the other by the tremendous disparities in productivity levels among individual firms. Management thus has been under considerable pressure to make better use of existing manpower and equipment, and to share information concerning improved production techniques. As a part of the drive for greater productivity, stress has also been placed on the so-called "human factors" in industry. The over-all result has been the taking of impressive strides toward improved management practices.

There has also been a significant change in the attitude of the trade unions toward workshop practices. Prior to World War II, the trade unions took scant interest in production questions at the plant level, these being considered the exclusive domain of management. Typically, trade union thinking was dominated by a strong distrust of employers and an equally strong faith in what could be accomplished through public control of industry. The experiences of the post-war period have altered these views in a fundamental respect. Nationalization of industry and national economic planning have both proved

[1] See L. Rostas, *Comparative Productivity in British and American Industry*, Cambridge University Press, 1948.

to be less of a panacea than the movement had anticipated. Moreover, the stringencies of the post-war years have taught the trade unions an economic lesson, namely, that the achievement of gains otherwise made possible by the enhanced power of the movement would depend upon the ability of the economy to produce more at reduced costs. Trade union leaders have accordingly urged their followers to co-operate in the campaign to increase productivity as a means of securing improved conditions.

The newer attitudes toward the problems of production, as dramatic as they may be, are nevertheless not uniform throughout industry. They remain overshadowed in many places by more traditional attitudes and practices. Fear of unemployment among workers, inherited from the inter-war period, has not been dispelled despite the continuing emphasis upon full employment policies. Nor has the history of bad relations in some industries been forgotten. In addition, class-consciousness persists on both sides, making communication between employers and workers inside many plants a difficult problem. It is freely conceded that a new approach to industrial relations at the plant level will require a long time and much education. The changes that have already taken place, however, are significant, and may be regarded as important auguries for the future.

The changed emphasis with respect to workshop problems has also required adjustments in workshop arrangements. The machinery for achieving a greater degree of cooperative activity inside the individual undertaking was largely absent, and it has become necessary to reconsider the available means for handling problems of mutual concern at the plant level. This in turn raises questions about collective bargaining procedures, and the place of the trade union in the plant. It is to these questions that we now turn our attention.

Framework of Collective Bargaining

Since the turn of the century, collective bargaining in Britain has moved steadily from a local to an industry-wide basis, so that today to an ever-increasing degree negotiations over wages and other terms of employment take place between employers organized in associations and the national trade unions.

This trend has been accompanied by strong pressures inside the trade union movement toward concentration and centralization of power. The major instrumentalities for collective bargaining within

the movement are the national unions. There are, by U. S. standards, a great many such unions, varying greatly in size and composition. The number, however, is constantly declining. By a process of absorption and amalgamation, the number of unions has dropped from 1,384 in 1920 to approximately 700 at the present time. This decline has been accompanied by the emergence of a number of very large organizations, two-thirds of the total trade union membership of over 9 million being in the 17 largest unions, and approximately one-half in the six largest.[2] In percentage figures, over 90% of the membership may be found in approximately 93 unions which have a membership of over 10,000. On the other hand, there are over 600 unions, constituting about 87% of the total, with membership averaging slightly more than 1,000.[3] The bulk of the trade union membership is thus contained in a comparatively few large unions whose policies tend to dominate the movement, and whose leaders control trade union policy over the major sector of British industry. At the same time there are numerous small unions, often competing with the larger unions for membership, whose interests must also be taken into account.

The national unions reflect in their structures and procedures both the diversities resulting from long historical development and the modifications resulting from more recent attempts at restructuring the movement to meet modern-day collective bargaining requirements. Thus, the patterns of organization follow different directions, yielding a variety of industrial, craft, general and local unions whose jurisdictions frequently overlap. At the same time, there is some attempt made at functional uniformity. This is mainly achieved by having the unions in the same industry come together in federations for the purpose of dealing as a united body with employers. In 1947, the Trades Union Congress, having in mind the need for the continuing adaptation of the movement to its post-war tasks, recommended that further steps be taken to effectuate amalgamations and to form federations.[4] It is noteworthy that the movement utilizes techniques such as these to maintain a single united movement and to overcome

[2] These are the Transport and General Workers' Union, the National Union of General and Municipal Workers, the Amalgamated Engineering Union, the National Union of Mineworkers, the National Union of Railwaymen, and the Union of Shop, Distributive and Allied Workers.

[3] *Ministry of Labour Gazette,* November, 1952, p. 375.

[4] See T.U.C., *Trade Union Structure and Closer Unity,* Final Report (1947).

the problems caused by diversity. Unlike the movements of other countries, there are no rival federations.

These factors have an important bearing on the local activities of the unions. The major collective bargaining decisions are made higher up, leaving the local branches with greatly reduced functions. Moreover, the local branch is normally organized on the basis of residence of the workers rather than place of work, and accordingly may cater to workers from different plants and often from different industries. As a result, the single branch (except in certain industries like coal mining and steel where branch and place of work are coterminous) is rarely in a position to concern itself with the problems of any particular plant. Such local problems are more likely to be handled by a district committee composed of representatives of several branches. Even the district committees, however, do not ordinarily intervene in the affairs of the plant unless specifically requested by workers or shop stewards, so that trade union intervention at the local level is left mainly to workshop representatives in the individual plants.

The local union as such is thus not likely to have a strong bargaining position *vis-a-vis* the employer. The fact that there may be several unions in a single establishment, frequently in competition for the same group of workers, tends to aggravate this situation. It may be noted, parenthetically, that there is no legislation in Britain requiring employers to recognize unions or to deal with any particular union as the majority representative of its employees. Nor do British unions normally follow the practice of seeking a closed or union shop as a means of maintaining exclusive bargaining rights. The status of unions within the plant therefore depends on such factors as their own strength, the strength of rival unions, and the willingness of management to negotiate. Assuming that management is willing to bargain, there remains the problem of securing the collaboration of a number of unions whose interests may conflict and who operate under the terms of separate national agreements. These considerations tend to rule out any effective bargaining between the local union and management at the plant level. The result is that the branch or local union is frequently by-passed, the practice being to negotiate at higher levels and to leave the application of the agreements and other local problems to shop stewards and works committees in the plant. The problems and difficulties arising from this practice are discussed below.

Scope of Collective Bargaining

Under the existing system of industry-wide collective bargaining, the resulting agreements generally provide terms and conditions of employment for the industry as a whole. In this respect, the minimum conditions of employment for a majority of British workers are in effect legislated by private agreement, with the Government intervening to set minimum wages and terms of employment only in cases of industries or trades where organization on both sides is not yet adequate for the carrying on of collective bargaining negotiations.[5] In most industries, employers tend to comply with the collective bargaining agreements regardless of whether or not they belong to the association which has concluded the arrangements. There is also a strong tendency on the part of employers' associations to discourage individual bargaining by members of the association except under the terms of a general industry-wide agreement.

Although the general pattern of collective bargaining is thus established, there are wide variations from industry to industry with respect to the issues that are covered and the manner in which these issues are regulated. In general, traditional bargaining issues include changes in wage rates, hours of labor and other general conditions of work, number of paid holidays, rates for overtime and night work, payment of special allowances, piecework arrangements, employment of apprentices, and other matters pertaining to remuneration and employment. Usually they do not include the so-called fringe benefits which appear in collective bargaining contracts in the United States. Not all unions entrust their federations with authority over all the issues which have been listed. The federations in the printing and cotton textile trades, for example, are empowered to enter into national agreements covering hours and holidays, but have no authority to negotiate a general wage agreement. There may also be differences in the way agreements are applied throughout the industry. Thus, in the railroad industry, wages and working conditions for the whole industry are centrally determined. In the coal mining industry, however, only the basic minima are settled on a national basis, while district or local bargains are permitted so long as the district or local agreements are in conformity with the national agreement. Similarly, in the building trades, regional and local deviations from the central

[5] The procedure for Government intervention in such cases is laid down in the Wages Councils Acts, 1945 to 1948. See Ministry of Labour and National Service, *Industrial Relations Handbook* (London, H.M.S.O., 1953), p. 145 f.

agreement are permitted with the approval of the national negotiating body. In the shipbuilding and engineering industries, only general wage changes are negotiated nationally, local rates and practices being determined by custom and remaining outside of national control. Generally speaking, the setting of standard wage rates throughout an industry applies mainly in the case of skilled workers, where the effect is to place all firms in the industry on the same competitive basis with respect to labor. Even here there is a tendency in times of labor shortage for the more prosperous firms to pay higher rates than agreed—a practice which the unions appear to accept so long as the minimum rates are observed and the wage differences are not too great. In the case of unskilled workers wage bargaining is less regularized, the tendency being to set minima by national bargaining and to permit local variations above this level.

It is thus apparent that industry-wide bargaining, although national in scope, leaves considerable room at the plant level for negotiating activity. The local issues vary considerably from industry to industry, depending on what is covered in the national agreements. They generally include the problems of interpreting and applying national agreements to local situations, bargaining for gains over and above the established minimum terms and conditions, negotiating on piece rates under various types of incentive schemes, dealing with special arrangements in the shop such as special grading of workers and bonus payments, and the handling of grievances. All of these matters arise under the provisions of the national agrement, and must therefore be settled in accordance with its terms. To this extent, local negotiations remain a part of the national collective bargaining system, the local level being the place for applying and supplementing the provisions of the national agreement.

There are other questions arising at the local level, however, which are not considered to come under the scope of the national agreements. These include questions of health, safety and welfare; recruitment, layoffs, discharge and discipline; and transfers and promotions. Unlike the practice in the United States, these matters are not commonly regarded in Great Britain as proper subjects for collective bargaining. Although occasionally they become the subject of local written agreements, for the most part they have been left to verbal understanding and to custom and tradition. Seniority, for example, is practiced in some industries, such as coal mining and steel, but is rarely made the subject of a formal agreement. Likewise,

promotion policies are seldom permitted to become the subject of negotiation. The question of pension schemes for workers is also considered to be management policy and not a matter for joint decision. Where these questions are discussed, they tend to be handled informally. If union representatives participate in the discussion, they do so more as *amici curiae,* so to speak, than as union officials.

The Conduct of Negotiations in the Workshop

It is apparent from what has been said that union control at the workshop level can be quite tenuous. Many questions concerning terms and conditions of employment remain subject to local practice rather than agreement. There is also much informal dealing with respect to workshop problems. Local union officials frequently feel they can achieve more through unofficial contacts with employers than through the use of the negotiating machinery. Likewise, employers who tend to be sticky on yielding managerial prerogatives up to negotiation may feel freer to deal with employee representatives on a purely consultative basis. Many employers who would strongly oppose extending the collective bargaining agreement to workshop practices nevertheless accept local trade union representatives as informal spokesmen for their employees on a wide range of matters, far beyond the scope of any contract.

The uncertain position of the local union in the shop and the many issues left unsettled place great importance on the role of the union's workshop representative, or shop steward. The large majority of unions have workshop representatives of one kind or another. Theoretically, the workshop representative is concerned with internal union administration rather than negotiation. His duties consist of recruitment of union members and collection of dues; he also serves as liaison between the rank and file and the trade union branch on grievance questions. In many industries, however, the functions of the shop steward in practice go much beyond this, informal negotiation and the handling of local disputes constituting an important part of his work. This is of particular significance in those industries, such as engineering, where the national agreements leave much to be determined locally.[6]

[6] For a description of the place of the shop steward in the Amalgamated Engineering Union, see *ibid.,* p. 66.

The activities of shop stewards present difficult problems for the unions, and often for management as well. In many instances, the origin of the use of the shop steward can be traced to spontaneous developments inside the shop in the face of the inadequacy of the existing trade union facilities. Although most unions have been careful to provide an official role for shop stewards within their constitutional framework, there still remains considerable suspicion of their unofficial actions. Since informal dealings between shop stewards and management often extend beyond the scope of the formal agreements, they result in accusations on the part of trade union officials that shop stewards overstep their bounds. Vigorous leadership on the part of the shop steward may well cause resentment at higher union levels, especially where the functions of the shop steward and those of the local or district union representative are not clearly differentiated. More serious, perhaps, is the fact that the co-existence of a number of unions in the plant, each with its own shop stewards, gives rise to the formation of shop steward committees under the leadership of "convenors," or chief stewards. This implies the existence of a workshop organization which has no place in the formal structure of the trade unions. It also creates the danger of outside groups, such as the Communists, gaining a foothold inside the plant. The fear that this may occur is intensified by the recollection of the earlier history of the shop steward movement and the tendency of its leaders in the past to draw inspiration from such groups as the Syndicalists, industrial unionists and Guild Socialists.[7]

These considerations point to serious defects in the shop steward system. Too often the shop stewards do not enjoy the confidence of both sides. The union is reluctant to have them go beyond the bounds of the contract, while management is worried about their irresponsibility. The consequence is a further weakening of the trade union machinery for workshop negotiation. With the increasing pressures at the workshop level resulting from the desire to raise productivity, the unions have attempted to place the role of the shop steward on a more secure footing. The tendency has been to give more attention to the qualifications and training of shop stewards in an effort to improve their performance. Many of the larger unions have set up elaborate programs for shop steward training, and have emphasized the importance of preparing the

[7] See G. D. H. Cole, *A Short History of the British Working Class Movement* (London, 1948), 358 ff.

shop steward to represent the union in dealing with a wider range of production problems. In addition to such training as is afforded by the unions, the more progressive employers have also undertaken to provide technical instruction to shop stewards on productivity questions, such as time and motion study, in much the same way as they train their first-line foremen. These measures are indicative of the genuine desire on both sides to create conditions for increased labor-management cooperation in the production effort. It remains to be seen, however, whether the unions will be able to achieve a closer integration between their national activities and the problems of the workshop. Although they have succeeded to some extent in strengthening the position of the shop stewards, there is still the problem of bringing their expanded functions under closer union control.

Along with the increased importance of the shop steward has come a second development, namely, the growth of formal joint consultation in the workshop. Although there had been some experience with joint consultation prior to World War II, it had never achieved much success as a workshop device. With the coming of the war, however, there was renewed interest in workshop consultation as a means of speeding production. During the war, numerous joint bodies—known as Joint Production Committees—were established in most of the essential wartime industries.[8] In accordance with the recommendations of influential trade union spokesmen, notably Bevin and Citrine, the joint committees were set up as voluntary bodies under agreements negotiated through the normal collective bargaining machinery in each industry. In this manner, the unions were assured of a continuing interest in their operation. The new joint bodies, however, were not intended to encroach upon the established functions of the established negotiating machinery; they were meant specifically to provide an opportunity in the workshop for joint discussion between management and employees on production problems apart from questions of wages and terms of employment. The role of joint consultation in the plant was thus distinguished sharply from that of the union. Even though this distinction was difficult to maintain in practice, it was nevertheless insisted upon in principle by the unions as well as by management.

At the close of the war interest in workshop consultation tended

[8] See International Labour Office, *British Joint Production Machinery* (1944), p. 88.

to lag. In response to pressure from the Government and the top organizations of labor and management, however, a considerable number of industries entered into agreements setting forth model constitutions of joint consultative committees for the guidance of the individual firms.[9] It may be noted that except for the nationalized industries, where the establishment of consultative machinery at all levels of operation was made compulsory, the principle of voluntary agreement has been consistently maintained. In keeping with the collective bargaining tradition, the general principles of joint workshop consultation are agreed upon at the national level, while the detailed application of the plan is left to the individual establishments.

As a result of these developments, a fair amount of success has been achieved since the war in establishing the principle of joint consultation inside the workshop on production questions. As has been indicated, it is left to the individual employers and the local or district unions to work out the detailed arrangements at the establishment level in keeping with the general provisions of the national agreements. In practice, the ineffectiveness of the union at the local level frequently makes this almost exclusively a task for management. In many cases, in spite of approval of the national organizations, the establishment of suitable consultative arrangements at the local level meets with stubborn resistance, frequently from both sides. Where success has been achieved, the critical factors have appeared to be the relationship that has been established between management and the union, and the extent to which management is willing to take the initiative. There are, unfortunatley, no reliable estimates as to the actual number of joint consultative bodies established since the war; current investigations, however, suggest that the practice, while not universal, has become fairly widespread.[10]

The joint consultative bodies in the various industries differ greatly in composition and procedure. They also have a number of common characteristics. In general, they are equally representative of management and workers in the plant. Although established by union agreement, they do not have any direct operating link with the

[9] For a survey of the national agreements and specimens of the model constitutions, see Ministry of Labour and National Service, *Industrial Relations Handbook,* Supplement No. 3.

[10] See, for example, the Report of the National Institute of Industrial Psychology on *Joint Consultation in British Industry* (London, 1952). Of the 751 selected firms which replied to the questionnaire, 545 had joint consultation. Many firms, however, did not reply.

union. Representation on the worker side is customarily determined by ballot of all the employees, regardless of union membership. It is sometimes agreed, however—mainly in cases where the union is strong—that the persons who stand for election must be trade union members. In most cases, the functions of the joint committees include the discussion of a wide range of subjects relating to production and welfare; but the committees are generally prohibited from dealing with questions relating to wages and other matters which are covered by the collective bargaining agreement. Finally, in carrying out their functions, the joint committees remain advisory to management. There is no question of their taking over managerial functions—a fact that remains true in the nationalized as well as in the private sectors of industry. In most instances, the joint committees have no executive duties, although in some cases their functions may include such things as the running of canteens, the administration of welfare funds, drawing up of the works rules, or the decision of appeals against disciplinary decisions.

Although the area for joint consultation is generally set forth in the over-all agreement for the industry, this rarely determines the actual practice. More realistically, the limits of joint consultation are determined by what is covered by collective bargaining in the industry on the one hand, and what the parties are not prepared to discuss on the other. In view of the tremendous disparities in collective bargaining practices, joint consultation, as in the case of other workshop arrangements, tends to become a device for dealing with all workshop questions which do not come under the scope of the particular national agreement. Hence, in spite of the provisions in most of the general agreements against the inclusion of matters which are usually subject to collective bargaining, joint consultation frequently takes place on issues which clearly relate to terms of employment. The significance of joint consultation thus lies not only in its application to problems of production, but in the willingness of management to use joint consultation where it refuses to permit collective bargaining. This is rationalized on the basis of a distinction between areas of conflict of interest and those where the question is one of community interest; it is claimed that in the case of the former, settlement of disputes through collective bargaining properly leads to joint responsibility by management and trade unions, while in the case of the latter joint consultation appropriately permits the decision-making powers to remain in management. In spite of the logic of

such distinctions, the controlling factor seems to be the determination of management to keep domestic issues on a consultative, rather than a collective bargaining basis. It is also noticeable that the union frequently exhibits no keen interest in widening the scope of collective bargaining at the plant level, the leaders in such cases, as we have suggested, being wary of giving too much power to local groups in the plant.

A further consideration in the preference of management for joint consultation over collective bargaining is the fact that joint consultation provides management with an additional channel for communication with workers. Management has learned from industrial psychology and from recent experience that good communications is an indispensable management tool. In this respect, there has been a considerable change in the attitude of the British employer, particularly in the more progressive firms. In place of the barriers formerly created by social distinctions, the need for better communications inside the workshop is now commonly accepted. It is also generally agreed that joint consultation is a two-way proposition, and that not only management but workers, with their vast store of accumulated experience, have much to contribute to solving the problems of their undertakings. The emphasis in practice, however, has been not so much on workers' suggestions for increasing production as on leading them to accept productivity changes more readily than they otherwise would. For progressive management, therefore, joint consultation has become a useful device for explaining things to workers and readying them for changes in plant organization. This does not tend to strengthen the position of the union. On the contrary, it is clear that management would prefer to explain its own position to its employees rather than to leave this to the union or the shop stewards. The fact that the trade unions do not object to this practice is related to the uncertainty of their position inside the plant. Trade union leaders, while in sympathy with the attempts of management to increase productivity, are also concerned over the prospect of losing members if they appear to be tied too closely to management's plans.

In light of the ambiguous status of the union inside the shop, it is appropriate to ask why trade unions have urged that joint workshop consultation be adopted, especially since the majority of workers have been traditionally opposed to the practice. Many unions frankly regard joint consultation as a means of getting a voice inside the plant which they could not get through collective bargaining. There is also

a strong desire on the part of the trade union officialdom to assist in raising productivity, both as a patriotic gesture and as a means for making available more gains for workers. But in many cases the underlying factor in supporting joint consultation is the desire for more industrial democracy. The leadership, in seeking a practical way of effectuating the desire of the workers for a greater voice in industry, have tended to discard utopian devices in favor of joint consultation at the various levels of industrial decision-making. To many workers, especially in the nationalized industries, joint consultation and workers' control continue to signify the same thing—to their ultimate confusion and disappointment. In spite of growing reservations in certain sectors of the movement, however, the official trade union policy has not changed. The leadership remains firmly in support of the principle of joint consultation and does its best to promote its acceptance by the rank and file.

What has become increasingly clear is that workshop consultation, while it has served as a vehicle for increased labor-management cooperation, is not a trade union device. As an instrument for obtaining a voice in the conduct of the plant it has one serious drawback, namely, that the union is not officially represented. The fact that the workers' representatives are elected by all the workers in the plant, whether they are members of the union or not, tends to weaken any feeling of responsibility to the union. In establishments where the trade union membership is not very strong, the union faces a serious question of how to prevent the consultative body from usurping trade union functions. Ironically, it is in this very situation that the union has the greatest need for supplementary machinery. Even where the union is well organized in the plant, there is always the danger that the consultative body will be used to undermine its influence. The unions have insisted, with some success, that the joint consultative committees must refrain from dealing with matters covered in the national agreements and that wherever possible trade union people should be the ones to stand for election as worker representatives. The fear continues, however, that in spite of all safeguards the joint consultative committees will take over trade union functions. These problems, which are more readily discernible to union officials who are close to the scene, to some extent explain the disparity between the enthusiastic endorsement of workshop consultation as an aid to productivity by the top union leadership and the less hearty support forthcoming at the lower levels.

Finally, there is some question as to the success of joint consultation in stimulating interest in production questions among the rank and file. As has been pointed out, the trade union movement has taken the initiative in urging economic expansion as a means of raising the standard of living of its members and providing full employment. At the top level, the leadership has collaborated closely with the Government and with representatives of the employers on productivity questions, and has participated extensively in the work of national and international organizations, such as the Anglo-American Productivity Council, in making productivity studies. Workshop consultation is in some respects a continuation of this activity at the workshop level. The evidence indicates that in the case of some individual firms joint consultation has been used with notable success in creating a new attitude toward productivity in the plant. This, however, has not been the general experience. The fact is that in most industries, including the nationalized industries, the relationships at the workshop level are not nearly so good as they are at industry and national levels. The bulk of the trade union membership has not yet come to share the constructive attitude of its leaders, and is still reluctant to change from traditional methods.

Conclusions

The developments that have been described reflect the strong desire of the trade union movement to undertake a more constructive role in industry. At the plant level, this has led to increased cooperation with management in attempting to further the adoption of productivity devices, such as time and motion study and other incentive schemes, and to improve human relations on the job. To deal with the more technical aspects of this program, both management and the trade unions have extended their training facilities for the union shop stewards, upon whose presence in the plant the unions have become increasingly dependent. For the newer tasks incident to the establishment of an improved plant relationship between management and workers, the trade union movement has placed considerable reliance upon joint consultation.

The success of joint workshop consultation as a trade union device is open to serious question. Joint consultation has been advocated by the unions as a means of affording workers the opportunity of participating in managerial decisions affecting productivity. It has been regarded by workers, however, with considerable apathy; where the

interest of the workers in productivity questions has been stimulated, it would appear rather to have come about through the efforts of management. At the same time, joint consultation has revealed the extent to which industry-wide bargaining has created a void in the collective bargaining structure at the workshop level. Although in theory excluded from dealing with collective bargaining issues, in practice the joint consultative bodies, where successful, have been used primarily to discuss terms of employment questions in establishments where collective bargaining did not exist or, as was more usually the case, where such bargaining was limited in scope.

From the point of view of the position of the union inside the shop, this development has a dual aspect. On the one hand, it may be said that the union has succeeded in creating a new instrumentality for dealing with issues affecting terms of employment which for traditional or other reasons have not been considered to be collective bargaining questions. In so doing, the union has enabled its members to win gains which could not have been achieved through ordinary trade union channels. On the other hand, it is apparent that the union has created a bargaining process in which local issues are handled not by the trade union but by a separate committee consisting of workers and management. This is a departure from trade union tradition and confronts the trade union movement with the problem of avoiding the establishment of a fundamentally different type of workshop organization with functions overlapping its own.

The failure of joint consultation to interest workers in productivity questions suggests that the movement has not yet found the proper instrument for carrying out this part of its program. This will in time necessitate a re-appraisal of the leadership role of the movement. It also poses the question whether, in the effort to promote productivity, joint consultation is really a satisfactory substitute for collective bargaining at the workshop level as a means of dealing with the risks to workers inherent in technological change.

THE ROLE OF THE UNION IN THE PLANT IN INDIA

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THE PLANT LEVEL is a revealing vantage point for a look at Indian labor relations as a whole. For American observers, it points up sharply the differences between the American and Indian systems of unionism and labor relations. In American unions continuous ministration to the needs of members at their jobs is essential to healthy existence. The daily relations which absorb local union and management energies in the factory, shop, and work place during the long intervals between contract negotiations seldom make the headlines, but they are acknowledged to play a central part in labor relations. In India, systematic functioning of unions and organized relations with managements on a daily basis in the plant or at the work place are largely unknown at the present time.

Before examining the facts of the Indian situation it is necessary to understand clearly the dual image which it presents. One is the ideal goal or model of in-plant labor relationships which India has set for herself; the other is the actuality which has little resemblance to the ideal. This is a familiar type of paradox in many spheres of Indian life and endeavor. It is an expression of a fundamental Indian dilemma—the problem of living in two worlds at once, the ancient one of the East and the new one of the West, and of trying to introduce some of the new ways of the West without the painful intermediate experience by which they were learned and accomplished in the West. India's model of in-plant labor relations is part of her larger, over-all model of industrial relations which is constructed primarily out of Western, especially British, concepts and practice with a strong interlarding of Gandhian philosophy as applied to employer-employee relations.

One can piece together outlines of the Indian industrial relations model from a variety of sources—from the famous 1931 Report of the Royal Commission on Labour in India headed by John H. Whitley of the Whitley Councils; from Indian labor legislation enacted both before and after Indian independence; and from the speeches and writings of Indian labor and political leaders. But there are two definitive sources to which one must turn for the most complete and

authoritative depiction of the Indian industrial relations model. One is the chapter on labor in the First Five Year Plan,[1] which enunciates principles that were worked out in tripartite conference. The other is a live operation in the textile industry of Ahmedabad where the Ahmedabad Textile Labour Association is almost universally regarded as the showpiece and model for Indian unionism, and its relations with textile employers the nearest approximation to the industrial relations model. Although a full-scale realization of the models revealed in these sources is found nowhere else in Indian industry or unionism, and although it is very doubtful that India can or will take the necessary steps toward implementing them in the near future, we must nevertheless take note of the ideal toward which there will be some striving no matter how imperfect.

Let us look first at what the First Five Year Plan says about the role of the union in the plant and in-plant labor relations. The Plan advocates voluntary collective bargaining and collective agreements between strong unions and cooperating employers as the underlying condition to all other arrangements. But the Plan also recommends two other instruments for the regulation of employment conditions. Each undertaking should have a manual of instructions for different classes of operatives and a set of standing orders covering, presumably, employment terms not dealt with in the agreement. The manuals of instruction should be subject to tripartite preparation and revision, but the standing orders and collective agreements should be subject to grievance procedure and private voluntary arbitration.

It is explicitly stated in the Plan that each "employer should in consultation with the workers lay down clearly the manner in which any worker or group of workers, individually or collectively through their representatives, may approach authorities at different levels in the plant in respect of various types of grievances."[2] Two types of machinery are suggested for administration of the grievance procedure. It is recommended that a system of elected shop stewards be developed in all establishments. Secondly, works committees are recommended as "the key of the system of industrial relations as conceived in this Plan."[3] It is carefully stated that works committees should be "the culminating step in the grievance machinery,"[4] that

[1] *The First Five Year Plan* (New Delhi: Planning Commission, Government of India, 1953), pp. 572–592.
[2] *Op. cit.*, p. 575.
[3] *Op. cit.*, p. 576.
[4] *Op. cit.*, p. 577.

separate committees should be set up for production matters, that works committees are not to rival trade unions, and that wherever representative unions exist workers' representatives on the works committees are to be named by the unions. Thus the Plan conceives of grievance handling and agreement interpretation as a major function of unions within plants.

Assuming that the Plan concept of the works committee may be compared to our grievance committee, the Five Year Plan model for in-plant relations is very familiar to Americans except for the manuals of instructions and standing orders. Less familiar is the responsibility which the Plan lays on unions for increased productivity. Machinery and procedures are not spelled out, except for the suggestion regarding separate production committees mentioned above. But the labor section of the Plan is infused with the general proposition that there should be a mutuality of interest between employers and unions with regard to the production goals of the Plan and that this interest should find its place in the relations between the parties at the plant level. Employers are enjoined to "associate workers with the productive effort" and to "consult workers in respect of new machinery, methods of production, and the way in which economies could be effected in the costs of production." [5]

This Plan model of plant level relations may now be compared with the in-plant functioning of India's premier union, the Ahmedabad Textile Labour Association. This Union has a membership of 75,000-80,000 and seeks to represent all of the approximately 130,000 employees in the 60 or so textile mills of Ahmedabad. The Union is recognized by the Ahmedabad Millowners Association and the collective bargaining relationship between these two parties is, all things considered, the oldest, most stable, and most genuine in India. The unique extent of the Union's financial and organizational development is best indicated by the fact that it employs a full time staff of around 200 persons. This staff carries on a program of great variety but we are concerned with the activities which go on in the plant or affect the worker on the job.

One of the unique characteristics of the Textile Labour Association is the intensive and organized approach it makes to grievance prosecution. Its policy is unequivocal: "It is the primary function of a trade union to endeavor to redress the grievances of its members." [6]

[5] *Op. cit.*, p. 582.
[6] *Annual Report*, 1953–54, Textile Labour Association (Ahmedabad: Textile Labour Association, 1954), p. 9.

And carrying out this policy occupies a large portion of its staff. There is no formal, written agreement between the Union and the Millowners' Association on grievance procedure except the provision for final settlement by a Conciliation Board and private arbitration. But a customary practice has been built up over the years. The Union urges workers to take their complaints in the first instance to their shop representatives. These are elected every two years in the approximate ratio of one for every 100 members in each occupational group. In 1953-54 the Union had 2265 such elected shop representatives.[7] The representative is supposed to take up each complaint with the head of the appropriate department and, if unsuccessful, with higher management. Apparently, a fair number of complaints are disposed of in this manner. Unsettled complaints and those not handled by representatives are formally recorded with the Complaints Department of the Union. This Department has a staff of full-time inspectors who investigate the complaints (they are admitted to mill premises and may interview witnesses for this purpose) and attempt to settle them by direct discussion or correspondence with the mill managements. Complaints not settled in this manner may be referred to officers of the Union for discussion with individual mill managements or with the Millowner's Association. Those which remain unsettled are referred to the formal conciliation and arbitration machinery set up between the parties. The following Union tabulation of complaints acted on by its Complaints Department in each of four recent years indicates the magnitude of this phase of the Union's activity.[8]

	Total	Successful	Compromised	Closed	Other
1950–51	16,129	9,505	553	5,980	91
1951–52	13,407	not available			
1952–53	17,136	12,314	423	4,365	34
1953–54	15,329	10,782	560	3,851	136

Apart from the grievance procedure there are other subjects and issues which bring the Union and its representatives into the mills at the job level. The Union maintains a separate department which assists workers in securing workmen's compensation for accidents. It also undertook recently a program of improving working conditions through plant inspections. By prior appointment one of the Union's

[7] *Op. cit.*, p. 6.
[8] Figures are from the *Annual Reports* of the Textile Labour Association for the years indicated. The Association's fiscal year begins on April 1st.

principal officers toured each mill for two or three hours accompanied by the appropriate mill representatives for the Union and employer. They looked for needed improvements that were management's responsibility and shortcomings that were the fault of workers. These were discussed on the spot and an attempt was made to agree on proper remedial action. After completing this series of plant visits the Union officer in charge intended to repeat the program inspecting such facilities for workers as canteens, drinking water, and wash rooms. It was clear that one of the interests of the Union in these programs was the beneficial consequences for the Union of giving workers in all mills visual evidence of Union interest and activity.

The issue of work rationalization has also involved the Union in the mills, at least indirectly. In 1952 the Union entered into an agreement with the Millowners' Association providing for increases in certain basic work loads on condition that the Ahmedabad Textile Industries Research Association was to make studies of the occupations and specify the attendant operating conditions required of management. A team of experts under International Labour Office auspices made experimental studies of productivity in two Ahmedabad Mills. The Union had agreed to these studies and four of its officials were associated with them. The Union also gave its endorsement to a major Training Within Industry program conducted in a group of Ahmedabad Mills and to a small scale experiment in the possibilities of collective teeam work in one of the mills. In order to cope more effectively with the increasing volume of such technical problems confronting it in the mills, the Union added a technically qualified man to its staff in 1952.

Setting store as it does by its system of elected shop representatives the Union tries to see that they have functions to perform. As a group they form the Joint Representative Board which meets regularly and comprises the chief legislative body of the union. Inside the mills one of their main functions is handling grievances as already described. Another is collection of union dues. The representatives make their collections on pay days in the mills near the pay windows and receive a commission on all funds collected. Finally, it is apparent that the Union depends on its representatives as channels of communication with workers and as outposts for organizing and contending with the rival unions in the industry.

Considered together the labor principles of the First Five Year Plan and the concrete example of the Ahmedabad Textile Labour

Association provide a clear and familiar picture of India's model of the union's role in the plant. But this ideal is not realized in practice. One of the remarkable things about the Ahmedabad example is that it stands practically alone in the Indian labor scene. Much of the rest of this paper will be devoted therefore to explaining why the Indian model remains unrealized.

It will be helpful to look first at the Ahmedabad case since it gives rise to the plausible assertion, "If the Indian model can be achieved at Ahmedabad, it can be achieved elsewhere." Interestingly, doubt was thrown on this proposition as early as the 1931 Royal Commission Report which attributed the Ahmedabad phenomenon to two principal factors "which cannot be reproduced elsewhere." [9] One factor, it said, was Ahmedabad's "almost unique" position as an industrial center in which the employers and a large proportion of the work force belong to the same part of India and share the same religion and mother tongue. Undoubtedly this homogeneity facilitated the Ahmedabad achievement, but as an advantage peculiar to a single industrial city it is bound to diminish, if not disappear, as the leveling processes of time, industrialization and urbanization work their effect on other Indian industrial centers. The second factor referred to by the Royal Commission was the influence of Gandhi. As leader of the historic founding strike of this Union in 1919, as originator of and Union representative on the private conciliation and arbitration machinery which have been crucial in the Ahmedabad relationship, and as adviser and friend right up to his death, Gandhi's name is indelibly associated with the Textile Labour Association. Of at least equal importance was his personal influence on leading Ahmedabad textile employers and their conduct toward the Union. The influence of Gandhi and of his philosophy has been and remains so profound in this situation that it may rightly be considered a unique factor.

Less friendly observers have suggested that the high proportions of Harijans ("untouchables") in the textile industry work force in Ahmedabad and, especially, in the Textile Labour Association,[10] were particularly responsive to the strong protective leadership of men like Gandhi and his successors and were more easily molded into a tradition of sustained membership and high dues payment. I have

[9] *Main Report*, Royal Commission on Labour in India (London, 1931) p. 337.

[10] In 1950–51 the Association reported that 21% of all families in the Ahmedabad textile work force were Haripans (See its unpublished "Report of the Inquiry into Working Class Family Budgets"). The Haripan proportion of the Union membership is generally reported to be higher.

no basis for evaluating the significance of this factor. But it may be noted as a separate point that the Ahmedabad Union has had a succession of unusually able, dedicated leaders who have been imbued with the Gandhi philosophy.

Whatever the special factors at Ahmedabad, the more general conditions which have kept this model from spreading throughout Indian industry are plainly evident. Some of these conditions are within unions and some are part of the environment in which unions operate. But they all operate with like effect to create a labor movement whose main thrust and functioning are away from the job level and outside the individual plant.

The present character and development of much of Indian industry do not encourage the in-plant functioning of unions. Manufacturing industry is characterized by small enterprise. Of nearly 21,000 factories reporting in 1951, over 14,000 employed under 50 workers each and only 825 employed 500 or more.[11] While it is not impossible for unions to develop substantial in-plant functions in small establishments it seems to occur most easily in the larger plants. Further, only some two-fifths of India's unions and union members are in manufacturing industries. Other large concentrations are in the railways, public utility, maritime, and service industries where, in many instances, workers are not employed in plants in the factory sense and the dispersion and other physical circumstances of employment often put obstacles in the way of union functioning at the job level.

It is necessary also to visualize the present undeveloped stage of Indian unionism. Instead of our familiar pattern of national unions with affiliated locals the Indian movement consists of around 5000[12] independent unions linked at regional or national levels only by loose federations. Most unions are small. Over 60% of the reporting unions claim less than 300 members. Only 308 unions claim 1000 members or more.[13] The individual weakness implicit in this situation is intensified by the high proportion of these unions that are rival

[11] "Employment in Factories, 1951", *Indian Labour Gazette*, XI (March 1954) pp. 837–847. All registered factories are required to report regularly to Chief Inspectors of Factories in the States.

[12] The number of registered workers' unions reported in 1951 was 3,927. It can be assumed that additional unions have been formed since that time and it is known that many unions do not register. *Working of the Indian Trade Unions Act, 1926. During 1950–51.* (Labour Bureau, Ministry of Labour, Government of India, 1954).

[13] *Op. cit.*, pp. 27, 60. Little more than half the registered unions submitted reports. It is safe to assume that the non-reporting unions are even smaller and weaker as a group.

organizations existing side by side in the same industry and often in the same establishment. Nearly every union also has a connection with one of the three major political parties. A final factor is the character of leadership. Most of the key leaders in the Indian movement are "outsiders" i.e., they are educated, middle class individuals who came into union work from outside rather than up through the wage earning ranks. Most of them combine political interests with their union work. Having these interests and being necessarily involved in interunion warfare and struggles for survival, these leaders do not naturally focus their attention on the internal functioning of their unions or on the daily problems of members in the work place.

The threefold classification of Indian unions developed by the Royal Commission on Labour in India in 1931 [14] is nearly as applicable today as it was then. One common type of union is little more than a paper organization with an imaginary membership created and presided over by one or two professionals for the purpose of providing a platform and a name for their own advancement. A second type was called *ad hoc* unions by the Royal Commission because they arose to meet definite and immediate objectives, usually some genuine worker grievance or demand, and relapsed into suspended animation between causes. Such unions have also been termed strike committees. With the intensification of political rivalry in the labor movement after Independence, these *ad hoc* unions tended to become perpetuated, at least in nominal form, to bulwark the membership claims of the rival federations. A third type of union is the permanent and regular organization which seeks to maintain a continuing membership and program. It is primarily among unions of this third type that one must look for any kind of in-plant role and they constitute only a small minority of all Indian unions.

In addition to the characteristics of Indian industry and unionism which inhibit the in-plant functioning of unions there are serious deterrents in the present character of Indian labor relations. The basic situation may be described most succinctly by saying that systematic collective bargaining is largely unknown outside of a small number of exceptional relationships. Indian legislation imposes no obligations on employers to recognize or bargain with unions and provides no machinery for defining bargaining units or establishing exclusive

[14] *Op. cit.*, pp. 319–320.

bargaining rights.[15] Few Indian employers voluntarily grant unions effective bargaining rights and few unions are strong enough to gain this status by economic action. As a result of these conditions and political fragmentation in the movement most Indian unions are unrecognized, and even among those that are recognized and relatively established many are in a minority status in their plants or local industries.

Where bargaining does occur it is not the usual practice to enter into comprehensive written agreements. Of the few written agreements which are to be found, several make no mention of procedure for settling grievances or any other kinds of disputes. A few set up private conciliation and arbitration machinery for settling all types of "industrial disputes" along the Ahmedabad pattern. I encountered just two agreements which consciously provided procedure for handling grievances of the day-to-day variety. These were at the Bata Shoe Company, Calcutta, and Buckingham and Carnatic Mills, Madras. The agreement recently negotiated at the Tata Iron and Steel Co., Jamshedpur, provides for introduction of a grievance procedure. Of course, the standing orders which every industrial employer is required by law to post in his establishment include some provision for settlement of worker complaints. Often this is fairly detailed and specifically authorizes the union, if one exists, to represent workers in the procedure. However, the Indian experience is that in the absence of a general comprehension of grievance negotiation and of effective unions and genuine bargaining over larger issues, pro forma grievance arrangements do not come alive. Thus, in Indian practice there is no clear concept of grievances as issues distinct from contract issues or of grievance procedure as a daily process of adjustment in the plant apart from negotiations over matters of general interest between the parties. Individual worker complaints are in general accorded no different treatment than are union demands for wage increases or other general changes in conditions.

Typically, a worker wishing to press a grievance will bring it to a union officer at the union office. The officer may take up the issue by correspondence or, if relations with management permit, he may call in person on the labor officer, factory manager, or managing

[15] An exception must be noted in the case of the States of Bombay, Madhya Bharat, and Madhya Pradesh where State laws give unions in selected industries exclusive rights of representation in their plants or local markets when they achieve 15% membership.

agent's representative and seek a settlement. If management ignores correspondence from the union or efforts at settlement by negotiation fail, both of which are common, the union has two avenues of ultimate recourse on grievances as on all issues. One is carrying the dispute before a government conciliator hoping that if not settled there it will be referred to arbitration before a government tribunal. Referral to arbitration is not automatic and lies within the discretion of the various state labor ministries, but arbitration is compulsory once referral is made. A very large volume of disputes, including issues of grievance character, is constantly in adjudication before these tribunals. The availability of this system of public arbitration is another factor tending to discourage the growth of grievance settlement in the plant.

The other mode of recourse open to unions is direct economic action against employers. Despite the public arbitration system there is a substantial volume of strike activity in India. A sizable proportion of these strikes may be traced to issues which in American practice would be grievances arising under union agreements. Some recent examples reported in the Indian press will illustrate the point. A Communist-led union in the Bombay Electric Supply and Transport, the municipal undertaking which operates the city's buses and streetcars, called a one-day token strike of a section of the operating staff to protest against alleged discriminatory discharge of certain workers and increased workload. Four hundred and fifty employees of a British-owned bank in Calcutta went on a stay-in strike and placed posters on the bank walls in protest against the English manager's alleged use of language which hurt the national sentiments of the Indian staff. After six days the strike was settled when management expressed regret over any language that may have given offense, agreed to place photographs of Indian national leaders in the bank offices, and withdrew disciplinary notices issued to some employees. In the Jharia coal field 90 employees of one mine went on strike in protest against the dismissal of 24 trimmers following their refusal to obey an order of transfer to another colliery. When a Kanpur cotton mill introduced a new multiple shft system, the workers affected protested by reporting for work in accordance with the old system. When ordered to leave they refused and remained in the plant until dispersed by fire hoses. A most pertinent example occurred at a Defense Department workshop near Poona where nearly 2000 employees struck in protest against "harassment" by

management. The walkout was settled after six hours when management agreed with the union to set up negotiating machinery for the workshop to which all grievances of the workers and other points in dispute could be referred.

What has been said about grievance handling in Indian labor relations is revealing also of the role of works committees. The Industrial Disputes Act, 1947, empowers State governments to require every employer having 100 or more workers in his establishment to constitute a works committee, in consultation with the union if one exists, and composed of at least as many representatives chosen by workers as by management. Although most States have ordered employers to institute such committees and although the First Five Year Plan envisages the works committee as the "culminating step in the grievance machinery" of each unit, the actuality has fallen far short of intent, with notable but minor exceptions. Most employers have at one time or another complied with the law by instituting committees but the committees have seen little accomplishment or occupied themselves with trivia. The basic reason is that most Indian employers, being opposed to or unacquainted with collective bargaining or systematic grievance negotiation make little effort to turn works committees into effective grievance settlement agencies. A secondary reason is that Indian unions have on the whole been opposed to works committees. They tend to see works committees as rival organizations subject to management manipulation or, at best, as ineffective agencies. The Textile Labour Association of Ahmedabad reported recently that "most of the joint committees appointed in the mills are not functioning properly." It implied strongly that the blame lies with the employers by saying that many problems could be solved "if the idea and spirit which prompted the formation of joint committees be properly understood and the committees are made to function in the right spirit." [16]

It is pertinent to this discussion of the union's in-plant role to note the strong propensity in Indian labor relations toward multi-employer dealing and union organization. This is encouraged by the market wide interests and the political purposes of outsider leadership. But it is also a matter of official policy [17] and convenience to the govern-

[16] *Annual Report, 1953–54, op. cit.*, pp. 16–17.

[17] The labor principles of the First Five Year Plan contain this statement, "For the success of collective bargaining, it is essential that there should be a single bargaining agent over as large an area of industry as possible and uniform conditions should be secured in at least all the establishments in one center." *Op. cit.*, p. 577.

ment agencies involved who naturally incline to an industry-wide approach in labor matters. As a result, in many of India's major industries and industrial centers union-management relationships and adjudication are conducted on a multi-employer basis. Given the large number of unions in existence and the shortage of leaders, this means a further diversion of union attention from organization and activities in individual plants to problems at the level of the local market as a whole.

One of the fundamental barriers to an effective in-plant role for Indian unions is the social gulf between worker and management representatives. Looking at Indian industry in general this gulf is seen to be the result of caste, community and language differences, illiteracy or extremely low levels of education among workers, and a strongly entrenched class or master and servant feeling between those wielding and those subject to authority in industry. Since these barriers are widely reinforced by a strong managerial resistance to unionism and a lack of real understanding of collective bargaining the chances for a free type of daily give and take between plant level representatives of employer and union are rare indeed. The explanation given by an experienced Indian trade union leader for the phenomenon of outside leadership in 1938 is nearly as applicable on this point today: "It is demanding too much of human nature to expect that a mill manager in India or the head of a factory would tolerate for long one of his own workers being the secretary or some other responsible official in a trade union, listen to his representations, conduct negotiations with him, not only in normal times but even during strikes and lock-outs." [18] Mr. Rao remarked that such a worker could expect one of two fates. Either he was discharged or he succeeded in working with management, lost the confidence of the workers and was ousted from the union. It is no accident that even in India's best established union, the Ahmedabad Textile Labour Association, the bulk of grievance investigation and negotiation is handled not by shop representatives but by full-time inspectors paid by the Union.

Under the circumstances most Indian unions have not developed an active volunteer leadership within their ranks. Many do not even make the effort. In some instances one is led to suspect that the outsider leaders fear competition or are so middle class oriented that

[18] B. Shiva Rao, *The Industrial Worker in India* (London: George Allen and Unwin, Ltd. 1939), pp. 162–3.

the idea of worker leadership does not even occur to them. On the other hand, Indian conditions are particularly discouraging to the rise of effective rank and file leadership. In addition to the low educational levels and the social barriers which stand in the way, the frequency of technical and legal problems in Indian labor relations is another difficulty. It involves such matters as the application and interpretation of numerous pieces of labor legislation, the preparation of cases for government tribunals and implementation of their decisions, and argument over a complex, multi-element system of worker compensation all of which demand considerable educational qualifications of worker representatives. Moreover, since Indian labor laws, tribunal decisions and litigation, and even a substantial amount of inter-union and union-government correspondence are in English the rank-and-filer must overcome a serious language handicap.

Further indication of the qualitative atmosphere inside Indian industrial establishments is found in the paternalistic cast of managerial attitudes. This is manifested in the variety of services ranging from housing and medical care to canteens and provision of food grains which the enlightened employer considers it proper to furnish his workers. It is evident also in the Indian concept of the labor officer, the counterpart to the American personnel or industrial relations director. Although employed by and answerable to management, the labor officer is supposed to occupy a middle ground between workers and management and to interpret each to the other. He is thought of as performing something of a social work function and much of the academic training designed for him has this orientation. In other words, dominant employer attitudes have in them a good deal of the stereotype of the Indian industrial worker as a would-be villager who is ignorant, backward, and improvident, incapable of planning wisely for himself, and therefore in need of the employer's protection, guidance and ameliorating services.

Indian union leadership shares to a degree this paternalistic view of the industrial worker. As a result an important component of the Indian model of unionism is labor welfare work. The Textile Labour Association in Ahmedabad again provides the example of a truly Gandhian program of "constructive work." Its program includes housing cooperatives, banking facilities, medical care, schools, rural relief, hostels for boys and girls, reading rooms, vocational training, and general moral uplift work. It is part of the uniqueness of this Union that it combines this full welfare program with systematic daily

attention to labor relations at the plant level. No other Indian union can match the Ahmedabad welfare program but many seek to emulate at least a few of its features and almost all acknowledge constructive activities for members and community to be desirable in a union program. The point is that such welfare activities may offer some unions an acceptable alternative goal and thereby weaken their efforts at in-plant accomplishment.

Paternalistic tendencies may help explain the reluctance of labor leaders to apply compulsory methods to their members. Prior to the Payment of Wages Act of 1936, which prohibits deductions from the pay of workers, there were a few situations, like the textile industry of Ahmedabad and the Tata Iron and Steel works at Jamshedpur, where the employer deducted union dues from worker pay and turned the proceeds over to the union. But formal union security devices like the closed or union shop and the checkoff of dues are virtually unknown today.[19] And a majority of Indian union leaders whom I have questioned on the matter are opposed to both.[20] The opposition is usually argued on two grounds. One is that, because of rivalries in the movement and the lack of protections against unfair employer practices, union shop and dues check-off arrangements might well be used to entrench unions favored by government or employers and to give employers additional influence over unions.[21] This type of argument has, unfortunately, considerable merit. But compelling workers to join unions and pay dues is also widely opposed on principle. The argument takes several forms—that compulsion builds poor unions, that Indian workers are not ready for such compulsions, and that compulsion and check-off eliminate an important occasion for contact between leaders and workers. Despite these arguments, for most Indian unions membership in good standing is a vague and elastic concept and the unions are lax in their efforts to organize and collect dues from their potential memberships. One reason is that the unions

[19] One of the seamen's unions in Bombay had an agreement for a time with some of the shipping companies using that port to hire only men who were furnished by that union. A southern textile manufacturer also is reported to have cleared new hires with the union at one time.

[20] The Praja Socialist Party and certain spokesmen for the Socialist-sponsored federation, Hind Mazdoor Sabha, are exceptions and are explicity on record favoring the union shop. They would introduce it by legislation. See *New Deal for Labour* (Bombay: The Socialist Party, 1951), p. 22, and discussion by G. G. Mehta in *Proceedings of the Indian Labour Conference, Twelfth Session* (Delhi: Ministry of Labour, Government of India, 1952), p. 104.

[21] Unions allied with the Congress Party are also aware that the union shop could be used to solidify the hold of Communist unions where they are strong.

lack a crucial incentive. The concepts of majority status, exclusive bargaining rights, and representation elections are practically unrecognized under Indian labor law so minority status is no bar to making bargaining demands and getting them adjudicated. Most outsider leaders are also committed to the traditional view of union leadership as honorary, *i.e.*, uncompensated, service so that another basic financial pressure for dues collection is lacking. A further difficulty is the lack of secondary rank-and-file leadership who can be relied upon for dues collecting. Some unions seek to overcome this difficulty by paying a commission to their collectors. The Ahmedabad Textile Labour Association, for example, pays its representatives a commission of 9 pies per rupee (about 4⅔%) on all funds collected.

Consideration of the in-plant role of Indian unions would not be complete without reference to the special problems in government employment. In addition to the standard government services, central and state governments together account for a large and growing block of industrial employment. It is official policy that government should set a progressive labor relations example for private employers. But the responsible administrators have been nearly as reluctant to embark on a course of full collective bargaining as private employers. Hence, the demand for workable negotiating machinery, both on general issues at central departmental levels and on daily grievances in local establishments, has been a long-standing issue with the unions in such industries as railways, defense plants, and post and telegraph services. The record shows halting but gradual accomplishment. Two particular difficulties beset the union in the individual government plant. One is the tradition of centralized authority which often renders the local administrative official unwilling to decide even fairly minor issues. The other is the strongly entrenched principle in central government employment that complaints of individual employees are not subject to negotiation with the union. In general, therefore, the example of government has done little to further the cause of unionism within the plant.

In summary, the environmental conditions and government labor policy which have shaped the labor movement and labor relations in India to date have discouraged the development of strong, job-centered unionism and co-equal working relationships between worker and management representatives. As a result, the possibilities of union functioning in the plant under joint auspices have hardly been explored. This does not mean that Indian unions are perforce denied

any role at the plant level. Given vigilant and forceful leadership there are things they can do even where employers are not cooperative. This point has been made by Mr. S. A. Dange, General-Secretary of the Communist-led All India Trade Union Congress. He has admonished his unions for what he terms a "serious under-estimation of the value of day-to-day union work especially in the matter of realizing for the worker the benefits to which he is entitled under the law. Any number of non-trade union lawyers are making prosperous living by only doing work in tribunals, in accident compensation, in provident fund work, payment of wages, sickness insurance, maternity benefits, etc. Every union, in an industrial center at least, can organize this work through its own agency and become a center of activity despite non-recognition." [22] There are many earnest, devoted union leaders in India who are doing their best to serve their members in this type of legal aid role. But it is clear that if Indian unions are to achieve a fuller, more genuine role *in* their plants a fundamental transformation must occur in the conditions and principles underlying Indian unionism and industrial relations.

[22] *Report of General-Secretary to Twenty-Fourth Session, All India Trade Union Congress* (New Delhi: All India Trade Union Congress, 1954), pp. 84–85.

THE ROLE OF THE UNION IN THE SHOP IN GERMANY

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THE SUBJECT OF MY PAPER is the role of the union in the shop. Its substance, however, will be devoted to explaining the reasons for the virtual absence of the union as such in the shop. The role of the union there is indirect and intangible. This statement may seem surprising to Americans who are used to viewing the shop as the ultimate base of union operations and the numerous union shop activities as the essence of unionism. Consequently, those who have read about the reestablishment of a solid trade union organization in Germany would expect a similar situation to prevail there.

The reason for the relative insignificance of the union's role in the German plant must be looked for in the status of collective bargaining, in the centralized trade union structure, and in the diffused organization of labor relations in Germany. German unions, of course, negotiate collective contracts on behalf of their members. But the institution of collective bargaining has never occupied the same central position in the determination and administration of labor relations, as for instance, in the United States. To begin with, many important areas of labor relations are regulated by statutes: for example, job security, working hours, vacation, some aspects of hiring. As a result the respective provisions in the contracts frequently simply paraphrase the statutory regulations. Secondly, the wage provisions embodied in the contracts—the heart of collective bargaining in the United States —are frequently devoid of immediate significance to the worker. Collective wage contracts are usually negotiated with employers' associations for a whole industry or industry grouping. They are as a rule area-wide. Occasionally, their geographical scope is nation-wide; most frequently, however, they cover the area of a state *(Land)*.

It should be obvious that a union-management negotiation committee cannot possibly formulate realistic wage schedules to fit a multiplicity of plants and enterprises which produce dissimilar products, are of varying size, level of technical efficiency, and are subject to different market conditions—enterprises which are, moreover, scattered over relatively wide areas. There are some attempts at wage rate differentiation in the contracts, but the wage categories are few and

crude and do not anywhere correspond to the highly differentiated conditions of modern production. The result is that the wage rates are general and usually geared to the group of producers in the industry who are close to the marginal group. The contractual wage becomes really the minimum wage. Individual workers in better situated plants are free to seek upward adjustment through individual bargaining with their respective employers. Where the collective contract so provides, the Works Council, the statutory representative agency *(Der Betriebsrat)* of the plant labor force, may negotiate plant-wide upward wage adjustments.

This development is, of course, sedulously encouraged by employers. Union leaders cite many instances when the official negotiators of the employers' associations refused contractual wage increases, pleading financial inability, only to advise the individual employer members to grant comparable individual wage adjustments [1]—a practice which would be unlawful in the United States, but which is permitted in Germany; on the contrary, a collective contract specifying the wage rates as maximum wages would be held to be unlawful. The result is a dual wage structure—the collective wage *(Tariflohn)* and the effective wage *(Effektivlohn)* with a substantial gap between the two in favor of the latter. Consequently, the worker begins to look to plant management as instrumentality for getting wage increases [2]—a development which cannot but dismay union leadership. Indeed, one of the most widely discussed problems in union literature is the recapture of the significance of collective contracts and the restoration of a realistic wage structure.

The link between the union and the plant is even more seriously weakened by the fact that the administration and the enforcement of the most vital provisions of the contract, namely, those affecting the individual worker, are entrusted by law to plant management in cooperation with the Works Council. Jurists tell us that administration is nine-tenths of the law. Students of American labor appreciate the fact that collective bargaining does not end, but rather begins with the signing of the contract. It is the day-to-day application of the

[1] Erich Bührig, "Lohnermittlung und Arbeitsrecht," *Arbeit und Recht,* III (January 1955) 16.

[2] Besides the psychic dividend in workers' loyalty, the employer has another motive in favoring individual over collective wage increases. Collective wage rates are not subject to individual waiver; they can be reduced only by collective contract. Individual wage increases may be withdrawn by individual action; they are, therefore, more flexible and responsive to changes in business conditions.

contractual provisions to the concrete problems of the worker that breathes life into the contractual clauses. It is the daily concern of the shop steward with the gripes and grievances—real and imaginary—of the worker that cements whatever bond the union hopes to foster and maintain between the worker and itself. German unions lack that operational base. The fact that social welfare services, which play a much more important role in German plants than in the United States, are usually managed or co-managed by the Works Council, to the practical exclusion of the union, further accentuates the distance between the union and the worker in the shop.

The union is thus without formal functions in the plant. Nevertheless it is not without some contact and influence. There is above all a considerable, though not easily measurable, reservoir of union strength rooted in union allegiance. While the over-all proportion of union membership is approximately one-third of all employees in Germany, the proportion among industrial wage-earners is much higher, and in large enterprises the bulk of the workers are union members. The proportion of union members on the Works Councils is between 80 to 90%.[3] The unions make special effort to train and indoctrinate the works councillors, and the candidates for works councillors, in union schools.

Furthermore the law clearly establishes the legal primacy of the collective contract. The Works Council thus may negotiate with management on certain enumerated issues only when they are not regulated in the collective contract.[4] Unless specifically authorized in a collective contract, the Works Council may not negotiate on issues which in a particular industry are traditionally regulated by collective contracts. This is so even if the particular plant at the time may not be within the personal jurisdiction of the contract, *e.g.,* the respective employer may not be a member of the contracting employers' association.[5] The workers are also aware that the collective wage is the irreducible wage base, while the individual wage increase in excess of the collective wage may be subject to withdrawal or individual negotiations by management.

While the Works Council is elected by all employees, organized and unorganized alike, the statute grants certain legal prerogatives to

[3] Geschäftsbericht des Bundesvorstandes des Deutschen Gewerkschaftsbundes, (Dusseldorf 1952–53), p. 246.
[4] Betriebsverfassungsgesetz, September 11, 1952, §56.
[5] *Ibid.,* §59.

unions represented in the labor force of any plant. Thus, union representatives may attend the Works Assembly *(Betriebsversammlung)*, the prescribed meeting of the workers convened once every three months at which the Works Council members report activities to their constituents, the employees of the plant. The union representatives have an advisory function; they may participate in the discussions but have no vote.[6] If the incumbent Works Council fails to appoint an election committee four weeks before the expiration of its term of office, any union represented in the plant may ask the Labor Court *(Arbeitsgericht)* to appoint such a committee.[7] Similarly, the union may petition the Labor Court to appoint an election committee if in the absence of a Works Council, the Works Assembly fails to elect by majority vote such a committee.[8] Every union represented in the plant may within fourteen days challenge the validity of the election before the Labor Court.[9] In enterprises where, for objective reasons such as the intermittent nature of employment in the construction industry, the standard form of representation cannot apply, the collective contract may prescribe another form of plant representation.[10] The union may also petition the Labor Court for the dismissal of a Works Councillor from the Works Council or for the dissolution of the Works Council itself for violation of the law and neglect of duty.[11] On the motion of one-fourth of the members of the Works Council a representative of the union or unions which have their members in the Works Council may be invited to participate in the sessions of the Works Council with an advisory voice.[12] It should be added that some of these prerogatives also apply to the employer. The unions are assigned some role in settling grievances between the groups, *e.g.*, wage earners' and salaried workers', representatives on the Works Council.[13] They may also have some say in the determination of the size and composition of the Central Works Council *(Gesamtbetriebsrat)* in case of companies with more than one plant.[14] The law also allows contractually agreed upon arbitration agencies to replace the mediation agencies set up between the Works Council and manage-

[6] *Ibid.*, §45.
[7] *Ibid.*, §15.
[8] *Ibid.*, §16.
[9] *Ibid.*, §18.
[10] *Ibid.*, §20.
[11] *Ibid.*, §23.
[12] *Ibid.*, §31.
[13] *Ibid.*, §34.
[14] *Ibid.*, §47.

ment for the settlement of disputes arising from disagreements in the application of the provisions of the Works Council Act.[15]

The unions also provide legal services to the worker in the shop. Indeed they may also act as legal representatives of the Works Council if even only one of the Works Councillors is a member of the union.[16] Finally the unions name the labor representatives to the Labor Courts' bench.[17] Labor Courts, which consist of an equal number of lay members *(Arbeitsrichter)* designated by unions and employers' associations respectively are presided over by a professional judge. These courts have a rather wide jurisdiction in the interpretation and enforcement of various labor laws such as the law on the protection against dismissal and lay-offs, the Works Councils and their operation in the shop. Direct union participation in the judiciary process vests the union with some significance in the affairs of the worker in the shop.

In the coal and steel industry, the Law of Codetermination *(Mitbestimmungsgesetz)* grants unions considerable influence in designating the employee members to the Board of Supervision *(Aufsichtsrat)* which is a somewhat diluted version of the Board of Directors in American corporations. This Board has broad supervisory functions in the affairs of German corporations, and through that in the election of the Labor Director *(Arbeitsdirektor)* to the Board of Management *(Vorstand)* which runs the daily affairs of the corporation.[18] It should, however, be remembered that, regardless of the method of selection, the employee members of the Board of Supervision, as well as the Labor Director, are legally independent of union control and are vested with the same duties and responsibilities as are all other officers of a corporation.

But with all due allowance for the union affiliation of the bulk of Works Councillors and for the limited union access to the Works Council in the shop provided by law, the position of the union and the union functionary tends to be overshadowed by the Works Council. The intimate day-to-day contact with the worker and his daily concerns offers to energetic and ambitious councillors ample opportunity to establish themselves in the minds of the workers as the true spokesmen of their interests. In case of conflict between the im-

[15] *Ibid.*, §50.
[16] Decision of Bundesarbeitsgericht, December 3, 1954.
[17] Arbeitsgerichtsgesetz, October 1, 1953, §14, 23.
[18] Gesetz über die Mitbestimmung . . . , May 21, 1951.

mediate plant-wide interest and the industry-wide or nation-wide interests of the workers, the temptation is often strong to act in favor of the immediate interest.

Bearing in mind that the plant approach is usually supported by the employer and sustained by the widespread paternalistic tradition of the German employer to take care of *his* workers, one can appreciate the uneasiness of union leadership in facing the assertive tendency of Works Councils and the corresponding diminution of union influence. Thus the Metal Workers Union complains: "The syndicalist tendency inherent in the Law on Works Councils is already apparent. In many instances we felt compelled to take a position against the plant-egoism of individual councillors who too easily embraced the employer's argument on the issue of a shortened workday without reduction in pay." [19] Indeed, during the Bavarian metal strike in the summer of 1954, some Works Councils, in defiance of the union which ordered the strike and in contravention of the law which enjoins the Works Council from interfering in matters of collective bargaining, took it upon themselves to negotiate with management local agreements calling on the workers to stay on the job, or return to work after they had walked out.[20] The fact that the metal workers union—the largest and most militant union—has not seen fit to proceed against the defiant Works Councils—even though the union also had the law on its side—is eloquent testimony of the position of the union at least in that area. Even more telling evidence of the weakened appeal of unions is provided by membership statistics; while the industrial labor force has increased substantially from 1951 to the present time, union membership has barely held its own during the same period. In fact, some unions have actually lost members, *e.g.*, the textile union.

The problems faced by the unions is seriously aggravated by profound changes in the character of post-war German unionsim. Although the legal and institutional frame is substantially the same as prevailed under the Weimar Republic, the character of unions and union membership is not the same. Most of the members in the Weimar unions were time-proven unionists imbued with a strong tradition of militant unionism. Many members had known the beginnings and had experienced the growing-pains of unionism. The

[19] Geschäftsbericht 1952-53 des Vorstandes der Industriegewerkschaft Metall (Frankfurt am Main: 1954), p. 123.

[20] *e.g.*, The Kugellagerfabriken in Schweinfurt; The Guldener Motorenwerke in Aschaffenberg; Robert Bosch in Bamberg.

unions were organized along ideological lines, and formed, in a sense, spiritual brotherhoods. Although they fought for higher wages and improved working conditions, the Weimar unions also held out a promise of a "new world." What they failed to attain in short-run immediate objectives was to same extent compensated by the long-run psychic returns of the vision of the "new world." Finally Weimar unions, having grown over a period of many years, had operated on a broader local base and maintained closer contact with the worker and his problems in the shop than is the case of German unions today. Under these circumstances, the institution of the Works Council was no challenge to unionism; on the contrary, from the beginning, the unions succeeded in dominating the Works Council. During the Weimar period, the unions could, indeed, with considerable justification, look upon the Works Council as the "extended arm of unionism."

The situation today is quite different. The bulk of union membership consists of relative newcomers who have lived their formative years under the Nazi regime and have not been exposed to prolonged union indoctrination. The unions are pledged to ideological neutrality. The union leaders are no "heralders" of a new world preaching political, social and economic salvation. The unions to be sure, at least as reflected in the leadership and official pronouncements, are formally committed to a long-range program of "socialization of basic industries" and other reforms. These demands however, not sustained by the fervor of a cohesive social philosophy *(Weltanschauung),* lack the inspirational fervor of former days; they appear remote from the immediate horizon of the workers, who would rather see the union functionaries concerned with the more concrete job- and shop-centered problems. Finally what is even more important, present unions, organized from the top and preoccupied with broader politico-economic programs, have seriously neglected the organizational local base. The relative ineffectiveness of the union and its functionaries in the shop, where the workers' daily concerns find their direct and continuous expression, seriously undermines in the minds of the workers the significance, if not the whole *raison d'être,* of unionism. Finally, the relative absence of the union in the shop creates a danger from another source, namely, from the left. Lack of union leadership in the plant has in some instances enabled small but tightly organized and well-disciplined Communist groups to seize leadership on the plant level, and thereby, challenge the position of present-day union organization.

German union leaders have become acutely aware of this problem. Union literature abounds with calls for a *betriebsnahe Gewerkschaftspolitik*—a return to the shop.[21] To maintain liaison between the worker in the shop and the union, the unions have been delegating to the various enterprises their own representatives *(Vertrauensmänner)* who try to strengthen the bond between the rank and file and the organization and to counteract the tendency toward plant or company consciousness *(Betriebsbewusstsein)*. Some effort is made to organize union cells or groups in each plant. The effectiveness of these measures is problematic.

In entering upon the road back to the shop, the unions will be bucking the opposition of the employer who has learned to appreciate the actual and potential value of the Works Council as an avenue to the workers' interests and loyalties, and as a wedge between the worker and the union. They must also overcome the substantial reality of plant and company consciousness of many employees, the indifference and apathy of many workers, and finally but not least, meet the force of existing law and tradition.

[21] *e.g.*, Fritz Fricke, Konstruktive Gewerkschaftspolitik, *Gewerkschaftliche Monatshefte*, June 1955, pp. 38–39; Helmut Wickel, Gewerkschaftsaufgaben . . . *Gewerkschaftliche Monatshefte*, March 1954, p. 178; Wilhelm Herschel, Arbeitsrecht als gewerkschaftliche Aufgabe, (Frankfurt am Main, 1954, p. 12 ff.

Part IX

DECISION MAKING IN LOCAL UNIONS

THE LOCAL INDUSTRIAL UNION IN CONTEMPORARY COLLECTIVE BARGAINING

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IN SURVEYING THE FIELD of industrial relations research one year ago, John Dunlop of Harvard asked, *inter alia,* for more research on the internal workings of unionism.[1] The call may not have started any new gold rush, but it must at least have given heart to academic prospectors on a dozen or more campuses where claims were already staked out, digging was under way, and, in some cases, the gold was already on view. This paper is not designed to echo that call; it seeks rather to conduct a quick assay of some of this gold and to do a little steering towards hills where chances of future successful strikes seem brightest.[2]

This new peak of interest in intra-union studies rests on at least three distinct bases: (1) the scholars' broad concern over processes of decision-making and decision-implementing wherever they occur in society; (2) a growing recognition that the collective bargaining institution, so well-rooted and influential in our economy, is inadequately understood until the union is studied as closely as enterprise management, and (3) the process of aging in the industrial unions with its seemingly inevitable accrual of problems involving internal communications and leader-member relationships. Because researchers have thus been drawn into studies of unionism for a variety of reasons and with a variety of tools at their disposal, the studies often show little surface resemblance to one another. Yet this conclusion is not offered as criticism. In so new a field of intensive research, there is certain to be scattered shot and even occasional confusion as to the identity of the target. It would have been premature before now to ask for additive studies while the key questions around which research might be conducted were still in the formative stage. Moreover, there is beneath the surface of many of the studies a high degree of complementarity with one another.

Ongoing and recently completed research in unionism's internal

[1] John T. Dunlop, "Research in Industrial Relations: Past and Future," *Proceedings of Seventh Annual Meeting of Industrial Relations Research Association,* 1954.

[2] The author's field research and early analysis of other studies were generously supported by grants from the Sloan Foundation made through the School of Industrial Management, Massachusetts Institute of Technology.

affairs can, with perhaps only slight injustice to its initiators, be grouped in five broad areas:

(1) surveys of member attitudes toward their unions with particular reference to expectations of and satisfactions from the unions as service institutions;[3]

(2) analyses of the formal processes of government within unions as those processes are defined in constitutions, by-laws, and proceedings of conventions and disciplinary bodies;[4]

(3) descriptive and theoretical reports on the day-to-day political processes within the structure, informal as well as formal, of the unions;[5]

(4) human relations research into problems associated with status, symbols, power, and interaction within the union hierarchy;[6] and

(5) analyses of specific types of union behavior in response to leader and member perceptions of their economic environment.[7]

[3] A few examples: Joel Seidman and associates at the Industrial Relations Center, University of Chicago, "The American Worker as a Union Member," published in journal articles; Arnold Rose, *Union Solidarity* (Minneapolis: University of Minnesota Press, 1952); Theodore V. Purcell, *The Worker Speaks His Mind on Company and Union* (Cambridge: Harvard University Press, 1953); Hjalmar Rosen and R. A. Hudson Rosen, *The Union Member Speaks* (New York: Prentice-Hall, 1955); and work in the Survey Research Center, University of Michigan. This area might also appropriately include the development of tools for measuring worker participation in unions, a task now under way in a pilot study at the Survey Research Center.

[4] Two examples are Philip Taft, *The Structure and Government of Trade Unions* (Cambridge: Harvard, 1954), and Frank C. Pierson, "The Government of Trade Unions," *Industrial and Labor Relations Review,* July, 1948.

[5] Particularly noteworthy is Seymour Lipset, "The Political Process in Trade Unions: A Theoretical Statement," in Berger, Abel and Page, *Freedom and Control in Modern Society* (New York: Van Nostrand, 1954). See also the same author's "Democracy in Private Government: A Case Study of the International Typographical Union," *British Journal of Sociology,* March, 1952; Joel Seidman, "Democracy in Labor Unions," *Journal of Political Economy,* June, 1952; Will Herberg, "Bureaucracy and Democracy in Labor Unions," *Antioch Review,* Fall, 1943; and Irving Howe and B. J. Widick, *The U.A.W. and Walter Reuther* (New York: Random House, 1949), Chapter 11.

[6] Outstanding are the numerous journal articles and the book, *The Local Union* (New York: Harper, 1953) by Leonard R. Sayles and George Strauss. See, too, John Gullahorn, "Role Conflict Among Union Leaders" (unpublished).

[7] Three cases are of special relevance: George P. Shultz, *Pressures on Wage Decisions* (New York: Wiley, 1951), also in the same author's "Decision-Making: A Case Study in Industrial Relations," *Harvard Business Review,* May-June, 1952; Irwin Herrnstadt, "Reaction of Three Local Unions to Economic Adversity," *Journal of Political Economy,* October, 1954; and Samuel E. Hill, *Teamsters and Transportation* (Washington: American Council of Public Affairs, 1942).

From the first two of these areas have come data and tools without which our knowledge of unions would remain skeletal at best. In addition, data from the member attitude surveys have every right to demand continuing and growing attention from any union leaders able to break away from the paralyzing myth that knowledge of member attitudes is anywhere and everywhere a prerogative guaranteed to the officeholder. Beyond this, however, we may rapidly be approaching a point of diminishing returns in these research areas. The challenges that stir the social scientist already propel us beyond the development and use of these tools. Once the attitude survey has been completed and the appropriate assumptions have been made about the accuracy of survey results as a reflection of vague and conflicting pictures in the members' minds, the need arises for a link between attitudes and actions. And once the formal organization has been outlined in detail, the researcher wants to ask how men actually behave within whatever strictures the constitution and by-laws impose upon them. In sum, the prospector who starts out tomorrow, whether he carry in his pack the tools of the political scientist, the sociologist, or the economist, seems well advised if he is told to head for one of the last three areas named above.

Industrial relations researchers as a class give increasing evidence of having successfully weathered the attempts of a few years ago to make them into "either-or" men.[8] Few among them would still claim for example that either a human relations approach or an economic environmental approach is *the* significant one for the study of industrial relations problems. Because research into unionism takes on its new vigor without anyone feeling compelled to join in that earlier debate, there may be no heresy in suggesting here that much of the published work in areas (3) through (5) in this listing fits together with ease. Consider just one case in point, involving a book that has been lying around on our shelves for quite a few years: Samuel Hill's *Teamsters and Transportation.* Hill gave us valuable insight into the alternatives that had to be weighed in the life of a local union facing the special economic problems associated with truck transportation among a group of New England cities. Today we are in the position of being able to get far more out of Hill because of the work that Sayles and Strauss have done in applying the tools of human relations

[8] Cf. William F. Whyte and John Dunlop, "Framework for the Analysis of Industrial Relations: Two Views," *Industrial and Labor Relations Review,* April, 1950.

research to the job of the union leader who plays a key part in weighing these alternatives. One could ask only that the economic problems of this group be re-studied now and that the problems and the alternative courses of action alike be looked at as they appear not to some vague abstractions called leaders and members but to men who interact with one another in certain ways in their leadership and membership roles and whose perceptions and actions are molded in part by their status, their security, and their access to power in these roles. Such an amalgamation of research frameworks carries us a long way towards the construction of models of union behavior which will seek to show how the environment impresses itself upon the organization and how the organization's constituents behave within that perceived environment.

This point may be re-stated: some researchers have done well to direct a significant part of their energies to describing and analyzing the decision-making processes within unions, and a few researchers have done equally well to describe and analyze the wage and other collective bargaining problems faced by particular labor organizations. Now the complementarity which the readers can find in these separate pieces of work deserves to be made more explicit by the writers. Lest our fascination with the intricacies of the decision-making process in unions blind us to the relevance of the decisions themselves within their environment, we need a re-introduction into research of the very functions of unions as collective bargaining and political instrumentalities. The alternative is akin to spreading understanding of a machine's operations without knowing what it is for or how well it does its job. Fortunately, no major back-tracking in union research is called for at this juncture; instead, the plea is for synthesizing existing pieces into a more comprehensive framework which embraces the union as a political institution fulfilling economic and social functions while it adapts itself to the economic and social world around it.

Many of the core ingredients of such a model of the union are already identified in published work. I propose here to relate these ingredients to a particular part of American trade unionism and to draw on my own research in that same segment of unionism to advance some further ideas for inclusion in union model-building. My focal point here is the smaller local of the mass industrial union, the sort of local that belongs to the Steelworkers, Auto Workers, Electrical Workers or Rubber Workers Union but isn't part of Big Steel, Big Autos, Big Electrical Goods, or Big Rubber. These were New England

locals which I observed, and my interest was in seeing them as decision-making bodies in the collective bargaining arena. Much of what I shall have to say about these local unions seems to me to fit into what others have said about other locals; but some of this is offered as new timber for the models. I confess that I am scarcely able to tell now what I plundered from elsewhere and what I found in my own backyard.

One general credit will be obvious. The broad framework of decision-making employed here is drawn from the work of Herbert Simon.[9] All decision here is choice among alternatives and compromise as it is with Simon; the organizational influences surrounding the decision-making process are again to be found in authority, in organizational loyalties, in usage of the criterion of efficiency, in advice and information, and in training; facts and values together are assumed to play their parts in decision-making.

What tentative conclusions can be offered as helpful in understanding decision-making behavior within local industrial unions? The propositions which follow are grouped loosely under headings of characteristics of the decision-making bodies themselves, characteristics of their decision-making methods, and characteristics of their decisions.

CHARACTERISTICS OF THE UNION AS A DECISION-MAKING BODY

1. *The local industrial union takes on most of the structural and some of the value characteristics of its opposite number, the business enterprise.*

Insofar as the union exists to deal with the established hierarchy of management, the labor organization emulates managerial vertical organization by setting up opposite functionaries wherever continuing contacts between the two parties justify it and by distributing power so that it matches power. The local union, far from fitting any one fixed pattern even within a single international union, is flexible in its adaptability to existing and changing lines of communication and authority within each plant unit.[10] Its organization is therefore in large part management-determined. There is in addition a carryover from managerial structure into managerial value orientations, and the

[9] Herbert A. Simon, *Administrative Behavior* (New York: Macmillan, 1953).

[10] Joseph Kovner and Herbert J. Lahne, "Local Union Structure: Formality and Reality," *Industrial and Labor Relations Review*, October, 1955.

local union increasingly accepts the business value systems wherever those values do not come into sharp contact with the relatively small body of prevailing independent labor values. This is particularly true in regard to the values revered in modern administrative practices—accountability, orderliness, and economic utilization of the scarce resource, time. American unions are not of course without ideology; they do have their clusters of ideas about life, society, and government, but in the growing ranks of rather harmonious bargaining relationships these ideas are seldom so at odds with management ideologies as to cause serious tensions or else they are at odds primarily in areas lying beyond the perimeter of present collective bargaining practices. Managerial values have undoubtedly changed somewhat to bring about this greater overlap of ideologies, but the local unions appear to have changed by a still greater amount.

2. *Such a union reflects within its leadership group the status system already developed in the plant as a function of organization, technology, wage structure, and such community characteristics as national groupings.*[11]

In its earliest and most dynamic days, the local union may operate within its own unique status system where, for example, fighting ability and courage count for more than seniority and position in the productive process; but the local's history is ordinarily one of a steady return to the status system within which the workers perform their company jobs. The fit here is not always a close one. Any local may be expected to establish and maintain certain independent attributes of higher status—*e.g.,* debating prowess—but such attributes are increasingly added on to the status symbols determined elsewhere in plant and community. This point perhaps carries special weight when one speaks of the local leaders who do not go on into full-time positions with the international union but who instead cling to their local offices or return to the work group. Yet the conclusion appears to stand that unions have done comparatively little over the long pull in industrial plants by way of creating a power group dependent on fresh status criteria. What it may have done instead is to shift power (and augment it many times over) from company-favored men of high occupational, income, and ethnic status to union-favored men, of equivalent status.

[11] Sayles and Strauss, *op. cit.*

3. *The local industrial union is dependent upon the loyalty of members who not only have all of the normal multiplicity of loyalties to be found in our society but who have a particular loyalty to that very institution, the company, which the union arose to fight and lived on to restrain.*[12]

Because, as we shall see in a moment, union leadership has to rely more upon member loyalty than upon authority to implement its decisions, the dual loyalty of the worker to his company and his union takes on added significance. Operationally it means that the leaders frequently conceive of their tasks as having an un-wooing phase before the wooing begins. At first glance, the dual loyalty problem might appear to present an insurmountable obstacle to the union entering a conflict period with management. But there is a saving grace that makes it possible for the leadership to enter this period with reasonable confidence that the members will, in their separate ways, give active or passive support to their union. This is the members' recognition that it is only the union, in which they believe as a part of the protective system surrounding their jobs, that cannot survive without open manifestations of their loyalty in a power showdown. A more troublesome aspect of the loyalty question emerges however from the fact that the union in mature bargaining relationships and in such special areas as pensions and seniority may wield considerable disciplinary power *vis-à-vis* the membership. This puts the union in the position of the policeman who feels compelled to ask for enthusiastic mass support in the execution of his constabulary duties.

4. *The union is seldom able to gauge its economic power and must always reckon with rather deep-seated community doubts as to the legitimacy of the exercise of that power.*

The ultimate sanction back of union power is the ability to prosecute a strike effectively. The local leadership group may in most circumstances be able to make reasonably accurate assessments of its own ability to hold the membership out on strike over short periods of time, but the same assessments can often be made by that management group which is freed from the more blinding stereotypes about union

[12] Purcell, *op. cit.;* and "Dual Allegiance to Union and Management: A Symposium," *Personnel Psychology,* March. 1954. This point appears to illustrate one of the areas where the craft union in itinerant trades will differ from the industrial unions under consideration here. Where there is no continuing relationship between one employer and his employees, dual loyalties are presumably unimportant.

leaders and followers. As regards the company's ability and willingness to take a strike, there is less of an equality of information. The union must often operate on the vaguest of assumptions about the company's position, and this vagueness is not dissipated by the mere erasure of stereotypes. It also seems safe to assume that many locals, for all of their claims of past bargaining successes, are well conditioned by community attitudes to question how far they are safely able to go in exacting further cost-imposing gains from employers. Nor is it relevant to protest that the community frequently cries havoc long before any danger point is reached; there is a gnawing fear in the hearts of the leaders that the predictors of doom may be right and that some extra caution is appropriate. Beyond this, community valuations place a further restraint on union economic power. It is said that America has accepted strong unionism and collective bargaining. But so much of this acceptance has turned out to be of the "yes-but" variety that local unions tend to see themselves living in a world where strikes are invariably union strikes and where a discommoded public wants such strikes settled by the union as quickly as possible. The consequences of the foregoing is that the local leaders, feeling constrained power-wise, make a rather more modest assessment of their over-all strength than many an outside economic analyst makes.

CHARACTERISTICS OF THE METHODS BY WHICH DECISIONS ARE MADE

5. *Local industrial unions feel strong and compulsive pressures to operate within a framework of practices that may be deemed democratic by the membership.*[13]

There is in almost all of unionism a continuing strength to the democratic ethos; but local industrial unions feel its impact most strongly because theirs is a situation of continuing face-to-face relationships between leaders and rank-and-file and because these organizations typically are but a few years removed from the experience of young, exuberant mass democracy. Ends alone cannot be justified when a course of action is presented to the membership; the means must also be legitimized by demonstrating that this is in effect the democratic solution to the problem at hand. The breadth of the concept of democracy in the members' minds permits a certain amount

[13] This point is elaborated in John R. Coleman, "The Compulsive Pressures of Democracy in Unionism," *American Journal of Sociology*, May, 1956.

of room for leadership maneuvering and even manipulating, but there is no room for disregard of the concept in its entirety. To invoke symbols of authority to accomplish some end is risky in situations involving relationships with the membership; but appeals to member loyalty are not only safe but highly effective to accomplish those same ends. In practice, much of the administrative and legislative activity associated with leadership of the local union centers about the search for a mass basis of support for actions deemed desirable on merits other than their immediate popular appeal.

6. *Yet democracy in these same unions is by nature unstable and must increasingly be compromised in favor of bureaucratic practices.*[14]

This point involves what is by now rather well-traveled ground. Here it is important to add only that the relevant bureaucratic practices are most often associated in the case of the smaller industrial locals with representatives of the international staff who, by virtue of their superior information, their skills of communication, and, occasionally, their access to symbols of authority, are increasingly influential in local decision-making on substantive issues. Local unions show a high propensity to express sentiments of rebellion against the blunt statement of the international representative, "You have to have a clearance on this from the international before you act"; but they show a still higher propensity to accept the international's leadership where it is tactfully given.[15] The blunt fact with which many union leaders feel themselves confronted is that the important decisions which have to be made in their locals do not lend themselves readily to decentralization of control even within the union's officialdom, much less to mass participation by the rank and file. And further, the decisions so made can almost never be made for the membership alone; they have to be made as well for the *union qua union.*

7. *The drift towards more bureaucratic decision-making is accompanied by growing emphasis upon the criterion of efficiency as the measuring stick for the goodness or badness of means and ends alike.*

Broad participation and decentralization in policy-making, with their apparent slowness and indirectness, loom in the aging industrial

[14] Lipset, *op. cit.*, and other citations in Footnote 5.

[15] A corollary is that the local union leadership is more often held to be expendable at election times, so long as the staff service from the international union continues unabated.

locals as luxuries which can scarcely be afforded by busy men. A common view among leaders holds that, once the members see the local safely established, they drop out of active roles, assume passive critics' roles, and look to their elected representatives not to free them from chains but to give them their money's worth. It is at this stage that it becomes appropriate to criticize the leaders not because they have lost too many grievances but because they have spent too much time and money in the processing of the grievances which they won. A premium is thus placed upon effective utilization of the union's resources in the decision-making process. Perhaps it is but a reflection of the relative weakness of any radical ideology in American industrial unionism that the gains produced by the unions must also stand the test of being measured against the criterion of efficiency per dollar or per ounce of energy extended. One senses this most keenly in the compulsion which the negotiator for the established local union feels to justify his new contract by the short-run standard of what it gives to the membership today in return for his dues.

CHARACTERISTICS OF THE DECISIONS WHICH ARE MADE

8. *Collective bargaining contract decisions for the smaller local industrial unions are primarily adaptive in nature, involving the locals' adjustments to wage and fringe patterns established elsewhere.*

The case for the importance of local union research, in the smaller locals in particular, can scarcely rest upon any notion that decisions made here are likely to spread throughout the economy or alter the fundamental balance between management and organized labor as national power groups. Rather the questions of interest are likely to be, "How do the smaller locals accommodate themselves to the pattern of gains won in the key bargaining centers?" and, "How do they sell their adaptive decisions to the membership involved?" Viewed in this light, the processes of communication within the local union and between the local union and the outside world take on major significance for group decision-making where the well-being of many workers and employers is at stake. Through our understanding of these processes, we may come to the point where we see more clearly how it is that men live with situations involving compulsions to meet patterns that seem economically impossible to meet. Here is where we have the opportunity to study how the environmental processes are perceived

within the local, what alternative courses of action loom in the leaders' eyes, and what factors within the union explain varying degrees of success in implementing alternative decisions.[16] Within the locals themselves, it seems evident that adaptive bargaining plays down the importance of the skills of imagination and the dreaming of dreams, continues the emphasis on the skills of face-to-face argumentation and persuasion of management, and places a new spotlight on the skills of the technician, who can work through the labyrinth of highly technical issues to extract a workable compromise for company and union, and the salesman, who can sell these compromises to the membership. Adaptive bargaining moreover appears to leave little room for broader membership participation in union decision-making, except in the sense of the participation of assent. Instead, it places the member more clearly on unionism's receiving end only—and makes it likely that he will receive with his contract gains a more generous measure of explanation and "economic education."

9. *Decisions in the contract administration area are increasingly circumscribed by the weight of precedents in interpreting the "web of rules."*

Past actions by unions, management, and arbitrators have created certain compulsive expectations in the shop, particularly among the rank-and-file membership. These expectations involve not only the kinds of cases that are processable under the grievance machinery but the ways in which the cases will be disposed of. Particularly where there are fewer changes being negotiated in the contracts each year, the bulk of the union's grievance work begins to take on a more automatic character as grievance committeemen respond to familiar facts and expectations. This doesn't rule out decisions that break new ground in old areas; it does however place a heavier burden on the union to justify any new actions to its constituents. The issues with which the majority of grievances are concerned in many mature bargaining situations are quantitative ones involving point or rate determinations. In effect, they go over and over old ground with new numbers and new names. The union official's function in such a situation is more akin to that of the old and faithful retained lawyer than to that of the fighter on a charging steed, for much of the fighter's

[16] Shultz, and Herrnstadt, *op. cit.*

job is over now that the outline of the code of civil rights within industry has become filled in at so many points.

10. *Where past union decisions were principally offensive in character, changing managerial policies in the mid-1950's have placed unions somewhat more on the defensive.*

Over the first two decades of mass industrial unionism, labor organizations reasonably expected to come out of meetings with management with tangible gains. On the one hand, they were making up for lost time in that unionism came late to the American scene; on the other hand, they were capitalizing on high employment to increase their bargaining strength. A noticeable change is under way in some bargaining situations today. A number of companies have abandoned the position of sitting back to wait for the union's demands and have taken the initiative in proposing serious demands of their own which will take from the unions that which was given out before. This new offensive is most striking where management alleges that it was soft in the lush decade of the '40's and that it now must redress the balance so as to increase plant efficiency while continuing to pay union wage rates and fringe benefits. These companies which are taking this approach are much more sophisticated in the ways of collective bargaining and unionism than they were a few years ago. Hence, they pose for union decision-makers some serious questions not about what to ask for but about what to hold on to and by what means. This is a rather new aspect of decision-making within labor's house. Our focus may yet have to shift appreciably towards defensive decisions, and this will surely involve differences in the processes observed.

* * * *

There is an inadequate supply of timber in the foregoing survey to complete a model of the local union as a decision-making body. But perhaps the corner-pieces at least are here. The outlines of the structure become clearer. The local industrial union studied here is an organization dedicated alike to member service and to its own preservation, an organization that harmonizes to a high degree over time with the structure, status system, and much of the value orientation of management and the established plant community, an organization where decisions must appear to be democratically arrived at even though in practice democracy almost inevitably yields slowly to bu-

reaucracy in its government, an organization increasingly faced with compulsive decisions arrived at in other places and in other times to which it must adjust most of its present decisions, and an organization whose roots of power in membership loyalty and strike ability alike must often appear inadequate to its decision-makers even for the accomplishment of modest aims. And finally, because it is all these things and much more, it is likewise a near paradise for the social science researcher.

DECISION MAKING IN A BUSINESS AGENT GROUP

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THIS REPORT ON DECISION MAKING within a business agent group is based on data gathered for a larger study—a study of the role of the union business agent. The data for the larger study were gathered by means of interviews with the business agents concerning their own expectations of the role, as well as their perception of others' expectations, business agent ratings of each other, psychometric testing of the business agents, content and interactional study of weekly staff meetings, as well as observation of and informal conversations with the group over a period of several years.

In this study, one aspect of the business agent's role that was vividly brought to our attention was the business agent's part in decision making—not only the making of decisions for himself as an individual performing this role, but decision making for the union organization of which he is a part. Even though it was not the focus of our major study, it is this organizational decision-making aspect of the business agent's role that we want to discuss today.

Although we are not at liberty to identify the union at this time, the nature of the particular union studied, of course, limits the degree to which one can generalize from the data. One of the important limiting factors that we can reveal, however, is that the group of 21 business agents operate within a joint board structure, which, of course, tends to centralize control of the member locals.

Before examining the business agent's role in decision making, it may be useful to give a brief description of "organizational decision making" as we will use this term. We will define decision making as the conscious selection of a given course of action from among a number of alternatives for the solution of a given problem. More specifically, we will consider the decision-making *process* to consist of five steps: (1) recognition of a problem, that is, a situation must be perceived as requiring a change; (2) a statement of the perceived alternative solutions for the problem; (3) prediction of the consequences of each alternative; (4) recommendation of an alternative in terms of steps two and three; and (5) choice of an alternative, that is,

the selection of a course of action to be followed. Obviously, many individuals and/or groups may participate in the various stages of this process.

To say that we are going to look at "the business agent's role" in this process is not completely accurate. We will focus on the business agent *group* and its role, rather than the individual business agent, because the group rather than the individual is the important unit in this union's decision making. In this union body, one distinctive and important characteristic is the close teamwork among the business agents, in large part based upon and certainly symbolized by weekly all-day staff meetings where policy is formulated and difficult problems are threshed out. Every business agent is expected to bring up precedent-setting problems that he is confronted with at these meetings, and decisions on such issues are made by the group.

But what accounts for the close teamwork and strength of the business agent group? Several factors seem to be involved here.

First of all, although the business agents, and, for that matter, the business manager, are elected officials—elected to carry out the will of the membership and the policies of the international union, their manner of election allows the business agent group a considerable amount of autonomy and permits it to become the informal, but powerful source of job security for the individual agent. Business agents are not elected by the particular group of members that they service, but rather by the entire local membership of the joint board organization. Therefore, the particular group that the business agent serves is but a small fraction of those who will vote for or against him in an election. Most members, in cases where they have had no direct experience with an agent, seem to follow joint board recommendations. If an agent is included on the approved joint board slate of candidates (almost always based on business agent recommendations to the joint board), he is practically assured of victory. Whether or not he is approved depends in great part upon his standing with the business agent group—his standing, not in terms of how well he is liked or even how competent he is, but on the basis of his adherence to group policy, his honesty with the group, and the effort with which he tries to carry out group decisions—or rather, the extent to which he is perceived by the rest of the group to have such qualities. Although there is no systematic check on the behavior of the individual agent as he goes about his job, if and when he is discovered to have violated these standards, he is in a difficult position, and, if his violations are severe

enough, may be asked to resign. Formally, such a business agent may be fired by the joint board, but, actually, in all cases to date, has been asked to resign by the business agent group and has done so, before the matter needed to be taken to the joint board.

We have just indicated a significant disadvantage to a business agent in trying to "go it alone." But another factor contributing to the power of the group is the lack of any compensating advantages, such as promotion, salary increases, or recognition for such behavior. Equality in the group is stressed and competition is discouraged. The salaries of all business agents are equal, for instance, regardless of how they do their job, their length of experience, or any other differentiating factors. There also is no opportunity for promotion within the joint board structure until the business manager retires, and the group has already informally decided who will be the most appropriate choice for his successor.

Another factor in the power of the group seems to be a strong *esprit de corps,* developed by the business manager. Cooperation is a standard repeatedly voiced by the business agents as an expectation in their dealings with each other. The business manager has stressed the accumulated wisdom available to the individual from the group, often saying, "We are lucky. We have over 100 years of experience to draw on." He has praised the group as being the best functioning in the union. The joint board organization is widely noted as being outstanding, and the business manager has continuously emphasized that this fact is, in large part, due to the weekly staff meetings with their exchange of information and advice and to the close association among the staff.

Tied in with the factor of *esprit de corps* is the respect that all of the business agents seem to feel for the business manager. If they wish to maintain his respect, they must live up to his expectations, and he clearly makes known his expectation that decisions on policy be made by the staff as a whole. The agents' respect for the manager seems to be based on a number of factors. They feel that he is extremely fair in his supervision of them, showing no favorites. They have a sense of security under his leadership, knowing that no business agent who is loyal to and honest with the group will be asked to resign. They also know that, if a business agent is criticized by the joint board, he will be vigorously defended by the business manager, even though he may have been criticized severely *within* the business agent group. For such defense to mean much, the business manager must,

of course, have the respect of the joint board delegates, and this respect the business agents know he has. He is respected by both groups because, through his judgment and determination, he is considered to have made the organization what it is today. As one business agent put it: "Blank is a very brilliant man—is a real asset to this organization. He has made this organization." They respect his judgment, because they feel it has been vindicated in the past. And they know that he is not striving for selfish ends in his union activity. He has turned down opportunities for higher positions within the union, he is liberal in giving credit where credit is due, and he obviously is a person of integrity.

Now let us turn to the role of the business agent group in organizational decision making. The relation of the group to the joint board immediately points up this role. The joint board, which has proportionally elected representatives from each local, is formally the decision making body for all matters that affect the entire unit. Actually, however, the joint board role is typically limited to choice of alternatives that are presented to it by the business manager, spokesman for the business agent group. That is, although the joint board *may* bring up a given problem, this usually is a function of the business manager. And, through him, recommendations are made to this formal governing body—recommendations that have been under thorough discussion by the the business agent group in its weekly staff meetings. This group has discussed alternatives and consequences and has selected alternatives to recommend. As a consequence, recommendations made to the formal governing body are systematic, carefully worked out ideas, with pros and cons thoroughly probed before their presentation. These recommendations are made to a group that usually has not previously considered the topic. Even more important, perhaps, past recommendations of the business agent group that were accepted have led, in general, to desired results. Therefore, the ideas of the business agent group tend to provide the bulk of the body with a plausible framework for action.

As in any joint board structure, however, the local unions have formal autonomy on purely local matters and, in this union, shop bodies have the final say on shop matters such as contract negotiations. (Shops and locals usually are not coterminous, and shop matters, therefore, cannot be a local union concern.) Again the business agent comes into the picture. It is the business agent assigned to the local or shop who makes recommendations to the unit and meets dissenting

remarks or requests for clarification that come off the floor. Usually, his recommendations are not solely as a result of his own thinking, however. They tend to be either based upon established joint board policy (formal or informal) or to have been brought up at the business agents' staff meetings for discussion and decision in cases where policy is not clear. In cases of unclear policy, a discussion of alternatives and consequences occurs at the business agents' staff meetings. The possible reaction of the membership to any alternative is obviously one of the consequences that is predicted. When an alternative is agreed upon, it becomes the business agent's duty, as unofficial spokesman for the group, to sell it to the membership involved. In selling the group's alternative he is, of course, well prepared and, in addition, has a certain prestige as an expert, whose recommendations usually have met the problems successfully in the past. As a consequence, there is a definite margin in favor of the original decision made by the business agent group. If he is not successful, however, the subject is again brought up to the business agent group for reconsideration and the membership rejection is a significant factor in the further prediction of consequences.

The description of union decision making is important. But it is also important to focus on some of the underlying factors that influence decision making and to examine them within a perceptual and motivational framework. To us, understanding decision making, primarily seems to be a problem of analysing, factors limiting and expanding the perceived alternatives and consequences, and factors that weigh into the selection of a given alternative. Insofar as we are operating within this general framework, we are adding nothing new, but, to the extent that we are able to apply this framework to a given group in decision making, we hope to get further insight into the applicability of the framework, as well as the workings of the union group under study. It should be noted, however, that because the significance of the factors tends to vary with the issue, we will make no attempt to rank them as to their general influence.

The most obvious factors affecting the perception of alternatives for any individual or group are knowledge and experience with the issue. Alternative solutions do not have their genesis in thin air. They are founded in the integrated experience of the individual or group. In this situation, we find the cumulative experience of 21 agents applied to any problem. This, of course, extends the scope of possible alternatives that are perceived over that possible for an

individual. But, in spite of this extension, there are limitations inherent within the group. The business agents do not have the resources derived from formal training in such areas as labor law, communication techniques, etc., although they have pragmatic knowledge. Limitations on the group's perception of alternatives also are imposed by the norms and rules of the group itself (its existing policies), and those of other interrelated groups, e.g., particularly labor legislation, administrative decisions of governmental bodies, the constitution and by-laws of the union, and the traditions of the labor movement as a whole. These factors are not static, and, as a consequence, the nature of their influence may change over a period of time. These factors, of course, by no means exhaust those influencing perception of alternatives for any given problem but we feel that they will be the most generally applicable.

Perception regarding possible *consequences* seems to involve some of the same factors that we have just discussed. Awareness of possible consequences increases with the size of the group and decreases insofar as the business agents' knowledge is limited. Another factor delimiting awareness of possible consequences may be resistance to change. That is, alternatives that maintain existing policies and values may be perceived as having more positive and less negative consequences than actually is the case, whereas, alternatives that modify the status quo may be seen as having more negative consequences than actually would be so.

Another factor, broadening the group's prediction of consequences, is its *esprit de corps,* mentioned earlier. Because of the staff's belief that their close association makes the joint board organization outstanding, they have a good deal of confidence in the effectiveness of their own group. They indicate a belief that they can get other people to go along with their decisions, that they can "sell" their recommendations. Therefore, they rather seldom predict the possible consequence of not being able to get any particular alternative accepted and implemented, although they regularly consider such a possibility. Because of this they are less restricted in their choice of an alternative to recommend than might be the case with many other groups. They are able to make decisions within the group confidently, not hesitantly, with fear.

It may be well to point out that this group, like any decision-making body, does not look at consequences solely as they bear on the particular problem at hand, but examines them in a much broader

sense. They may ask not only: "What will be the consequences of this alternative for the solution of the particular problem?" but, "What consequences will this alternative have on our policies and program as a whole?" Accepting a 10c increase in a given negotiation may be the obvious answer to that particular difficult situation, but, if it weakened the union's bargaining position in other negotiations, it would be construed as a negative consequence and would tend to be rejected as any kind of desirable solution, all other things being equal.

When the business agent group comes to the point of evaluating predicted consequences in terms of reward or punishment anticipated from each, and to selecting an alternative on the basis of their evaluation, what factors do they consider—either explicitly or, more often perhaps, without clear awareness that they are doing so?

Several factors, noted in our discussion of business agent group strength, also seem to apply here. One such factor is the respect in which the business agents hold the business manager, explained earlier, and their consequent desire to live up to his expectations. The group is not afraid to disagree with his point of view and frequently does so. But, when the chips are down, they will tend to decide an issue in a way that will not lessen his respect for the group or the individuals in it. We do not mean to imply, however, that the business agents merely "rubber stamp" the business manager's proposals. He is as dependent on the group in decision making as the group is on him. The business manager usually throws problems to the business agents for their opinions, rather than attempting to "steam roll" his ideas across. In a few instances, he will make a strong recommendation. If, however, the group shows concerted opposition in such cases, he tends to close the discussion before a decision is made. Before bringing up the topic again, he tries to enlist the support of key group members. The very rarity of his dominance in decision making is the key to its effectiveness. His agents realize that "he must feel very keenly about an issue" before he will make a strong recommendation and, consequently, will tend to give him the benefit of the doubt. This is true especially because his judgment has so often proven to be good in the past.

In selecting an alternative, another very pervasive factor, noted earlier, is the value that the business agents place upon being "the best." They cherish their standing as the best joint board organization in the union and strive to maintain it. They believe that they are in the forefront of the labor movement in their geographical area and

wish to continue to hold this position. Less common in the labor movement, perhaps, is the fact that they speak frequently of the high respect in which their organization is held by employers—not respect due to their being "soft" or "easy" but due to the employers' belief that their union is fair and responsible, although "tough." ("As long as they leave in the 'tough,' I won't worry," says the business manager.) This reputation with management they also wish to maintain.

Digressing for a moment, let us look at what is behind this concern with management's opinion. One important element would seem to be the fact that this group operates in a highly organized locality with a long history of unionism. Employers have accepted organization of their plants as inevitable and have learned to live with unionism. Some of them tend to look upon union leaders as their allies in maintaining a stable and satisfied labor force. Union leaders who seem to them to be truly concerned both with the workers' needs and the employers' capacities generally meet this requirement best. Since the area is a good spot for organization, because of expanding industry, there is considerable competition and jurisdictional strife among unions there. The group we studied had learned that a reputation for being fair and responsible helps both in organizing drives and in maintaining existing locals, because it enlists the employer, as well as the employees, behind the organization.

All unions in the area have not learned the same lesson, however. One factor that influenced the learning process of the group we studied seems to have been the closeness of the group. In the early days of the organization, many different methods of dealing with employers were tried, and then were evaluated at the weekly staff meetings. Several business agents, using different tactics, took turns in dealing with the same employer. Through a discussion of the results obtained from the various methods, the group concluded that diplomacy and responsibility were effective in most instances, particularly in cases where employers were willing to be responsible and diplomatic, too. This approach became a matter of informal policy in the union. It was modified, of course, in the rare instances where an employer was not responsive to such treatment. The approach started pragmatically and, as success was achieved through its use, it became traditional and developed into a standard of the business agent group.

Turning back to the main point, one may say that the business agents will tend to choose alternatives that they think will maintain or strengthen their reputation with most groups.

To a significant degree, the business agents think their reputation depends upon the results that they obtain; they see employers respecting the fact that they "get the last apple out of the barrel," the international respecting their contracts, shops organized, money collected for political action, etc. They are a "bread and butter" union, concerned with issues that affect the material well-being of their membership in the present (they view political action as a "bread and butter" activity, not as an idealistic one). And they feel that their reputation is dependent upon the "bread and butter" results that they achieve, rather than on any orientation toward basic social change. But they feel that their reputation also is affected to a large degree by the means that they use to obtain these results: the reliability of their word with employers, their closeness to and honesty with members, their support of international policies in their activities. They think results are devalued unless achieved in the proper manner. For instance, a business agent who gets results but gets them in a dishonest or coercive way is ostracized by the group—he threatens their reputation on one front, even though he may enhance it in terms of results. A business agent who uses the right means but is not too successful in his results is less ostracized—he is not evaluated highly but the group feels strong enough to compensate for his lacks. And, in their perception, inability to get results is more acceptable than use of undesirable means that cannot be compensated for by group action. In other words, the business agent group values and stresses both the practical results that can be obtained and a responsible, honest way of obtaining them. Therefore, in selecting a solution to a problem, the group thinks in terms both of results and of means—with means perhaps given the edge.

Another factor that seems to be significant in the choice of alternatives is the maintenance of the authority of the business agent group. The group tends to reject any possible solutions to problems that would increase the authority of non-paid union officials even though a rejection of an alternative on this basis may have other undesirable effects.

As we have indicated throughout this paper, we consider a categorization of decision making steps useful primarily as a tool for analysis. It provides little in the way of insight into how any particular decision is made. We feel that the important aspects of decision making are the factors entering into a decision, the relative importance they have in influencing the decision, and how these factors became available in the decision making process.

We also have indicated that, to a great extent, we feel that the dynamics of decision making are unique to the problem, to the group attempting to cope with it, and to the environment within which the group operates. Generalizations can only be made to the degree that: (1) the problems are similar; (2) the units engaged in decision making are similar in structure; and (3) environmental conditions are similar.

What then are the implications of our findings? First, let us look at the effects of group, rather than individual, leadership on the decision-making process. One effect seems to be found in the degree and kind of expertness of the leaders. Another and related one seems to be in the area of leadership prerogatives.

Let us examine the effect on expertness first. It may be taken as a truism that, in any large, complex organization, there is a need for experts, to cope with the intricacies of the organization. Certainly, this is true of most unions today. And, as Selznick [1] has pointed out, these organizational intricacies either are of no interest to or are beyond the time and capacities of the rank and file. The membership, however, will accept and promote experts only to the degree that they provide plausible solutions to union problems, with successful results. Within the labor movement, the role of expert usually falls on the full time officials. Full time positions exist, to a large degree, for that purpose.

In the union studied, however, the expert aspect of the business agent's role is enhanced by the fact that the individual agent is a member of a closely knit group. While the agent tends to absorb the values and traditions of the group, thereby losing some individuality in his bases for decision making, he also gains, in that he has not only his own experience and knowledge to draw upon, but the pooled resources of everyone in the group. Therefore, even the new staff member has resources not available to the rank and file. In addition, group deliberation on an individual's problem tends to increase the objectivity with which it is considered. The possibility of biased perception on the part of an individual agent, due to his ego involvement in a situation, tends to be compensated for, and rash actions are restricted by the group's broad awareness of possible consequences. In like manner, any individual's enthusiasm for a new idea that he has sponsored is modified by the opinions of others in the group.

[1] Selznick, Philip, An approach to a theory of bureaucracy, Am. Soc. *Rev.*, 8, 51-54.

Therefore, group discussion helps each agent to be less fallible—more of an expert—and helps the union to achieve greater success.

In this case, then, leadership by a group, rather than by an individual, increases the expertness of the members of the group. It may be hypothesized that such would hold true in other situations as well—that cooperating group leadership would tend to increase the effectiveness of the individual expert.

Now, let us look at the effect of group leadership on prerogatives of the leadership. Because of the increased effectiveness of the business agents working in such an atmosphere, they are better able to satisfy the needs of the membership, and, as they do, are ceded new prerogatives in decision making. In this respect, the business agent group tends informally to take over part of the formal role of the joint board as the representative governing body.

Let us turn now to the effect of a changing social climate on decision making as found in the union studied. With the new prerogatives, the business agents are increasingly able to explore the most effective means to attain desired ends. In the union studied, these ends seem to continue to be primarily "bread and butter results," but the means used to obtain them appear to be changing. The social environment in which the business agents operate has changed considerably since the 1930's, when the joint board organization was established. In their area, this was possibly, in some part, due to the business agents' increased expertness and consequent strength of the joint board. They are operating today within a changing climate of opinion toward unionism, in which there tends to be an acceptance of their role as bargaining agents and reward from management, government, and public for bargaining in good faith. The possibility of acceptance by and standing in the community and in the employers' eyes now exists, as it did not earlier. The business agents' pragmatism leads them to add these factors into their decision making. As a result, we find them operating increasingly within the framework of well accepted societal standards—using these standards as one basis for decisions, and striving for acceptance by society as a means of obtaining results.

The possibility exists, however, that maintaining this position in society may be becoming an end in itself. To the extent that this *is* coming about, specific and limited results of a more traditional nature may be sacrificed to this new goal when decisions are being made.

WORKERS AND DECISION MAKING ON PRODUCTION

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WITHIN THE TRADE UNION, especially at the local level, there exists a process not hitherto explicitly identified, which may be called worker decision making on production. This paper will summarize some of the principal structural features of this process, and will indicate the nature of the evidence from which its existence and features have been inferred.*

To set the ensuing discussion in perspective, several observations will be made at the outset. First, in showing that organized workers systematically make production decisions and that their range of decisions is expanding, no claim is made or implied that they decide all of production in the plants where they work. Second, even though their decisions will be seen to arise from a decision system which operates through many of the rules, procedures and organizational apparatus of the local union, it is not therefore to be considered identical with a local union.† The trade union is the most hospitable medium in which workers can practice and extend their decision making. In turn, their decision system is a dynamic force within a union which, if given full expression, can shape its activities and directions of development. Finally, because this process can be shown to exist, it does not mean that it is planned, nor that its participants are necessarily aware that they are engaged in making production decisions. There is no ideology or blueprint or conspiracy to unseat the employer or usurp his functions. Worker decision making on production appears to be an autonomous outgrowth of the social and occupational relations which develop among workers as their systematic response to their situation within the employment relationship.

Decision Making on Production

Before embarking upon the substantive portion of this paper, it will prove useful to set forth the definition of decision making on

* The materials to be presented in this paper are excerpted from a larger study into this subject. It is being prepared for publication in book form under the title, "Workers and Decision Making on Production."

† A union may engage in other kinds of decision making, aimed at other domains than production; and its production decisions may not emanate from its worker-members. Furthermore, organized workers who are not formally unionized may also make production decisions.

production upon which the ensuing discussion is based. This is the more desirable, since it is not ordinarily employed as a category of analysis of unions or of organized workers' activities.

Production is defined as the physical, material and technical components, processes and arrangements whose activation yields the tangible flow of goods and services. The determination of these things is contained in production decisions, which specify the actual detail of the components of the process and its flow. Decision making is the function carried out by the human participants in the production system. It is composed of two analytically separable parts: the formulation of decisions and their receipt and execution by the people who activate the physical processes. In this sense decisions are directives as to what their recipients and executors shall do; and decision making is a social relationship between formulators and executors in which the former issue decisions and the latter carry them out. The occurrence of production is the derived effect which follows as a consequence of the formulators and recipients of decisions participating in this relationship, with each carrying out his own particular functions.

WORKERS' DECISIONS AND PRODUCTION

There is widespread evidence that organized workers contribute to the regulation of production. Reference will be made to some examples of the relevant literature which show that such regulation occurs. From the disciplines of industrial sociology and applied anthropology a series of case studies have been produced which indicate that workers devise ways of regulating output. Horsfall and Arensberg (1) published a study which shows that workers in a shoe factory developed a system for distributing work among themselves, regulating its flow and volume, and equalizing the output and earnings among the members of an occupational group. Matthewson (2), Collins, Dalton and Roy (3) and Roy (4) have produced first-hand reports of the practice by workers of setting limits upon the rate of production which were below those presumably set by their employers. These practices occur among unionized and non-unionized workers. The old issue of "hot cargo," whatever its immediate purposes, imposed limitations upon the kinds of materials which could be used in the affected plants. Underlying the much discussed issue of resistance to technological change is the manifest impact of workers upon the productive equipment and methods in their plants. Records

of arbitration cases often disclose a deep penetration by unions into the determination of many aspects of plant operation. The managerial prerogatives issue arose from the unresolved controversy over the unions' interference with the performance of managerial functions—which consist of making decisions. Chamberlain (5) provided a factual account of the nature and extent of union impact upon employer activities.

These accounts—and the many not mentioned—permit the following observations. First, very many aspects of production are affected, modified and even specified by the actions of organized workers. Second, these effects arise even though the workers are pursuing improvements in their terms and conditions of employment. There are no indications in these reports that the workers involved sought to usurp managerial functions, or that they set themselves up as decision makers over production. Nevertheless, accepting fully the evidence that neither the workers nor their unions intend to become management, the manifest effect of their recognized and accepted kinds of action is to regulate these many aspects of production.

The question is: how does this happen? Why do the terms of employment demanded by organized workers impose regulations upon the purely productive and physical aspects of the industrial plant? The answer can be found in a closer examination of the cateory "terms of employment" and in its relationship to the other category with which it interferes, "production decisions." For this purpose, a typical union-employer agreement involving several terms of employment will be briefly analyzed. This clause, applicable to the card room of the Bigelow Sanford Carpet Company plant in Thompsonville, Conn., is as follows:

> Grinders can be used only as fixers. In the case of feeders and spare hand out, then we will take a stripper to do the feeding and finishing.

3 Cylinder Sections		2 Cylinder Sections	
6 Strippers	14 Cards	5 Strippers	14 Cards
5 Strippers	11 Cards	4 Strippers	11 Cards
4 Strippers	9 Cards	3 Strippers	9 Cards

The meaning of this agreement is as follows: First, the card grinder may not be transferred to any job other than fixer. Since grinding is a maintenance operation which in an emergency might be postponed, the grinder could conceivably be an available replacement

for short periods on the production jobs in the department. This is excluded by the terms of this agreement. Second, if there are absences among the card feeders or finisher tenders—the direct production jobs—the card stripper, another maintenance occupation, may be transferred to production work. Third, if this should be done, the card section will then have less than its full complement of strippers. The agreement stipulates the number of cards which may be run by feeders and finishers with the various numbers of card strippers performing the stripping operation.

The question as to how the terms of employment impinge upon production decisions may be resolved by three inferences which can be drawn from this example.

1. In the absence of collective bargaining agreements, terms of employment are set by the employer's production decisions.

This is evidenced by the conditions which the operative portions of the cited agreement sought to offset. The first condition relates to the provision of maintenance services to the carding machines. These must be furnished continuously by the fixers, grinders and strippers. If the services of the latter two are insufficient, then the work burden of the feeders and finishers is augmented. By restricting the transfer of the grinders to the fixing job—where his services can be intermittently shifted back and forth—the agreement establishes a limitation upon the reduction in the amount of this kind of maintenance.

The second condition pertains to the level of output in the carding department. The agreement permits the transfer of strippers to production jobs. But the size of the card assignment must thereafter be reduced.

If this agreement did not exist, the employer's decision to maintain a given level of output to the temporary neglect of maintenance by grinders and strippers would impose a higher work burden upon the feeders and finishers. This term of employment, workload, would be established by the making of production decisions governing maintenance and the rate of production.

2. The agreement established new terms of employment which formerly were set by the employer's production decisions

3. The agreement, in establishing terms of employment, operates as a production decision.

The agreement sets a condition for the determination of the rate of output and machine maintenance. By reducing the size of the card

sections, it lowers the number of machines which will operate, and thereby the output of the department. By prohibiting the transfer of grinders to non-maintenance work, it limits the reduction in maintenance and, under specifiable conditions, it again operates to lower output.

This example discloses that production decisions create terms of employment and that terms of employment act as production decisions. Why does this happen? It happens because they converge at the same place, the productive workforce, where each seeks to regulate the occupational activities and conditions which comprise the performance requirements of workers. A production decision is often thought of as a solution to some material or technical problem, such as the rate of output necessary to maintain some productive balance, or as the amount of maintenance which particular equipments may require. But these only become decisions when they are translated into directives which workers must execute. Similarly, terms of employment are regarded as gains and benefits which improve the workers' experience in production and employment. But these benefits and experiences are produced by the very activities and conditions which make up the workers' occupational requirements. The two categories, terms of employment and production decisions, appear to be very different when they are viewed in respect to their methods of calculation, the analytical terms they employ, the decision criteria which they seek to satisfy, and the domains they appear to regulate. But when they are examined with respect to the objective, observable things which they govern, they turn out to be equivalent and alternative vehicles of regulation of workers' occupational activities and conditions.

The Terms of Employment as Production Decisions

If one clause, by analysis of its impact upon workers, can be shown to regulate the rate of production and machine maintenance under very specific conditions, is it possible that the totality of such clauses embodies a systematic regulation of production? This can indeed be demonstrated, but within the special nature of the regulations created by the workforce. Their regulation takes place by determining the activities and conditions of their work and in so doing, they necessarily determine many aspects of production because their work performance executes the terminal decisions governing production.

With this in mind, the content of collective bargaining agreements has been subjected to examination to determine what kinds of regulation they provide. A summary of this analytical process is presented in the accompanying tabulation. The agreements do not specify

THE AGREEMENTS AND THEIR AREAS OF DECISION

Subject of Agreement	Productive Activities and Conditions Governed by the Agreement	Areas of Decision
Hiring Union Membership	Entry into Employment	Worker Group
Bargaining Unit Production Work	Definition of Producers	
Quit Termination Discharge	Departure from Employment	
Work Day and Week Shifts Overtime Holiday Work Strikes and Lockouts	Work Periods	Work Time
Holidays Vacation Lunch Period Wash-Up Time Grievance Conferences Leave of Absence	Work-less Periods	
Promotion Demotion Transfer	Intra-Plant Movement	Deployment
Temporary Layoff Layoff Recall	Movement Into and Out of the Plant	
Job Definitions	Occupational Tasks	Performance
Production Schedule Workload Time Study	Pace	
Wage Structure Premiums	Payments for Performance	Compensation
Wage Protection Other Income Payments Non-Wage Income	Payments for Employment	
Working Condition Improvements	Other	

productive activities and conditions as such. They are written in categories of effects upon workers, and they specify the kinds of effects which are to prevail. By asking what performance activity or what aspect of the productive situation each term bears upon, it has been possible to classify them and to infer the following five areas of decision.

1. *Worker Group:* The agreements contain clauses which define the workforce and the criteria by which persons enter into, remain within and depart from productive work. These provide an operational definition of the worker group.

2. *Work Time:* There are numerous agreements which define the times during which work must be performed and not performed. These specify the times during which workers must be available for the performance of work.

3. *Deployment:* Given the identity of workers and their times of work, a further set of agreements regulates their placement upon jobs, and their employment or non-employment. These activities are regulated by seniority and by the elaborate rules governing layoff, recall, promotion, demotion and transfer.

4. *Performance:* There are agreements which pertain to the duties of jobs and to the frequency with which these duties must be performed. They are to be found in job definitions and in workload, time study and related clauses.

5. *Compensation:* Lastly, there are many clauses governing wages and other kinds of income and improvements in the physical conditions of work. These are the effects which workers sustain from the performance of work and the things they receive in exchange for their performance. This category is the area of decision which allocates the output of work—both the product and the impacts upon workers.

Each of these areas is made up of specific clauses which regulate many of its component activities and conditions. The relationship of these summary areas—including *all* their activities and conditions, not only those contained in agreements—to production can be shown by stating the decision problem to which each area applies. These are given in the following tabulation.

Area Number	Area Title	Decision Problem to Which the Area Applies
1	Worker Group	Who shall perform productive work?
2	Work Time	When shall workers perform (and not perform) productive work?
3	Deployment	Which workers shall (and shall not) be placed upon which jobs?
4	Performance	What and how much shall workers perform at their jobs?
5	Compensation	What effects shall flow to workers from their performance of work?

When these five problems are completely answered—that is, when their component activities and conditions are fully specified—they then determine the total content of the workers' participation in production. This includes the physical, technical and organizational parts of production, for these too must be specified if the five decision problems are to be fully solved. Because these five problems systematically define the workers' total participation in production, they also decide production, for the content of the workers' performance sets up and activates the processes which yield the flow of product.

These five areas of decision and their underlying problems merely translate the content of production decisions into the language of their directive effects upon workers. It is the sum of these directives which specify the activities and conditions which yield production. Some of them are made unilaterally by the employer and are issued as his production decisions. Others are now incorporated in agreements as terms of employment. The latter are therefore not only the benefits to workers covering wages, hours and other working conditions. They are a systematic part of the directives governing the workers' participation in production, directives whose subjects and content originate from the workers' own demands. The agreements therefore emerge from this analysis as a system of workers' decisions governing production.

WORKER DECISION MAKING
AN EXAMPLE

The published evidence of worker regulation and the results of the analysis of the terms of employment raise a problem for which no answer exists in the available literature. Do workers actually make

decisions which explicitly take production into account? Observation of workers acting within the processes of their local union confirmed the fact that they engage in decision making in highly systematic fashion, and they they make decisions explicitly about production.

An example of this practice, as it was observed and recorded, will be described.* It took place in Local 2188, Textile Workers Union of America, then CIO, located at the Thompsonville, Conn. plant of the Bigelow Sanford Carpet Company. The presentation of this meeting is intended to show two things: first, that decision making on production is an observable, systematic activity among organized workers; and second, that production is explicitly decided upon as a necessary condition and consequence of worker decision making about their internal social relations, occupational activities and the effects which they sustain from employment. These are apparent from the content of the transcribed test.‡

The Meeting

On Tuesday morning, June 28, 1949, at approximately 11 A.M., five workers met in the office of the local union. They were the president, vice-president, and secretary-treasurer of the local, and the chairman and sub-chairman of the dye house, one of the organizational units of the local union. Their purpose in meeting was to decide whether or not 16 hours of overtime work should be permitted, for a period of two weeks, to two dryer tenders in the skein dye department. Under the prevailing union-employer arrangements, the union had to agree to overtime before it could be requested of the individual workers. This agreement was granted or withheld by a decision of the officers and chairmen of the department in which the work was to be done. This meeting was therefore an official decision making session, held under the established rules of the local union.

* The length of the transcribed text precludes its presentation here, but it will be published as part of the full study.

‡ This decision making meeting was recorded in its entirety. The question will naturally arise—as it had to for the investigator—as to whether the presence of an outsider, especially with recording equipment, in any way influenced the conduct of the discussion. It is, of course, inevitable that these extraneous influences had some effect, though their degree and kind are beyond evaluation. The recording does not reveal that the discussion was affected by the investigator's presence. This is in part supported by the text, and in part by the large number of similar recordings in which the free flow of discussion, as well as the frames of reference and positions of the many participants exhibit continuity and consistency. In any case, by the time of this particular meeting, the participants had long become accustomed to the equipment and the outside observer. If anything, they seemed oblivious of both.

Without formalities, the dye house chairman opened the meeting with a recital of the overseer's request for overtime and his reasons for wanting it. The overseer had informed the chairman that a shortage of yarn existed and was made more serious because of a backlog of a large amount of wet yarn lying in the dye house, waiting to be dried. This emergency, coupled with only eight remaining work days before the impending three-week summer shutdown, made the recall of laid-off workers or new hiring an entirely impractical solution to this situation, in the view of the overseer. Only overtime work would enable the company to avoid layoffs in the departments which consumed the yarn. When, after a few minor interruptions, the chairman concluded his recital, one of the participants asked, "Why all of a sudden overtime?"

Neither the alleged shortage, nor the low level of output, nor even the request for overtime were, in and of themselves, the problem of the participants. After exploring the yarn situation and concluding that a shortage might exist, they then considered very carefully the occupations which might be affected by it—both favorably and adversely—and the exact nature of the effects which they would sustain. Finding some of each, they then began to investigate whether the adverse effects could be mitigated. The issue which gradually emerged from their discussion contained two fundamental problems. First, how many additional manhours, if any, were needed in the drying operation? Second, from what source should these manhours be obtained?

The discussion of the meeting, as might be expected, contains some inevitable repetitions of material and viewpoint, and its sequence corresponds to the particular subjects of interest to the various participants. But when the essential framework of their talk is abstracted from its material content, they appear to have handled these two problems in a very methodical way. Each possible alternative number of manhours was analyzed with respect to: (1) the particular occupations which would be affected by each level of output; and (2) the nature of the effects which they would create for the occupations. Similarly, as each source of manhours was proposed, it too was analyzed by the same considerations: (1) the identity of the occupations which would be immediately involved in the delivery of the additional manhours; and (2) the effects which the giving of these manhours would have upon the involved occupations. By pursuing this method, they were able to formulate their problems, assemble and

analyze relevant data, and evaluate each of the available alternatives.

While the participants, at the time and later, maintained that they were deciding about overtime, the transcribed text of the meeting does not support this claim. The content and scope of their discussion can only be comprehended within the framework of the two problems defined above. What were these two problems? The first, relating to the number of additional manhours, was explicitly concerned with the level of output which should prevail in the drying operation. The second, dealing with the source of the manhours, was concerned with the method by which the particular level could be obtained. In all, they considered five different levels and five methods. They were as follows:

Level	Method
1. No change	1. No overtime; no recall or new hiring (both impossible, as stated by the overseer)
2. A slight increase, by catching up on the wet yarn	2. No overtime, recall or new hiring, and advocating layoffs in the preceding and succeeding operations (and assisting this shutdown by informing the workers, two weeks before vacation, that irregular work impended)
3. A moderate, though slightly delayed increase in output	3. No overtime; pressing for the recall of laid-off workers
4. A moderate but immediate increase in output	4. Overtime
5. A substantial increase, sufficient to build an inventory of yarn, but slightly delayed in starting	5. No overtime; pressing for the recall of laid-off workers and new hiring

Their ultimate decision would have the property of deciding four kinds of things. (They finally agreed to permit the overtime.) It would decide upon the level of the output, the method to be employed in obtaining it, the workers who were to be affected by both the level and the method, and the effects, both good and bad, which these workers were to receive.

The level of output is a decision governing the rate of operation of the physical processes, clearly a production decision. The method by which the level was to be obtained was a decision which specified the occupational activities of workers. The effects correspond to all

the kinds of impacts, gains and losses which workers receive as individuals from the doing of work. The workers or occupations affected were the aggregate whose relations to the decision system were being altered by the particular production decision.

All of these things governed by the decision were functionally interrelated. The production situation as defined by the level of output established the conditions which impinged upon workers with particular kinds of effects. To modify the effects the level had to be changed, and this involved the selection of an appropriate method, which also produced various kinds of effects upon particular aggregates of workers. Finally, neither the production level, nor the method, nor the affected workers, nor the effects constituted any issue, unless and until it created some deviation from the practices and rules which comprise their social relations and decision system. This departure from the terms of their social and decision relations triggered the problem which had to be resolved, and provided the condition which had to be rectified by their ultimate decision.

This meeting is an example of worker decision making on production. It reflects a highly organized process, since it occurred in accordance with predetermined rules of decision making which stipulated the subject of decision, the identity of the decision makers, and the relevant criteria by which the decision was to be made. Many similar meetings have been recorded in this local union and they have also been observed in many other locals.

THE WORKERS' DECISION SYSTEM

Where does this decision making practice come from? What is meant by the system of internal social and occupational relations which was identified as one of the areas of impact of the decision on overtime? To these questions some summary observations will be made. They form part of a theory of the development and extension of worker decision making on production.

The decisions which emanate from the workers are produced by a decision system. This system is composed of an elaborate and growing body of rules which govern the structure and operations of the system itself, as well as the substantive decisions which it issues. The roots of the system and of its internal rules are to be found in the social and occupational relations which workers create in response to their situation in the employment relationship.

The employment relationship is a historically specific form of

decision making on production. It is a relationship between a decision-formulating employer and the recipients and executors of his decisions, the productive workforce. The common feature of the workers' position in this relationship is that they receive and execute production decisions and do not formulate decisions for other people to execute—as do the lower levels of the employer's decision hierarchy. This situation imposes upon them a social and occupational homogeneity which is the objective foundation out of which their decision system arises.

Inferring backwards, from the ultimate fact and characteristics of occupational organization, some indications of the generative processes may be discerned. The end-product of organization consists of a particular decision enacted by some aggregate of workers. This decision formulates a line of action which they agree to follow, and which thereby regulates some bit of their employment activity. In adhering to this decision, they modify the end results of the employer's decision whose effects they experienced and sought to expunge. The way they expunge the effects—and the decision which produces them —is to agree as members of the aggregate not to execute it any more. To reach this position, the aggregate must cohere as the recipients of the decision, and emerge as the formulators of an alternative one. And its members must agree to accept this alternative—and the fact that they have become a formulating entity.

Once begun, this process continues on its own momentum. The knowledge acquired in the first experience provides the direction for further decision making. The need to protect their decision—and themselves as decision makers—compels the members to extend the process. The extension grows by adding new decisions, by enlarging the aggregate, and by arranging agreements with other aggregates which have undertaken the same process.

The growing accumulation of these internal decisions assumes the character of a massive code. What ultimately comes to the surface as a formally organized local union is the overt manifestation of the immense body of codes enacted by the workers. Some may be found in the contracts and sub-agreements reached between the union and the many levels of the employer organization. Some exist in precedent-making grievance settlements and arbitrations. Many are located in the internal rules governing the terms of employment and in the internal decisions and interpretations which the system makes for itself. The local's constitution and by-laws and the organizational

rules of its subordinate bodies are also part of the code. The workers' system, its formation, structure, operation and substantive decisions are governed by this evolving code.

SUMMARY

Worker decision making on production as an independent, autonomous, coherent function was identified in this paper through the following procedure. First, it was shown that the terms of employment originating among the workers systematically govern an increasing range of their occupational activities and conditions, and thereby the content and arrangements of the production system. Second, it was shown that in determining or applying these terms of employment, workers carry out an observable decision-making practice—exemplified by the meeting. Third, it was shown that they explicitly decide upon production as a necessary part of deciding their internal social relations, occupational activities, and the effects they sustain as individuals from their work. Fourth, it was indicated that their decision making emanates from the system of social and occupational relations embodied in their codes.

As a whole, this is decision making on production because: (1) the determination of production conditions is essential to satisfy the decision requirements of the workers' system; and (2) because the regulation of production is the most general area of effect of their decision making.

Much more remains to be said about worker decision making on production and many questions about it must remain unanswered at this time. The objectives of this paper will have been satisfied if the existence of the system and some of its structure have been made apparent. In concluding, the question may be raised: what difference does it make, to show that workers make production decisions? Some implications are suggested in these closing observations.

1. The use of this category, decision making on production, makes possible a substantial systematization of the activities of organized workers. It provides a single framework within which to contain, in a coherent and functional system, the workers' employment and occupational duties, their response to them in the form of organization, including the structure and operation of their organizations, and the effects of their joint actions upon their production and consumptional life. It yielded a new kind of model of worker occupational organization.

2. The internal structure of the workers' system reveals some of the impulses, characteristics and forces which prevail among employed workers, and to which they give expression by practicing their own kind of decision making. From the time of the Hawthorne experiments, the observation has been made and amplified that workers coalesce into social units. The mechanism and inner content of these consolidations of workers can be seen in the complex process of forming and extending their codes.

3. Worker decision making on production is a dynamic process within the trade union. Its presence must be taken into account in any realistic formulation of the role and functions of the union as an institution. The union cannot escape the practice of decision making on production which goes on within itself. It must either give full expression to the workers' process, or else exercise its own decision making as a means of containing the expansion of the workers' system. In either event, the decision requirements of its worker members provide important determinants to the scope of its activities, its structure and operations and to its future directions of development.

4. The emergence of the workers' system means that contemporary industry has been transformed into a system of bilateral decision making on production, a change of profound significance both to the operation of industry and to the society which depends upon it for the flow of goods and services. This transformation assumes even greater significance when viewed from the perspective of history. For it signifies a modification in the employment relationship and its decision system by the historically novel arrangement of the executors of decisions acquiring the right to decide upon their own productive performance.

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(3) Orvis Collins, Melville Dalton, and Donald Roy, "Restriction of Output and Social Cleavage in Industry," *Applied Anthropology*, Summer, 1946, pp. 1–14.

(4) Donald Roy, "Quota Restriction and Goldbricking in a Machine Shop," *The American Journal of Sociology*, March, 1952, pp. 427–442.

(5) Neil W. Chamberlain, *The Union Challenge to Management Control* (New York: Harper and Brothers, 1949).

DISCUSSANT'S COMMENTS FOR "DECISION-MAKING IN LOCAL UNIONS"

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THERE IS SUBSTANTIAL SIMILARITY in content between the paper prepared by the Rosens and the one submitted by Professor Coleman. Although the title of the session, as well as each of their own titles, deals with the broad subject of decision-making in local unions, both concentrate on the accommodation process. The emphasis is on the evolution of harmonious relationships with management. Credit for this peaceful adjustment is divided among a small number of factors: the influence of management and community values (and needs), pattern following in negotiations, the "web of rule" spun out by the grievance process, dual loyalty on the part of the membership, and the triumph of leadership professionalization (and expertness) over potentially unstabilizing rank-and-file democracy.

Professor Coleman implies in his excellent over-view of local union research that this has now become a well-worn road. As Dr. Lloyd Fisher analyzed so clearly some years ago, the union can be essentially a conservative force in American economic life.[1] One cannot help but be impressed with the magnitude of the internal "organizational" or structural pressures and the external environmental pressures moving the union in such a direction.

Relations with Management

Yet it seems to me if we are going to do justice to the broader meaning of "decision-making in local unions" we need to see some of the diversity in union behavior. There are many collective bargaining situations which are openly aggressive, where from the point of view of competent observers, there is no recognizable linear trend leading in the direction of simple accommodation. In fact, the unions in such situations are often characterized more by apparent disequilibrium movements that are spiraling toward less predictability rather than increasingly narrow departures from the Coleman-Rosen central tendency.

How do we go about explaining these kinds of situations? Cole-

[1] Lloyd Fisher, "The Price of Union Responsibility"; (Berkeley, California: Institute of Industrial Relations), Reprint No. 10.

man suggests we pay greater attention to the major problems posed for the union in the economic environment in which it must operate: presumably, the economics of the industry, the size, structure and distribution of firms, employment trends, degree of unionization, elasticity of demand in the product market and labor supply in the labor market.

Internal Union Structure

But union policy and practice is also a product of its own internal structure. We have recently had several studies that have thrown new light on the relationship of internal group factors and union behavior in "external affairs." Kerr and Siegel, although scornful of what they stereotype as a human relations approach, place great emphasis on the community and work interaction of the membership.[2] Conflict situations, they note, are characterized by the *absence* of distinctive work groups with differentiated occupational interests and the presence of an amorphous mass membership, sharing common grievances and some isolation from the larger community. Gouldner too in a recent study detects differences in the basic characteristics of the rank and file. He observed work groups in an industrial setting, some of which sought only to maintain or regain a carefully patterned "exchange-of-favors" relationship with management that had all the well-known earmarks of industrial harmony.[3] However, other work groups had no such simple maintenance of the status quo as objectives. They sought new and continuous gains.

Our own research has also brought into question the concept of *the* rank and file, even in the relatively homogeneous setting of manufacturing industry. Work groups and total plant structures differ markedly in their propensity for conflict. Based, we believe, primarily on the technical organization of work and work flow, we find some passively accepting what the leadership accomplishes or fails to accomplish; others in the position of initiating a never-ending stream of new demands (that can at least be achieved with diligence) and still others initiating demands that have no solution, and where the "decision" is closer to chaos than harmony.

Professor Cohen makes the point, and it is worth repeating, that

[2] Clark Kerr and Abraham Siegel, "The Interindustry Propensity to Strike —An International Comparison," in *Industrial Conflict*, A. Kornhauser, R. Dubin, and A. Ross, eds. (New York: McGraw-Hill, 1954) pp. 191–192.

[3] Alvin Gouldner, *Wildcat Strike* (Yellow Springs: The Antioch Press, 1954) pp. 59–64.

workers exercise substantial influence over production decisions—whether organized or unorganized.

But again, it seems to me the interesting point is not the one which has been well documented, but rather, what kinds of decisions, under what kinds of circumstances.

Just for the sake of example: we see situations where these "decisions" on the quantity of output over time and the distribution of work among present and potential employees can serve alternate ends:

(1) the self-interest ends of the specific work group that is intimately involved in pressing the grievance, controlling the output, or what have you (this is in conflict with the real economic interests of adjacent or related work areas);

(2) the "decision" takes into account the broader ramifications of their pressures and actions on the other work groups;

(3) the "decision" is contrary to even the short-run economic interests of the employees and serves only to frustrate further the workers involved.

Thus even "self-interest" is not a constant!

Internal Political Life

The Rosens' and Coleman papers touch also on this matter of participation and union democracy, and again the trend is presumed to be a homogeneous one. My colleague on the panel, Professor Lipset, has contributed much by his research to the other side of the question.[4] Again the structure of the local and the membership, not the inevitable press of evolutionary forces, shapes the local's decision as to which way to face.

An interesting question for this panel involves the relationship between the structure of participation and the key "decisions" of the local's leadership. In starting our research for *The Local Union,* Strauss and myself assumed naïvely that the political process of the local and the internal relationship among work groups or pressure groups were one and the same thing.[5] Unfortunately for the sake of simplicity of the problem, this is not the case. The kinds of status differences and economic interest differences among groups that Coleman, Lipset and others of us talk about are only the background

[4] Seymour Lipset, "The Political Process in Trade Unions: A Theoretical Statement," in *Freedom and Control in Modern Society,* M. Berger, T. Abel, and C. Page, eds. (New York: Van Nostrand, 1954) pp. 82–124.

[5] Leonard Sayles and George Strauss, *The Local Union; Its Place in the Industrial Plant* (New York: Harper, 1953).

factors in local politics. These groups are the transmission medium for pressures—but they do not participate in the political process as such. Most critical election issues, at least from our point of view, are not determined by the special economic and prestige differences among the membership.[6] To be sure, the leadership must make some kind of response to these, but the real political process is superimposed upon these interests. The very reason why the local union may be, as in Coleman's words, "a near-paradise for the social science researcher" is because it represents in microcosm the institutions of government. The political scientist too needs to distinguish between the pressures emanating from constituents and the interactions among the "actives" in political life. The union, compact and simplified, presents an admirable opportunity to view these two processes: relations with members and among leaders—close up.

Conclusion

We still need to relate these variables to the kind of relationship that exists with management. Based on our current research, I would like to suggest these kinds of hypotheses as worthy of exploration:[7]

1. Where the union leadership is more independent of the rank and file, due to the absence of a high degree of special interest consciousness on the part of distinct groups within the membership, we are more likely to find the polar cases in union-management relationships: the decisions are in the direction of remarkably high cooperation or enduring conflict.

2. Where the leadership must constantly respond to the special interests of specific groups within the rank and file, neither extreme is tenable for any long-run period, and the more typical "decisions" result in a kind of middle-ground "working harmony."

Whether or not the evidence we have obtained stands the test of further studies, we feel that it is essential to explore in research the inter-relationships among the three semi-autonomous variables we have discussed here:

a. Relationship with management (and its goals of production);

b. Work group structure of the plant and in the community;

c. The political process in the local.

[6] *Ibid.*, pp. 155–162.

[7] Leonard Sayles, *Technology and Work Group Behavior*, to be published by the Bureau of Industrial Relations, University of Michigan.

A number of highly interesting combinations among these are certainly worthy of study.

In conclusion, we should like to be critical of the subject for this panel. To explain the "decision-making process" for any institution is really to analyze the complexities of its internal life and its relationship to its environment. As a research technique, concentration on critical decisions may provide a convenient and strategic start for further explorations of attitudes and behavior. Two of the papers try to establish some framework for analyzing decisions, but really fail to use this, and perhaps just as well. We do not think it is any longer fruitful to ask how long it takes a union to "decide," via a process of trial-and-error learning, that accommodation really pays, both in terms of management generosity and institutional survival. The more interesting questions are those that seek diversity.

On the other hand, if we could agree with Professor Dunlop, that there is a valid maximization formula the union is following; or with Professor Ross that there is almost a closed system of interrelated equations; then concentration on decision-making again becomes worthwhile.[8]

The emphasis, where the equations can be written, is a legitimate one; but, to date at least, this requires a high degree of concentration on a single variable or two; and agreement on these is nowhere in sight.

[8] John Dunlop, *Wage Determination Under Trade Unions* (New York: A. M. Kelley, 1950).
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Part X

CONTRIBUTED PAPERS

THE CASE FOR HENRY SIMONS' TRADE UNIONISM

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"QUESTIONING THE VIRTUES of the organized labor movement is like attacking religion, monogamy, motherhood, or the home." So began the late Professor Henry C. Simons' famous article, "Some Reflections on Syndicalism." [1] Simons thus touched a raw nerve of conformism in America—namely, that trade unionism *per se* is above criticism, an ideology prevalent in many America literary and union circles which do not hestitate to criticize "giant business" or "corporate monopolies."

In this paper it is not my position to uphold all the arguments of Professor Simons, although I do believe that, on balance, they are sound. Professor Simons held that a capitalistic order and a widespread organized labor movement were incompatible.[2] I do not share this point of view. While I am doubtful about the course of the American trade union movement, I believe there is yet hope of a reversion to the business unionism of Samuel Gompers. The great contribution of Henry C. Simons, as I see it, is that he dared to criticize the trade union ideology. This was an act of intellectual honesty and took a measure of courage. Few other academicians have gone this far.[3]

There is need of worker representation in a mass-production industrialized economy. This need is seen in other fields as well as in industrial relations. For example, bargaining specialists are utilized by authors, concert artists, and actors and in many negotiated contracts and awards in industry and government. The need is not only economic; it is psychological and sociological. Today's indus-

[1] "Some Reflections on Syndicalism," *Journal of Political Economy,* March 1944, pp. 1–25. (Also reprinted in posthumous collection of Simons' work, *Economics for a Free Society,* [Chicago Univ. of Chicago Press, 1948] pp. 125–159).

[2] "For my part, I simply cannot conceive of any tolerable or enduring order in which there exists widespread organization of workers along occupational, industrial, functional lines." *Ibid.,* p. 1.

[3] See, *e.g.,* Charles Lindblom, *Unions and Capitalism,* (New Haven: Yale Univ. Press, 1949); Ludwig von Mises, *Human Action* (New Haven: Yale Univ. Press, 1949); David McCord Wright (ed.), *The Impact of the Union,* (New York: Harcourt, Brace and Co., 1951), especially contribution by Milton Friedman; and W. H. Hutt, *The Theory of Collective Bargaining,* Glencoe, Ill.: The Free Press, 1954).

trial worker needs the feeling of "belonging"—the sense of participation in decisions which affect his destiny. Otherwise, he is liable to frustration and a feeling of submergence and atomization.

My criticism of trade unionism, while parallelling Simons' in some respects, is only of the coercive aspects in the current economic rationale of the organized labor movement. The chief weakness I find in the rationale is its dependence upon the use of compulsion, a point well developed by Simons.[4] Trade unionism, and especially collective bargaining, should not be an instrument of blunt force but rather an instrument of reason. Compulsion—*i.e.*, force—is not within the American tradition; the principle of voluntarism is.

Thus the big question for organized labor is: voluntarism or coercion?

Henry Simons stood four-square on voluntarism as the indispensable concomitant of a free society.[5] In a similar vein, Samuel Gompers, the "grand old man of labor," said in his final presidential address to the A. F. of L. in 1924:[6]

"Guided by voluntary principles our Federation has grown from a weakling into the strongest, best organized labor movement of all the world. . . . I want to urge devotion to the fundamentals of human liberty—the principles of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united, is invincible."

In defense of voluntarism, let me say that ours, historically at least, is a free economy. By "free," I mean the substantial absence of private and public compulsion. In fact, the only legal repository of compulsion in society is the state. What public compulsion has existed has been primarily of the negative type implied in the concept of "limited government."

This nation was founded in the interest of freedom and individual self-determination. With little collective bargaining and no minimum wage laws American wages during the 19th and early 20th centuries were probably the highest in the world and attracted to this country great waves of immigration. Free American wages fashioned living standards that were the envy of the earth's peoples.

These high wages did not spring from the magnaminity of employers. Rather, these high wages grew out of an unprecedented

[4] Henry C. Simons, *ibid.*, pp. 2, 3, 24.
[5] See especially his *Economics for a Free Society*, previously noted.
[6] A. F. of L., *Proceedings*, 1924, p. 5.

productive order with likely the greatest per worker capital investment in the world. This is my point: high wages arise, uncoerced, from capital.[7] Capital, in turn, arises from savings and savings from private property. Therefore, as we safeguard private property and thereby encourage savings and capital accumulation, so shall we stimulate an ever increasing standard of living for the American worker. The primary need of a low-wage "underdeveloped" country is not minimum wage laws and trade unionism, which can come later, but capital—tools, plants, and the industrial sinews of capitalistic production. Capital, in short, is the fruit of freedom and the seed of still greater prosperity.

But if compulsion and freedom are mutually exclusive, can we say that American trade unionism would benefit by adherence to the principle of voluntarism and the abandonment of the principle of coercion? I think so.

The benefit could be manifested in higher wages. The ideology that labor and capital are antithetical to each other is false and is traceable to the Marxian concept of the class struggle. Labor and capital should cooperate with each other for each is indispensable to the other and to production. Higher production yields both higher wages and higher profits, as well as higher living standards to consumers. To see the wisdom of cooperation in production, note the experience of the Lincoln Electric Company of Cleveland.[8] President James F. Lincoln says that by cooperating to increase production, Lincoln Electric employees average a physical product per man almost twice that of competing unionized concerns. As a result, Lincoln Electric employees get annual wages that average four or five thousand dollars more than their organized counterparts in competing firms.

Such cooperation with capital to increase production and thereby wages is the principle of voluntarism in action. To cooperate, trade unionists would have to sweep away certain cobwebs from their thinking. The "lump-of-work" theory would have to go and with it featherbedding and the slowdown. The machine would have to be viewed as a wealth-creator instead of a job-destroyer. Time studies,

[7] In a sense, there is a degree of coercion in unorganized labor markets. Through competitive bidding, employers "force" their fellow employers to pay going wage rates or do without. Such market "coercion" is not unilateral, however, but simply a market phenomenon.

[8] See James F. Lincoln, *Incentive Management* (Cleveland: The Lincoln Electric Co., 1951).

the thorny issue in the Westinghouse strike, would be encouraged as an instrument of efficiency. Typographers would stop demanding pay for setting "bogus" type. Bricklayers would drop daily quota restrictions. Musicians would drop the speciousness of "stand-by" musicians. Painters would welcome spray guns. And automation would neither be feared nor used as an excuse for national planning or a production-cutting, four-day, 32-hour week. Thus, as the worker's marginal product rises, his wages would inevitably move in the same direction.

For another example of the efficacy of voluntarism, let us view the case of compulsory membership. That voluntarism is superior to coercion is seen in a statement made this year by so eminent a trade unionist as Charles Geddes, chairman of the British Trades Union Congress. Mr. Geddes said:

"I do not believe that the trade union movement in Great Britain can live for very much longer on the basis of compulsion. . . . Must people belong to us or starve whether they like our policies or not? Is that to be the future of the movement? No, I believe that a trade union card is an honor to be conferred, not a badge which signifies that you got to do something, whether you like it or not. We want the right to exclude people from our union if necessary, and we cannot do that on the basis of 'belong or starve.'"

This Geddes statement is in obvious disagreement with the prevalent trade union opinion in the U. S. This opinion is manifested in the opposition to our so-called "right to work" laws passed by eighteen states. In view of the American tradition of freedom, it seems incongruous that such a law as "right to work" was ever necessary.

As Texas Judge E. C. Nelson reminded us in last year's Santa Fe case,[9] we have the First Amendment guaranteeing "freedom of assembly." Yet is compulsory unionism consistent with free assembly? We have the famous Fifth Amendment, which guarantees the worker his "life, liberty and property." And, assuredly, is not the worker's liberty violated by compulsory membership? We have, deservedly, a prohibition of the employer's "yellow dog" contract. Now if the employer can no longer unfairly force a worker not to join a union on the condition of his job, how can a union logically force union membership on the same condition of the worker's job. If coercion is wrong for the employer, surely then it is wrong for the

[9] *Sandsberry v. Santa Fe,* District Court, Amarillo, Texas, February 6, 1954.

union. As the late President Roosevelt said in 1941 during the union shop struggle in the captive coal mines: "The government will never compel this five per cent (of unorganized miners) to joint the union by a government decree. That would be too much like the Hitler methods toward labor."

Apart from the incongruity of captive memberships, unions stand to lose organizational discipline and loyalty, as well as membership esprit de corps, by demanding union and closed shop clauses. Union leaders can hardly bespeak of democracy, justice, and equity if they force unwilling workers into their ranks.

Another instance of the coercion principle is seen in the trade unions' proclivity for monopoly, sometimes called "unity" or "solidarity." Monopoly involves the power to force prices above competitive prices, a power subject to vast economic abuse. Unregulated monopoly power entails the coercive deprivation of consumers and an uneconomic use of resources. Monopoly, in short, can be equated to compulsion.

To protect the American people against monopolies, we have the Sherman Act and other anti-monopoly laws, so vigorously enforced that the government stops the proposed merger between Bethlehem Steel and Youngstown Sheet and Tube as well as a host of corporate practices even indirectly constituting collusion or restraint of trade.

But with the Clayton and Norris-LaGuardia Acts, we have exempted the trade unions from the anti-monopoly statutes and legalized, if not encouraged, industry-wide and trade-wide unions and bargaining and a host of other monopolistic practices. As a result, the American people are exposed to all the dangers and abuses of union monopoly. For in the words of the Supreme Court in the Hutcheson decision of 1941:

"So long as a union acts in its self-interest, and does not combine with non-labor groups, the licit and the illicit . . . are not to be distinguished by any judgment regarding the wisdom or unwisdom, the rightness or wrongness, the selfishness or unselfishness of the end of which the particular union activities are the means." [10]

This philosophy is clear. Unions are to be the sole arbiters in their economic problems. The affected management, unorganized workers, union membership minorities, stockholders, consumers, and general public are to stand aside and trust in the wisdom and good intentions of the labor leaders. Will not such sweeping license lead to

[10] 312 U. S. 219.

the same headiness found in the 19th century trust operators' cry of "the public be damned"?

Organized labor's discriminatory but legal monopoly enables unions to commit all the abuses from which trusts and cartels are justly prohibited. On this score Thurman Arnold, then Assistant Attorney General under the Roosevelt Administration, charged before a Congresional committee in March 1942 that the Teamsters and the building trades were "adopting the same tactics that the Supreme Court had condemned in the case of the Aluminum Company of America—dividing territories where goods could be sold, erecting protective tariffs around communities, and creating a condition of scarcity."

Union monopolies are local, regional, and national. Local monopolies frequently restrict their ranks to newcomers to squeeze supply and exact higher prices. For example, the average age of N. Y. painters is 60, in the country as a whole, 55. The power of a local monopoly can be seen in the case of Teamsters Local 807 in New York City, which by violence or threats of violence to drivers of out-of-state trucks at the Holland Tunnel extorted $9.42 for each large truck and $8.41 for each small truck entering the city. When Local 807 was charged with violation of the Federal Anti-Racketeering Act, the Supreme Court again exempted labor unions from the law of the land. Justice Stone dissented: "Such an answer, if valid, would render common law robbery an innocent pastime." [11]

National labor monopolies are evidenced in industry-wide bargaining, which can lead to paralyzing industry-wide strikes. This happened in Britain's dock and railroad strikes this year. It has been U. S. experience, as recently as last Spring's dock strike which closed Eastern and Gulf ports. Said John L. Lewis of one of his coal strikes: "Our economy is gradually being stagnated. As the days progress, tonnage will go off the railroads, factories will close, and distress will come to the American people." Of the railway strike in 1946, President Truman said: "Food, raw materials, shipping, housing, the public health, the public safety—all will be dangerously affected." Said Defense Secretary Lovett of the steel strike during the Korean War: "No enemy nation could have so cripplied our production as has this work stoppage. No form of bombing could have taken out of production in one day 380 steel plants and kept them out nearly two months." I submit therefore that the power to shut off the labor

[11] 315 U. S. 521.

supply of an industry at a stroke is apparently the power to cut off a nation from its livelihood, to starve it, and, in short, to hold it for ransom.

The legalization of private coercion is seen perhaps in a more pernicious form of monopoly—joint monopoly, sometimes called "joint labor-management committees" or "joint boards" but more frequently simply a collusive rapport between two regional or national monopolistic bargaining units to exact tribute from the consumer, *i.e.*, most frequently (and ironically) the worker himself.[12] Joint monopoly is feasible whenever the affected demand for the good or service is inelastic enough to permit the shifting of added wage costs to consumers. Such a situation is common in the milk-delivery, laundry, dry-cleaning, glazing, and building construction fields. While it is true that in 1945 the Supreme Court ruled that monopolistic price-fixing is legal only if imposed by the union alone, the ruling ignores the easy out of corporations of accepting the union suggestion of joint monopoly, saying they were "forced" to accept (which oftentimes is true).

The weapons of coercion in the union arsenal for forcing compliance of businessmen are formidable. The Taft-Hartley law may ban secondary boycotts and sympathy strikes but it is a brave and perhaps foolhardy employer who will seek enforcement.[13] Sabotage and sags in workmanship are also illegal but difficult to prove. In last year's Louisville and Nashville and Southern Bell Telephone strikes trains were derailed and power lines torn down. Slowdowns, however, are legal, according to this year's U. S. Court of Appeals 2 to 1 ruling of legalized "harassment" in the Personal Products Co. case. This is an illogical ruling, inasmuch as it permits full-time pay for part-time work. Is it logical to permit workers to stall and loaf, commit injurious acts and disrupt production while compelling an employer to pay for services clearly not rendered? Judge Danaher, dissenting, said an employee cannot work and strike at the same time. Yet the majority ruling fits our curious union ideology of legalized coercion.

Perhaps the greatest source of coercion and violence in our industrial relations is the picket line. The Fifth and Fourteenth Amendments provide that "no person shall . . . be deprived of life, liberty, or property without the due process of law." Time and again, however,

[12] This point is developed by Simons. *Ibid.*, p. 2 ff.

[13] There are also legal loopholes in the secondary boycott ban such as "hot cargo" clauses in union contracts.

non-strikers have been made involuntarily idle by picket lines, usually accompanied by threats of violence or violence itself. In this year's Kohler strike bodily injury was sustained by non-strikers, one of whom later died. In the Perfect Circle situation the National Guard was called into action, after eight persons had been wounded by gunfire. Unions claim that picketing is merely an extension of freedom of expression. To the extent that this argument is valid, only one picket or a few should be needed for the union to express itself. More than this spell strong-arm tactics and intimidation and should be banned, or else our Bill of Rights becomes a mockery.

The final area of coercion I want to treat in this paper is political coercion. Now that the A. F. of L. and the CIO are a reunited couple, we wish them a happy and peaceful marriage, impervious to rancor and temptations of power. As an object lesson, the new labor organization might view the fate of its brother organization in Argentina, the General Confederation of Labor. Willfully did organized labor there build up their own political boss. They were his Peronistas, loyal and militant. But they had created a Frankenstein monster who snuffed out their freedom. Now many of the Peronista labor leaders are in jail. Similarly did the British trade unions seek political power in the form of socialism through their own party. Socialism is unlimited state coercion. The British trades unions tried it and failed. No longer are the British trades unions avid on nationalization.

The new American Federation of Labor and Congress of Industrial organizations can be a constructive agency, dedicated to freedom and spiritual and material well-being for the American workers. But if diverted from this purpose, it has all the makings of a powerful political machine—66,000 locals in 150 national unions combined in a super amalgamation. The leaders of the A. F. of L. and CIO are economically and politically potent. Yet with power goes responsibility. Which will prevail—responsibility or power, voluntarism or coercion?

Voluntarism or coercion—this is labor's choice. The decision is crucial. If the answer is coercion, Simons' thesis of incompatibility of capitalism and coercive trade unionism may well resolve itself in the disappearance of both.

MARITIME SUBSIDIES AND MARITIME LABOR RELATIONS*

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THE PUBLIC INTEREST is well-served by the continuing close scrutiny given ship construction and operating costs subsidized by the Federal Government under the Merchant Marine Act of 1936. Labor costs, which account for 80 percent of operating subsidy costs receive greatest attention, particularly because they have risen substantially in the postwar period. A charge, voiced by nonsubsidized ship operators, has been that the operating subsidies have eliminated subsidized management's incentive to restrain rising wage costs, and, in turn, have raised labor costs for the entire industry, subsidized and unsubsidized sectors alike.[1]

Subsidized ship operators, acknowledging the substantial rise, have attributed this to broader circumstances, including wartime pressures, governmental wage policies, union whipsawing tactics, and division among ship operators themselves.[2] The maritime unions have directed their comments to demonstrating that their earnings and working conditions merely conform to general domestic standards.

This paper seeks to provide a reply to the questions: What influences on maritime collective bargaining account for the improvement in seamen's wages and working conditions in the postwar period? Is there a direct relationship between subsidies and the wage rises? An analysis of these factors requires consideration of the economics of the industry, the framework for collective bargaining, and the extent of intervention by the Federal government. The treatment of these matters must obviously be telescoped in a paper of this kind. This paper does not deal with such issues as the intrinsic merits of subsidies, the relaxation of the requirements for awarding subsidies, and the economic justification for the 50-50 cargo preference provisions.

* The present paper draws upon material which is part of a larger study to be published as part of the Harvard Studies in the History of Labor-Management Relations.

[1] House Committee on Merchant Marine and Fisheries, Hearings on Proposed Amendments to the 1936 Merchant Marine Act, 1953. pp. 26–35.

[2] *Ibid.*, pp. 302–311.

The Industry

National policy toward the merchant marine arises out of more than mere economic considerations. The maintenance of national prestige, of a naval auxiliary of ships and men, and of continuous service on routes deemed essential are the purposes of this policy. Direct subsidy aid through construction and operating subsidies has been granted only to operators in the offshore foreign trade, to enable them to meet foreign flag competition. For the domestic and non-contiguous trades, the assistance has taken the form of reservation of the carriage of domestic waterborne commerce to American-flag, American-built vessels. The aids have not been intended as guarantees of profitability, however; this has been left to managerial enterprise.[3]

Operating subsidies are now granted to 16 companies, operating approximately 280 ships. In 1954, these represented 27.5 percent of the total active American fleet and 45 percent of American ships in the foreign trade. Since the inception of the program in 1937, annual payments have risen from $3,250,000 to $97,500,000, for a total of approximately $550,000,000. Approximately $138,500,000 have been subject to the excess profits recapture provision. Over 80 percent of the subsidy payments over the entire period have gone for "wage" payments.[4]

Several major changes have taken place in the composition of the American merchant marine since 1939. The influence of increased size of vessels is reflected in the increase in the carrying capacity of the combined dry-cargo and tanker fleet—about 35 percent—accompanied by a 10 percent drop in the number of vessels. There has been a major reversal in the dry-cargo trade situation—the dry-cargo

[3] Subsidies are based upon the principle of parity. Operating subsidies are restricted to ship operators who are deemed capable of rendering continuous service with appropriate vessels and equipment to service the essential trade route; the conditions include provisions for the recapture of subsidy if profits exceed 10 per cent of net worth, review of future payments, economical and efficient operations and additional stringent provisions. The amount of payment is based upon the differences involved in operation under the American flag on the route (measured by the fair and reasonable excess of the cost of insurance, repairs and maintenance, and wages and subsistence) as compared with the equivalent costs of operating the same vessel with a foreign crew by the foreign competitor under the registries of the competitive foreign countries. In the case of construction subsidies, parity payment is based upon the excess of the bid of the American shipbuilder over the cost of building the ship in a foreign shipbuilding center determined to be representative by the Federal Maritime Board.

[4] Maritime Administration, Labor-Management Relationships in the Maritime Industry and the Subsidization of Wages, 1955. Tables 16 and 22.

domestic waterborne segment, formerly 60 percent of the total dry-cargo capacity, has dropped to 20 percent, while dry-cargo capacity in offshore foreign trade has increased over three times in volume and now occupies the predominant position in American merchant marine capacity—having risen from 40 to 80 percent of the dry-cargo fleet. The number of vessels in the American tanker fleet has remained stable, although capacity has increased almost 50 percent.

This postwar dominance of American carrying capacity in the foreign trade is attributable to a number of separate factors which have also accounted for sharp year-to-year fluctuations in the size of the active U. S. fleet. In the immediate postwar year prior to the reconstruction of the European merchant marine, American ship operators mainly operating with chartered government-owned ships played a predominant part in the carriage of military supplies and aid to the devastated countries. In 1947 and 1948, American ship operators carried well over 60 percent of American foreign trade. With the revival of European merchant marines and the re-development of normal trade relationships attendant on economic recovery in the free world, the share of American trade carried by American ships has dropped to below 30 percent. Even this proportion is dependent on the support provided American-flag ships through the 50-50 provision, which requires that 50 percent of aid and surplus disposal cargoes financed through government funds are to be carried on American-flag ships.

The profits earned by subsidized as well as non-subsidized operators have been determined by the traffic opportunities offered on their routes. Liner operators—common carriers operating on regular schedule over definite routes—have carried a fairly steady amount of traffic, but much of the cargo they carried in 1948, 1950 and 1951 consisted of aid cargoes. Non-liner, or tramp ship, operations have fluctuated widely with the level of aid shipments, but their inbound operations have been fairly stable. Tankers are no longer in short supply, and American-flag tankers have been meeting sharp foreign-flag competition.

Shipboard employment has fluctuated with shipping opportunities. The range of variance in the postwar period from about 60,000 to about 100,000 has been less than that which occurred during the war when employment rose from 48,000 in 1942 to 160,000 in 1945. However, the sharp fluctuations within the narrower range have pro-

duced periodic dislocations—characterized more frequently by unemployment than by labor shortages. In 1948, there were 90,000 jobs; but these had dropped to about 60,000 at the time of the outbreak of the Korean crisis. Peak employment during that period took place in early 1952, with approximately 100,000 jobs. Since then, employment has declined, reaching approximately 58,000 in mid-1955.

In summary, a mixed situation confronts the merchant marine. The domestic shipping outlook is dark indeed. In 1941, the coastwise and intercoastal trades were already suffering from the secular effects of the growth of rail and truck transport to accommodate the dispersal of American industry and the continuing growth of inland centers of population. The void created by the wartime requisition of this tonnage for military duties abroad has been left largely unfilled, and the trade continues to be uncertain. Facilities, such as the roll-on, roll-off ship and mechanically loaded cargo ships, are being developed to help revitalize the trade in meeting the competition of land transport. In the foreign trade, much of the postwar expansion rests on the several aid programs of the Federal government, although there is hope that the continued growth of production in the free world will maintain a level of trade in which American ship operators can share, for they have continued to share in the growing volume of American imports.[5]

The Results of Collective Bargaining

Collective bargaining in the maritime industry has been characterized by a degree of intensity few shoreside labor relations can match. Overriding all other factors is the extreme economic uncertainty of American shipping enterprise—a marginal industry whose major value is its role as a naval auxiliary in time of war. Even government subsidies have not altered this insecurity for they are applicable only to a portion of ocean-going shipping; and, furthermore, there is always the possibility that the government will with-

[5] Here, too, there are shadows for much of the expanded American-flag capacity is based on war-built ships which were purchased at low prices under the Merchant Ship Sales Act of 1946, and there is little likelihood of replacement of these vessels under current conditions. There are also several problems to be overcome in making possible the replacement of the subsidized portion of the merchant marine within the normal 20-year depreciation period, currently estimated to require about $3 billion of which the Government would furnish 40 per cent or more of the cost.

draw its bounty. Fearful of strong foreign competitors, with their lower costs, American ship operators have perennially sought to keep their operating expenses at a minimum. The maritime unions, on the other hand, have sought to obtain some of the improvements which landworkers have achieved. Demands based on the higher American standard of living obviously run counter to any effort to limit labor costs to levels more comparable to foreign costs.

Contributing to the tenseness in maritime labor relations has been the rivalry between the seafaring unions, as affected by the personalities and different viewpoints of their leaders. Ideological differences, as well as rivalry, with the west coast longshore leadership have also been factors. The instability due to inter-union differences has been heightened by employer actions apparently intended to play one union off against another; employer differences have also resulted in the opposite effect, with unions playing off one employer against another. Uncertainty over Federal trade, subsidy, and labor policies has also left its mark on collective bargaining in the industry.

The basic patterns of maritime collective bargaining have developed out of the traditional organization of the industry's labor supply as an industrywide labor pool, available to all ship operators. The casual and intermittent employment accompanying the sharp fluctuations in demand for shipping have been reflected in the general practice of short term employment and the frequent interchange of seamen among ships and ship companies. The tradition has been fostered by the continuance of the legal requirement that seamen sign ships' articles before the start of a voyage, and sign off at its termination. The issue of control of the labor pool, generic to the rise and development of collective bargaining, has been resolved with management acceptance of union operated hiring halls. The operation of these halls has been affected by the Labor-Management Relations Act; union membership policies have been altered, with men with seniority obtaining preference in job opportunities.

The structural organization for collective bargaining has developed out of the employment relationship. Coastwide organization has assured the availability of a pool of experienced workers at uniform wages and working conditions. Such conditions, at least on a coastwide basis, have apparently generally been considered as desirable goals by ship operators as well as unions. This is particularly true in periods of prosperity, when ship operators might have to outbid

one another to obtain necessary personnel in a labor market restricted by the attraction of shoreside employment.[6]

Collective bargaining for dry-cargo operators is conducted on a coastwide basis, with parallel organizations of ship operators and unions; tanker operators negotiate separately. On the west coast, the Pacific Maritime Association represents dry-cargo ship operators and longshore companies in the separate negotiations with seafaring and longshore unions. Representation in the association is accorded ship operators on the basis of a combination of sea-going personnel employed and tonnage. On the east coast, the American Merchant Marine Institute, through the "Committee for Companies and Agents," represents most dry-cargo shipping companies on the Atlantic and Gulf coasts. Representation is distributed among the various shipping interests (offshore, intercoastal, tramp and contract and industrial carriers), with subsidized and nonsubsidized operators receiving equal direct representation.[7] The PMA has the authority to bind members for whom it is authorized to negotiate, whereas each individual company determines for itself adherence to the terms negotiated on the east coast. However, the apparent greater control by the PMA has been reduced by the withdrawal of such authorization by 2 leading west coast operators because of differences over PMA policies, and these companies have negotiated separately.[8]

Union organization is also on a coastwide basis, although the former AFL unions were represented on both coasts. The traditional separate craft union organization on the west coast has shown a tendency to disappear in recent years, with the affiliation of the Marine Firemen and the Marine Cooks and Stewards with the SIU-AFL, along with the Sailors Union of the Pacific. But divergences in the terms negotiated in the 1955 west coast contracts indicate the continuing influence of separate craft organization, except on west coast tankers where the SUP represents all departments. The SIU-Atlantic and Gulf District, which represents seamen on the east coast, is an integrated organization representing all departments. These

[6] Concern with uniformity, has been less evident during periods of recession and depression when the hard core of the maritime labor force was augmented by many former seamen and shoreside unemployed.

[7] An informal Atlantic and Gulf group negotiates with the SIU-AFL on the East Coast.

[8] House Committee on Merchant Marine and Fisheries, Hearings on Labor-Management Problems of the American Merchant Marine, 1955. pp. 288–291.

unions have an estimated membership of 20,000 on the west coast and 17,000 on the east coast.

The National Maritime Union, formerly CIO, with an estimated membership of 45,000 represents all of the departments of unlicensed seamen in negotiations with a committee of the American Merchant Marine Institute.[9]

The maritime unions, now playing an integral role in the American labor movement, have been aided in their militant efforts at achieving shoreside working conditions by the conditions favoring the economy at large and the foreign trade opportunities for the merchant marine. In addition, the often intense differences among the maritime unions and the jealously guarded jurisdictions have made each seek to outdo the other group. The separate contract expiration dates—June 15 for NMU contracts and September 30 for west coast unlicensed contracts —have provided the opportunity to obtain more favorable terms, but these have been usually roughly approximated by the other bargaining groups within the same contract year or the following one. The underlying urge toward national uniformity in wages and working conditions has maintained a close similarity in basic wages and working conditions.

Since the end of the war, the able-bodied seamen's rate has more than doubled, from $145 to $302 on the west coast (SUP) and $314 on the east coast (NMU) in 1954. Earnings have increased even more with the liberalization of overtime payments, and with the reduction of the workweek in two steps, from 56 to 48 hours on shipboard, and from 48 to 40 in port in 1946; and from 48 to 40 on shipboard in 1951-2. However, with the necessity for continuing the 56-hour week in practice, overtime costs which averaged 8 percent of basic rates in 1939-41 are estimated to have increased to 41 percent on ships operated for the Maritime Administration and to an average of 52.6 percent on ships of member companies of the PMA.[10] The combination of increased base rates and increased overtime has produced a postwar rate of increase well beyond those of manufacturing workers.

In addition to increases in wages, maritime agreements have followed shoreside trends in establishing welfare and pension plans and

[9] For membership figures, see Maritime Administration, Labor-Management Relations in the Maritime Industry and The Subsidization of Seamen Wages, 1955. p. 5.

[10] U. S. Department of Commerce, Labor-Management Relationships in the Maritime Industry and the Subsidization of Seamen Wages, 1955. p. 18.

in ensuring vacations to all through an industry-wide pooling of vacation allowances.

This year, as in 1951-2, disparities have developed between east and west coast contracts. The National Maritime Union obtained an "employment security plan" in lieu of a wage increase. The SUP, on the other hand, agreed to incorporation into the base rates of an average representative of overtime earnings for overtime paid for work on Saturdays and Sundays, and for work within the 8-hour day. The new AB rate of $423 includes the allowance for such overtime earnings and an additional increase.[11] But the west coast Marine Firemen's Union merely agreed to a wage increase and maintained existing overtime pay provisions. In 1951-52, the disparities were resolved by equalizing all of the gains; it is too soon to determine how the present situation will be resolved.

Closer examination of the postwar developments reveals the extent to which expediency has characterized wage negotiations in this industry. The reductions in the workweek occurred in 1946 and 1951-2 when there were direct governmental pressures for the maintenance of an adequately staffed merchant marine. Governmental intervention was particularly direct in the agreement on the first workweek reduction in 1946. Expediency was maintained by the parties through the provision for reopenings at 6-month intervals, with frequent negotiations or arbitration awards to "equalize" rates between both coasts or to provide increases to meet rises in the Consumer Price Index.

Maritime operators have acknowledged this expediency, but they insist that they have had to accept these increased costs because of the impact of forces beyond their control; including the fluctuation of merchant marine opportunities, whipsawing by strong rival unions and the prominent role of government in a number of increases.[12] They cite the results of the study of the industry undertaken for them which show that the postwar rate of increase in maritime base rates

[11] This restoration of the 56-hour basic workweek at sea, subject of current difference between the two unions, is justified by the SUP as eliminating much internal disagreement among union members whose earnings have differed according to the varying services. The 1955 Congressional hearings on a measure to fix maximum as well as minimum limits for wages, working conditions and manning in determining subsidy payments was also cited. *West Coast Sailors*, Sept. 16, 1955.

[12] House Committee on Merchant Marine and Fisheries, Hearings on Proposed Amendments to 1936 Merchant Marine Act, 1953. pp. 302–337; Senate Committee on Interstate and Foreign Commerce, Hearings on Merchant Marine Studies, 1953. pp. 1159–1165.

and earnings has far outstripped those of shoreside manufacturing workers; that the earnings level exceeds those of such shoreside industries as basic steel, autos, shipbuilding and others; and that operating costs far exceed those on foreign vessels.[13]

Although acknowledging that American maritime wages far exceed those of foreign seamen, the maritime unions contend that they are merely seeking to bring the seamen's conditions into line with the American standard of living. The unions contend that more appropriate is a comparison between the seamen's status in this country and abroad with their respective shoreside counterparts—on this basis, it is contended that American seamen fare substantially less favorably than do foreign seamen. They cite the AB seamen hourly base rate (currently approximately $1.80 per hour) as evidence that it is in line with average manufacturing rates; on earnings, they emphasize the casual and intermittent character of seafaring job opportunities in contrast to shoreside employment and the necessary length of the shipboard workweek. They have emphasized also the other side of the relationship: that welfare and social security benefits are more important in foreign countries, and that employer payments for these are made through established funds, and do not appear in the wage; and that foreign currencies have been devaluated.[14]

The Government in Maritime Collective Bargaining

The ever-present concern of the Federal Government with the merchant marine since 1936 has given maritime collective bargaining an unusual quality not present in most shoreside situations.[15] (Perhaps the most nearly comparable situation is the role of the Federal Gov-

[13] Industrial Relations Counselors, Inc., New York, N. Y., Industrial Relations in the Ocean Shipping Industry, March 1953.

[14] See, for example, Statement of CIO Maritime Committee, Merchant Marine Policies, Practices and Problems of Labor Management and Government, Presented by Joseph Curran, 1955. Also testimony of Harry Lundeberg, House Committee on Merchant Marine and Fisheries, Hearings on Labor-Management Problems of the American Merchant Marine, 1955.

[15] Present-day subsidy policy as expressed in the Merchant Marine Act of 1936 was intended to circumvent the shortcomings of the mail subsidy policy of the Jones-White Act of 1928. Investigation had shown that, under this Act, contracts had been negotiated with favored bidders; that grants had been directed to unsound shipping operations; and that comparatively little direct reinvestment had been made by subsidized operators despite substantial government aid. The Merchant Marine Act of 1936 was intended, therefore, to ensure that government aid would be accompanied by the establishment of a modern, well-manned and well-equipped core merchant marine. Fleet modernization and improvement in the status of American seamen were the dual goals emphasized by the Act's sponsors.

ernment in atomic energy labor relations). Congressional interest in the merchant marine is constant; the condition of the shipping industry and possible aids have been explored by Congressional Committees almost annually in the postwar period. The Federal Maritime Board and the Maritime Administration have been concerned with the policies and costs involved in the administration of the operating subsidy program. These have been closely scrutinized by the Comptroller-General, as well as by Congressional Committees. The Defense Department and the foreign aid agencies have been concerned with the adequacy and preparedness of the privately-operated fleet. The industry is thus subject to government scrutiny of costs and operations, which have a direct bearing on labor-management relations.

An examination of the relationship of the federal maritime agencies to maritime labor-management relations reveals a record of substantial non-interference with private collective bargaining arrangements, even during the war years. This achievement is basically the result of the constant vigilance with which the maritime unions have guarded their prerogatives.

Governmental actions were not opposed so long as they sustained the results of collective bargaining. This was true of the action of the Maritime Commission in establishing minimum wages and working conditions, as required by the Merchant Marine Act of 1936, which were based on the highest wages and manning scales then obtained through collective bargaining.[16] The Commission's intervention in strike situations, however, met with strenuous opposition. Similarly, Maritime Commission support of a measure to apply a modified version of the Railway Labor Act to the maritime industry to meet instability in the industry in 1937, met with labor opposition. With support from the shipowners' associations, however, a Maritime Labor Board was established in 1938. Established under an amendment to the Merchant Marine Act of 1936 on a clearly temporary and exploratory basis, the Board's function was primarily that of a mediator, without any sanctions if the parties refused its proffered services. With increasingly stable labor relations in the industry the Board played little part in maritime labor relations. Its influence was further circumscribed by the competition which developed between the Board and the U. S. Conciliation Service. This competition was utilized by employers and unions in calling upon one or the other for assistance.

[16] These minimum scales have remained unchanged since revision proceedings initiated after the war were discontinued by the Federal Maritime Board in 1953.

Enthusiasm for continuing the Board was generally lacking and the Board was terminated in 1942.[17]

With the outbreak of war in Europe in 1939, Governmental concern became one of ensuring implementation of the foreign policy of the United States. Government requisition and ownership of the merchant marine following American entry into the war raised manifold problems regarding collective bargaining relationships. The War Shipping Administration agreed to recognize the terms of existing collective bargaining agreements, as well as to respect customary arrangements for obtaining personnel, such as the union hiring hall. This was the groundwork for the relationship which made it possible for the merchant marine to be operated without any significant disputes during the war years.

The Government intervention which developed out of its dual role as policymaker in foreign affairs and operator of the merchant marine persisted until a policy was formulated for disposing of government-owned ships in 1946. Impending changes in war risk bonuses toward the end of the war made wage increases a major issue. At the war's end, the National War Labor Board ordered a $45 per month increase. But further increases were to come in 1946, as shoreside workers gained substantial increases, and the Federal Government intervened to thwart a strike in the face of the need for continuous shipping of relief cargoes. The War Shipping Administrator agreed to the union demand for a reduction in the workweek, despite employer opposition.

Collective bargaining in the postwar years has proceeded without further intervention by Government in the role of merchant fleet operator. The results of private negotiations, except for fringe provisions, have been adopted by the Government for its civil service employees in the fleet of merchant vessels operated by the Military Sea Transport Service.

In other respects, maritime labor relations have received the same treatment accorded shoreside industries. However, the view of the industry as a major arm of American commercial, military and foreign policy gives these relationships a prominence and status which are

[17] Hearings in 1941 on a measure to extend the life of the Board met with the opposition of all employer and labor groups, except the CIO maritime unions. Shipowner representatives supported the "generalized" Conciliation Service against many "specialized boards" on the grounds that the latter would make for "confusion, waste and ineffectiveness." Doubts were raised as to the Board's impartiality. Spokesmen for the SUP, the SIU, and the ILA expressed their preference for the Conciliation Service. The CIO unions supported extension of the Board's life.

normally reserved to negotiations in the dominant industries in the American economy.[18]

The possibilities for continuing government intervention in maritime labor relations inherent in the unusual relationship of the government are reflected by two measures discussed in recent hearings of the House Committee on Merchant Marine and Fisheries. A bill proposed to amend the Merchant Marine Act of 1936 by requiring that maximum limits, as well as minimum, be fixed on wages, working conditions, and manning scales for operating subsidy payments. Alternative staff proposals for the establishment of a special maritime board were also discussed.[19]

Ship operators and unions, alike, were agreed in their opposition to the setting of maximum limits on operating subsidies. The spokesmen for the leading associations of ship operators, unlike the unions, however, supported the proposal to establish a specialized board.[20]

Maritime management opposed the subsidy maximum limitation as resulting in the undesirable control of wages by government in peacetime; as setting up a limited, unrealistic and unfair area of wage

[18] In 1948, when strikes threatened on both coasts over uncertainty regarding the application of the union shop provisions of the Taft-Hartley Act to the union-operated hiring hall, the first steps of the national emergency provisions of the Act were put into motion. Following these first steps, agreements were concluded with the seafaring unions. When the west coast longshoring situation remained unresolved, all of the steps of the national emergency provisions were applied. However, a 95-day strike followed.

[19] One staff proposal provided for adaptation of the national emergency strike provisions of the Labor-Management Relations Act to the maritime industry, with the Secretary of Commerce to appoint Committees of Inquiry and an 80-day injunction period; it also provided for the establishment of a U. S. Board for the Settlement of Maritime Labor Disputes with mediatory authority and a 90-day waiting period for changes in wages and working conditions in the case of unresolved disputes. An alternative proposal also established such a Board but gave it the authority to request the parties to delay any work stoppage for a maximum period of 45 days, where it determined that such a stoppage would "interfere substantially with the waterborne commerce." Failure to comply with the Board's request would be treated as an unfair labor practice under the Labor-Management Relations Act.

[20] West coast dry-cargo ship operators were particularly favorable to the staff proposals, and expressed the hope that they would aid in dealing with strikes over major issues or jurisdiction in which the operators were caught between competing unions. The spokesman for the American Merchant Marine Institute was more circumspect in supporting the proposals. He supported these "in principle" and pointed out that there were no jurisdictional disputes on the east coast. The spokesman for the American Merchant Marine Institute did indicate, however, that its constituents were not unanimous in their position; furthermore representatives of tanker operators, of the Lake Carrier Association, and a number of individual operators expressed their opposition to specialized legislation in this field. House Hearings, Merchant Marine Labor Problems, 1955. pp. 797, 802, 810, 814.

control, with the rest of the economy and the industry remaining free of such control; and as resulting in violation of the parity principle in the payment of subsidies. The unions opposed both measures as unwarranted restrictions on collective bargaining, and as having insidious precedent-setting implications for shoreside labor-management relations.

Concluding Remarks

It is part of American public policy to ensure the maintenance of a privately-operated first rate core merchant marine. It has been determined that such a merchant marine can be maintained only through subsidies intended to equalize higher American operating and construction costs with competitive foreign costs. The subsidy policy recognizes the necessary impact of higher American wage and living standards.

The substantial rise in seafaring wages and working conditions may be attributed to the continuing opportunities for American foreign shipping, helped materially by governmental aid programs and the 50-50 cargo preference provisions. Without profitability in operation, there is no assurance of the success of subsidy policies. The maritime subsidy policy is intended merely to equalize costs with foreign competition. It does not insure profitability which is a matter of favorable trade opportunities and managerial enterprise. Aid programs and cargo preference provisions have a substantially greater bearing on assuring profitable operation—which is a dominant influence in collective bargaining. Thus, their impact on wage movements is substantially greater than that of subsidies.

Militant seamen's unions have constantly been on the alert to bring the seamen's status into line with that of American shoreside workers. During periods of profitable trade, when favorable economic climate has prevailed, rival unions have been able to obtain substantial gains through whipsawing tactics because management has found it expedient to avoid strikes. The immediate prospects for unity of the former AFL and CIO seamen's unions appear dim indeed. However, these unions have already shown an ability to join together, although briefly, to forward their common interests, particularly in seeking government extension of the cargo preference provisions, and it can be assumed that they would join together on this issue which appears imminent.

In conclusion, further analysis may demonstrate that rather than stimulating wage increases, subsidies may actually have a retarding effect on wage negotiations. This may be attributed to the constant scrutiny to which labor costs are subjected and the continuing uncertainty over governmental appropriations as operating subsidy costs increase.

THE NO-RAIDING AGREEMENTS: A PROGRESS REPORT FOR 1955

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THERE ARE THREE GENERAL no-raiding agreements: the agreement within the CIO; the agreement among AFL and CIO unions: and the agreement within the AFL. Although the constitution of the newly-merged AFL-CIO establishes a committee to incorporate the three agreements into a single document, each agreement has had a separate history and should be discussed separately.

Inaugurated in late 1951, the CIO's agreement forbids not only raiding, but also prohibits two CIO unions from competing for unorganized workers. Highly successful, the CIO's agreement has virtually eliminated all contests among its affiliates for bargaining rights.[1]

At its first meeting in April, 1953, the AFL-CIO Unity Committee agreed that raiding must be curtailed before the two federations could be merged. A no-raiding agreement was drafted and approved by the Unity Committee and the executive boards of both federations. Ninety-four unions signed this agreement on June 9, 1954. A number of unions have signed after that date. Prominent among the more recent signers of the agreement have been the CIO Steelworkers and the AFL's Auto, Bakery, Brick and Clay, Hosiery, Office Employees, and Upholsterers' unions.

During fiscal 1955 there were 240 elections in which AFL and CIO unions raided each other. This can be compared with the calendar years of 1951 and 1952 in which a total of 782 raids occurred. The obvious implication—that raiding has declined sharply—must be qualified. In 1951 and 1952 the National Labor Relations Board conducted approximately 6500 elections each year; in fiscal 1955 the NLRB conducted only 4200 elections. Inasmuch as the number of elections has been reduced by one-third, the number of raids should be expected to decrease proportionately. At the same time, however, many of the raids in early fiscal 1955 involved signatory unions which

[1] Two CIO unions—the Shipbuilders and the Lithographers—have not signed the agreement. The latter union has been active in carving out units of lithographers in industrial plants. The CIO Steelworkers are usually the union being raided by the Lithographers. See *Lithographers' Journal,* May, 1952, pp. 8, 10.

had petitioned for units before they signed the pact. Petitions filed before a union signed the agreement were permitted to culminate in an election.

A more accurate evaluation of the agreement can be made by examining only the last three months of fiscal 1955. Immediately, a new difficulty is evident. Thirty-five elections between the AFL Meat Cutters and the CIO Leather Workers' Organizing Committee were closed in the last quarter of fiscal 1955. Inasmuch as the Umpire has ruled that these contests were not "raids," they could be legitimately disregarded. Nevertheless, they do represent some type of competition between AFL and CIO unions. Excluding the Meat Cutters-Leather Workers' contests, there was a total of 47 raids involving AFL and CIO unions. Six of these raids involved late signers of the pact. Nine of the remaining contests were raids by unions which had signed the agreement before the petition for an election had been filed. Two contests were between the AFL and CIO textile unions. In one instance the CIO union was raided and in the other the AFL union was raided. This "arrangement" was worked out by the two unions and neither complained to the Umpire.[2] In two other cases, the AFL unions holding the contract did not appear on the ballot to oppose the raiding CIO unions. CIO unions also petitioned in the remaining five cases, but were unsuccessful in four and one plant went "non-union."

The remaining thirty-two contests involved non-signers of the agreement and can be divided into four areas: (1) raids for craft and departmental units in industrial plants; (2) raids by the Teamsters; (3) raids in the paper and lumber industries; and (4) occasional raids in other industries. Of the twelve craft and departmental units raided, nine were craft severance contests. In the remaining three an industrial union petitioned for an outstanding craft or departmental unit. The AFL Operating Engineers and the CIO Lithographers were both active in severance cases—each union petitioned for three units. The Teamsters were involved in a total of nine contests—three for truck drivers' units and six for plant-wide units. In the paper and lumber industries, the AFL Carpenters and Pulp and Sulphite Workers petitioned for a total of six production and maintenance units that were held by three CIO unions—Wood, Paper and Furniture. Two contests for small departmental units in the television industry were

[2] *Textile Labor*, April, 1955, p. 24: June, 1955, p. 24.

held between the AFL Stage Hand Employees and the CIO Broadcast Engineers. Single contests for production and maintenance units appeared in the oil, rubber products, and metal machinery industries.

The AFL-CIO agreement has served to restrain many of the signers of the agreement. Many of the disputes which have occurred are settled amicably between the two unions without an official award by the Umpire.[3] As a result, raiding in the last quarter of fiscal 1955 was probably reduced by slightly less than half compared with 1951 and 1952. The extension of the agreement by the signatory unions beyond 1955 will undoubtedly result in a further decrease in raiding.

The no-raiding agreement within the AFL probably owes its existence to the dramatic withdrawal of the Carpenters from the AFL in August, 1953. At the Carpenters' insistence an agreement was made to develop a program for dealing with jurisdictional problems within the AFL. The plan was presented and endorsed by the 1954 convention. It provides for the conciliation and arbitration of disputes arising from raiding; work assignments; and competition for unorganized workers. The AFL Executive Council has announced that 64 affiliates have signed the agreement but did not list the specific signatory unions.[4]

Inasmuch as the agreement was endorsed only as recently as September, 1954 it is undoubtedly too early to evaluate its success. In fiscal 1955, there were a total of 145 raids among AFL unions. This can be compared with a total of 113 contests for a six-month period in 1952. If an allowance is made for the one-third reduction in the number of elections from 1952 to 1955, there is no indication of any decrease in raiding for the entire year. However, an examination of the last three months of fiscal 1955 suggests a slight decrease in the number of raids among AFL unions. A new NLRB policy on craft severance may have been partly responsible for the reduction.[5]

The thirty-four contests among AFL unions in the last quarter of fiscal 1955 can be divided into three areas: (1) raids for craft and departmental units; (2) raids by the Teamsters; and (3) raids for plant-wide units. Seventeen contests for craft or departmental units were held among AFL unions. Two contests in which the Stage

[3] *Monthly Labor Review,* August, 1955, p. 914.

[4] American Federation of Labor, *Report of the Executive Council to the 74th Convention,* New York. 1955, p. 37.

[5] The American Potash doctrine has resulted in a number of petitions being dismissed. See my, "The NLRB on Craft Severance: One Year of American Potash," *Labor Law Journal,* May, 1955, pp. 275 ff.

Hands and the Radio Artists raided the Electrical Workers occurred in the radio and television industries. In the remaining fifteen contests, AFL unions usually sought to sever craft units from a broader unit held by another AFL union.[6] The Operating Engineers, the Machinists, and the Electrical Workers were active—petitioning for five, four, and three units, respectively. The Plumbers, Printing Pressmen, and Photo Engravers each petitioned for a unit of their craft. The Teamsters were involved in ten contests—two truck drivers' units; five departmental units primarily in the distribution field; and three plant-wide units. Nine different AFL unions were involved and only in one instance were the Teamsters being raided. The seven contests for industrial units took place in the paper, electrical, cement, pottery, and utility industries. In the paper industry, the Printing Pressmen and the Pulp and Sulphite Workers were involved in two raids. Similarly, the Machinists and the Electricians raided each other for plant-wide units in the electrical industry.

The existing areas involved in raiding are obvious: (1) craft and departmental units in industrial plants are still being severed by the so-called craft unions; (2) the Teamsters are active in raiding both AFL and CIO unions for a variety of units; and (3) raiding continues in the paper, lumber, and radio-television industries. In addition, occasional contests in other industries have occurred. To eliminate any of this raiding usually necessitates inducing an AFL union to sign either the AFL-CIO agreement or the agreement within the AFL. Undoubtedly, additional unions may be persuaded to sign. At the same time, however, the Teamsters and a number of smaller so-called craft unions appear entirely opposed to the agreement. These unions will insure that there will always be some raiding, but it is doubtful whether they will disrupt the existing agreements.

"Raids" continue to occur among signers of the agreement. Undoubtedly, representatives of the two unions meet to discuss the specific problems motivating the desire to switch affiliation. The extent to which "workers' desires" are considered in deciding the disposition of the unit will vary. Nevertheless, workers' attitudes must be considered if only for the reason that they might reject both affiliated unions and either form an independent union or return to a non-union status. So long as some freedom of movement is preserved, it is

[6] In one instance, the Operating Engineers captured a powerhouse unit held by the Plumbers as a separate unit in an industrial plant. Ford Motor Co., 8 RC 2443.

doubtful whether many workers will discover that the agreement circumscribes their freedom of choice.

Before the passage of the Wagner Act, the labor movement's internal government exercised considerable control over the jurisdiction of its affiliates. This control evaporated with the passage of the Wagner Act and the advent of governmental and worker determination of union status.[7] The no-raiding agreement represents an attempt by the labor movement's internal government to achieve some jurisdictional control over its affiliates. Stated simply, the present control substitutes a *de facto* for a *de jure* test in all disputes over existing collective bargaining relationships. The newly-asserted control is weak and tenuous compared with the absolutist character of jurisdictional determinations that were typical before the Wagner Act. Nevertheless, that control has paved the way for the newly-merged AFL-CIO with a constitution that strongly suggests increased interest by the federation in the activities of its affiliates. This achievement probably would not have been possible without the no-raiding agreements.

[7] A number of labor movements have never conceded the right of workers to select their own bargaining agent. See Arthur Kornhauser, Robert Dubin, Arthur M. Ross (Eds.), "Industrial Conflict: Sweden." *Industrial Conflict,* 1954, p. 495; Alan Flanders and H. A. Clegg, Editors, *The System of Industrial Relations in Great Britain,* pp. 178–179.

UNION-MANAGEMENT-SPONSORED ATTITUDE SURVEYS: SOME IMPLICATIONS OF A CASE STUDY

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Introduction

ACCEPTANCE IN INDUSTRY of attitude and opinion surveys of industrial workers has a comparatively recent origin; it is only in the last 15-20 years that these techniques have gained widespread popularity. The use of these surveys, however, has until very recently been resorted to almost entirely by management.

To say that these techniques have been almost exclusively used by management does not imply that unions have not found them useful also. They are becoming more popular with unions but the use of survey research by unions is still much less pronounced than that by management organizations.

The fact that attitude surveys of workers and union members are undertaken by both groups suggests that they serve a similar function for both companies and unions. Survey research helps provide both union and management officials with an objective assessment of the needs and satisfactions of workers in industrial organizations which today are characterized by immense size and an increasing social, psychological, and physical distance separating those who do the work from the management and the union hierarchies. Growing centralization of decision-making has reduced the contact between union members and union officials as well as between management and employees.

Another function of social research in industry, and closely related to the above, is the emphasis on specialization and diversification so characteristic of modern industrial society. Unlike either the management or the union official of some years ago, his modern counterpart cannot carry the affairs of his organization "around in his head." Contemporary industrial organizations are composed of many diverse and competing groups based on such factors as formal organization, sex, skill, occupation, geographical area, etc. Attitude surveys become helpful in understanding these groups—their relative levels of satisfaction, dissatisfaction and morale, etc.

Also, in recent years the characteristics of the work force have undergone and are still experiencing profound changes that affect both

management and unions. In the mass production industries the predominantly first-generation workers who participated in the large-scale union drives of the 30's are disappearing from the scene as are the mass appeal union programs—union recognition and job security —that received great emphasis in the earlier days.

The issues of contemporary industrial relations are much more complex than they were previously; today's employee and union member has nearly a high school education and if his tastes and aspirations are not considerably higher than, they at least are much different from his father's. Thus in part to understand the new arrivals in industry and in part because of the complicated factors affecting the labor force, both unions and companies are finding that the techniques of social research help answer their problems.

Other factors, too numerous to mention in this brief analysis, are important but the major one is that profound changes have occurred in industrial society which affect, though not in the same degree, both union and management organizations. Essentially, officials of both groups need to know and understand their publics in terms of the attitudes the members have toward the organization and its leaders and the conceptions they have of themselves and the role they play as participants in the organization. It is important for the leaders to understand "how well we are doing," the state of satisfaction and dissatisfaction with present policies and procedures, and what can be anticipated in the future.

As was indicated, many management and union officials find independently-conducted survey programs valuable for their own particular organizations. However, joint programs, although of increasing interest to both groups, are still not nearly as popular as independently-conducted programs. Indeed even attitude surveys conducted by either group often still generate hostility and apprehension on the part of the other.

It is frequently feared—without always being expressly stated—that surveys can or will provide the conducting party with a catalog of the weaknesses of the other group. Or, at the least, it is felt that a strong possibility exists that the non-surveying group can be placed in a disadvantageous position as a result of the survey.

Also it is sometimes claimed that survey findings can and will be used to impart a false sense of legitimacy to the demands or position

of the conducting party. In this case it is alleged that one party, by manipulation of the survey program, can gather the sort of data that will appear to make its cause justified.

Another common criticism made against independently-conducted programs is that they encroach on the prerogatives of the other party. Companies and unions alike may question the propriety of the other group's examination of, say, the employees' attitudes toward the foremen's handling of grievances and the system of "employee complaints and/or communication." In the former case the company may hold that the behavior of the foreman is their area of interest, while in the latter example, unions are apt to point out that the communication structure in the plant is one of their major areas of concern.

Then rightly or wrongly, independently-conducted research programs are often attacked on the grounds of validity. Although no supporting or refuting evidence is available, this is a realistic question which merits consideration. The problem is: to what extent does the omission of either group in the plant community affect the kind of questions asked and the results obtained in a research program?

To some extent these same fears and skepticisms (except for the last one noted above) are voiced about jointly conducted programs. However it is the thesis of this paper and the evidence available at this time from this one case study tends to support the notion that, on the contrary, jointly sponsored research programs, if properly handled and understood by management and the union officials, can be extremely valuable. Premised on the need for and acceptance of collective bargaining and the desirability of making it more effective, jointly sponsored programs can provide a new dimension in understanding the complexities of an industrial organization and a realistic view of the problems of each party. Thus concentrating on the problems and irritants of the collective bargaining relationship, the sacred rights of neither party are encroached upon but rather the point of interest is the problem of joint concern.

* * * *

The study reported on here was a jointly sponsored union-management relations attitude research program. Participation in the program and policy decisions were controlled equally by the company and the union.

The company is a small manufacturing concern, family-owned, and located in a small midwestern town. At the time of the program, about 1000 employees were on the payroll.

The plant was organized in 1946, after a bitter struggle, by a union affiliated with the CIO. Following a short strike the local was granted a union shop for the approximately 750 production and maintenance workers.

Prior to the research program the relations between the union and the company were characterized by a high degree of hostility and aggressiveness on the part of both parties. For a long time the union felt insecure in the community—this was the community's first real experience with unionism—and many of the company officials found it difficult to accept the union in the plant. The usual pattern of strikes characteristic of the post-war period occurred and although the number was not unusually high, the hostility generated by the strikes lasted a long time. Grievances were uncommonly high—in the six months prior to the survey, 14 grievances went to arbitration and approximately another 25 were settled above the steward-foreman level.

Several basic problems were immediately discernible. First, the company had undergone a tremendous growth since its initial organization. Coming into existence in the late 30's it had mushroomed from an original 50 or 60 employees to its present 20-fold increase in number. This rapid expansion made it difficult for the company to adjust to the shift from the informal relations of the small plant to the formality of the larger enterprise with the concomitant problems of finding experienced executives, realigning of communication, planning, programming, and outlook, and getting used to living with a union.

Secondly, the plant was the major source of employment in a community with little industrial experience or history—the work force of the plant was equal to about 30% of the population of the town. This heightened the dependence of the employees on the economic welfare of the company, but it also made for a higher degree of personal relations within the plant community. Most employees had relatives working in the plant—in many cases some in management and others in the bargaining unit. In addition some of the union officers had grown up and gone to school with the President of the company and other officials.

Though many of the plant's problems were related to its growth, the union officials tended to blame management while the latter blamed the coming of the union. Nearly everyone longed for the good old days "when everybody knew everybody else," although few remembered that the "good old days" were a time of good jobs, overtime, rapid promotion and expansion of the company—all quite dissimilar to the consolidation and retrenchment of the post-Korean War days.

The combination and interrelationship of all these factors resulted in a high degree of hostility, friction and unpleasantness between the union and company officials. Although they distrusted each other, the representatives of both groups were concerned over their problems and desired constructive relations.

To implement the project, a 12-member steering committee was formed—representatives of the union, the company, and the University. To the committee was entrusted all the policy and executive procedures pertaining to the project. (Over a period of one year the committee held about 15 meetings, each lasting from 3-5 hours.)

At its inception four major goals were set up for the project:

1. Development of a better and more realistic understanding on the part of the union officers and company officials of each other's roles, problems, and tension areas.

2. Evaluation of the workers' feelings toward the union and the company and problems of joint concern.

3. Bringing the union and management together to work out for themselves their own problems—*not* instituting a program as a third party mediating the collective bargaining process.

4. Building mutual confidence and respect toward each other by isolating friction-producing irritants.

Once the committee was established and these goals agreed upon, the procedures the project would follow were set up and implemented. This involved as a first step a series of interviews conducted by University personnel with the key people in the union and management group and with a small sample of the office and production workers.

From these interviews a preliminary draft of a questionnaire intended for all employees was constructed and reviewed with the union and management members of the committee. With the University people serving as technical advisors the preliminary draft was carefully reviewed, the areas of inquiry studied, and the purpose and meaning of each question explained to the committee members.

The questionnaire was then pre-tested. The resulting revised draft consisted of 147 questions and 16 major subject areas:

1. Wages and Benefits
2. Working Conditions
3. Job Security
4. Worker-Supervisor Relations
5. Administration of Management
6. Confidence in Management
7. Involvement with Company
8. Management Communication
9. Worker-Steward Relations
10. Confidence in Local Union Officers
11. Union Administration
12. Involvement with Union
13. Union Communication
14. Management Acceptance of Union
15. Union-Management Relations
16. Grievance Administration

After considerable preparation—which included discussion and explanation of the project at union meetings, foremen's meetings, coverage of the project in the community newspapers and union and company newspapers—the questionnaires were filled out on company time by all but approximately 1% of the employees.

Supervision of the actual filling out of the questionnaire was carried out by a representative of the union, management, and University joint steering committee, with each individual making a short presentation describing the nature and purposes of the project and the role of each group.

A comprehensive report covering all the survey findings was prepared for all the members of the steering committee. The major portion of the meetings of this committee was devoted to discussion of the findings, implications and problems found in the report.

Following the discussion of the survey results in the steering committee a summary report was prepared and presented to the key union and management personnel not on the committee. Sessions discussing the results were held with this last group, matching whenever possible the corresponding management official with his counterpart in the union. Thus stewards and foremen received a report for their particular department, committeemen and superintendents for

the division, etc. Discussion leaders for these meetings were a union, management, and a University member from the over-all steering committee.

* * * *

Although the project was completed about a year ago, no all-encompassing evaluation of its impact has been attempted. However, several tentative conclusions can be made. For the first time in the relationship between the union and the company, beginning approximately midway through the project and continuing until this day, joint meetings have been held to discuss production, scheduling, and other mutual problems. These meetings originated at the top echelons of the local union and the company and have continued down to the departmental level. Grievances have been drastically reduced and, when occurring, the majority are settled at the steward-foreman level.

The most important by-product of the program has been that the experience of each group enabled the union and the company to discuss realistically their problems. The President of the Company claims: "The main thing we got out of the survey was a mutual trust for each other." The International Representative of the Union says much the same thing: "The program helped us both to face up to realities."

Though the friction and hostility have apparently disappeared, this does not imply that complete agreement exists now. Neither does it assume that such will necessarily be the case in the future.

* * * *

A brief review of the survey findings points up the sharp disagreements that existed at the time of the survey. No more than a sketchy summary of some of the salient results for the four key groups —top management personnel, foremen, local union officers, and the production and maintenance workers in the bargaining unit—is possible in this brief paper.

Although oriented almost diametrically opposite to each other, the top management group and the local union officers were found in many respects to be quite similar groups. While the pattern is not consistent throughout, the major difference between them is that their orientation is positive to their own institution and negative to the other.

Though pulled toward management and the company, the foremen were also pulled toward the union.

The bargaining unit tended to parallel the attitudes of the local

union officers; in areas referring to the company, they were slightly more favorable than were the local officers; while in the union-oriented areas they were slightly less favorable than were the officers.

Specifically, *identification with the company* was no real problem for any of the groups. Though the local officers were consistently the lowest group in this area, percentage-wise they did not differ sharply from the other groups. On a typical item the range of the per-cent favorable responses went from a low of 89% for the local officers to a high of 100% for the management and foremen groups, while the comparable score of the bargaining unit was 90%.

In *identification with the union* the bargaining units scored about the same as they did for identification with the Company. However none of the other groups show the same high degree of consistency. Ninety-seven per cent of the local officers were favorable—higher, though not much more so than they were toward the Company. A real contrast in attitude becomes evident with the two management groups—especially top management where only 12% felt some identification toward the union. The foremen were much higher—39% of them reacted favorably to the union as an institution. Thus the rank-and-file saw no problem, and in some respects neither do the local officers, in identifying with both institutions. To the foremen on the other hand, the union was a dilemma, they felt a pull toward each group, while for the management the union was a negative force.

Attitudes toward *union-management relations* point up even more sharply the divergent opinions that existed. The foremen and the bargaining unit again show a slight tendency to see some good in both groups. However this was not the case with the union officers and the management personnel. None of the management group thought the union tried to cooperate in union-management relations—17% of the foremen did, 72% of the bargaining unit and 84% of the union officers held this view.

On the other side of the coin—whether or not the Company tried to cooperate—31% of the bargaining unit and 79% of the foremen said yes, while only 13% of the local officers and, surprisingly enough, only 63% of the management group said yes.

* * * *

In summary, studies of this nature have several implications worth noting here:

This particular study made a real contribution in improving union-management relations and understanding in this one situation.

Although no thorough evaluation has been made, some generalizations are in order. In the first place programs of this kind present no cure-alls for real or imagined problems in union-management relations. For those who think disagreements in union-management relations are undesirable we have no final solutions. Management's concern with the union's continuous encroachment on its authority, and the union's demand for greater control are dynamic elements implicit in the collective bargaining process and as such are problems that must be constantly worked out and adjusted to by the parties. Joint programs of this kind have their most fruitful contribution not as a third party in the bargaining process but rather in the context of bringing increased awareness to the parties of their roles and real problems.

The orientation of a project of this kind is toward the key people in the union-management hierarchy. Thus the basic purpose is to provide both parties with insights into their problems, the nature of their relationship, and the workers' conception of the role and function of each party. In this sense studies of this kind should be geared to developing the critical thinking and problem-solving ability of the management and union personnel. With a survey report before them, both groups are forced to examine seriously the data and reach realistic conclusions.

Thus if properly handled, joint research programs should tend to build mutual confidence and respect between the parties. Working together in a highly emotion-laden area requires at the least a degree of willingness to cooperate and understand the problems even though perhaps there is a skeptical assumption that the other party may not be willing to do so.

This realistic approach to and appraisal of the collective relations should lead to a firm foundation for understanding on the part of each group of their own problems and positions in the plant community and a greater awareness of the problems of the other group. If such a program accomplishes nothing more than this, it is a success.

As was pointed out previously, industrial research programs do not usually proceed along these lines. With a few notable exceptions, in their research programs both management and unions as a rule avoid union-management relations. However it may be that joint programs make industrial survey research efforts more realistic—for the entire organization is the focus of study and not just one segment of the plant community.

SOME NOTES ON THE INTEGRATION OF MEXICAN-AMERICANS SINCE 1929, NUECES COUNTY, TEXAS

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PRESENTATION OF THIS TOPIC is limited to a statement of the problem and a listing of tentative conclusions. Some supporting data are available in the three accompanying tables.

As the eyes of the world focus on the current effort toward mass desegregation in education, the labor economist continues to concern himself with a similar phenomenon in industry.

Ideally, the social scientist desires quantitative measurement, and certainly integration of minority labor groups might lend itself to statistical study. For past periods, however, reliable quantitative measurement is out of the question. If we are to know whether a change has occurred in the utilization of a minority group in a certain industrial environment, then data other than quantitative must be admitted. Thus does this study, analyzing a period of 1929-52, rely heavily upon comparative and descriptive techniques primarily of a non-quantitative nature.

The group with which this paper is concerned is that of the Mexican-American, a Mexican in heritage, Spanish-speaking or bilingual, a permanent resident, and usually a citizen. The area studied was that of metropolitan Corpus Christi, Texas, a labor market which encompasses the whole of Gulf Coast Nueces County. The period studied embraced the years of the Great Depression, World War II, and the first five postwar years.

Paul S. Taylor's 1929 study [1] of the Mexican-American worker in this same locale sets the stage; labor market [2] and FEPC [3] reports during the war years and some corroborative materials must suffice for the thirties and forties decades. These materials offer the bases of

[1] Paul S. Taylor, *An American Mexican Frontier;* Chapel Hill: University of North Carolina Press, 1934.

[2] Texas State Employment Service, *Labor Market Reports,* dated 1941, now discontinued; and United States Employment Service, *Labor Market Reports for Texas,* dated 1942–1946, now discontinued.

[3] Fair Employment Practice Committee: undated parts of the records of the committee, "War Employment of Mexican-Americans," and "FEPC and Discrimination Against Mexicans." Photostats sent by General Services Administration, National Archives and Records Service, Washington, D. C.

comparison and are contrasted with data from an original study begun in 1951 and completed in 1954.[4]

Certain assumptions are employed to facilitate the task of analysis of integration. It is assumed that skill-status, (i.e. the unskilled, semiskilled, or skilled classifications as designated by an employer or an employment office interviewer) is a meaningful measure of integration. It is further assumed that higher skill-status is a sign of greater integration than lower skill-status. It is not supposed that all members of the group have equal skill potential nor that it is economically feasible or desirable that all members of a group should attain or fail to attain any given skill-status position. Integration, then, or a pattern of equal economic opportunity for persons of equal potential, might be represented by a pattern revealing members of the group at various skill-status levels in a given plant, industry, or labor market.

Finally, it is assumed that the key measure of continuing or future tendency toward integration of a group is the advancement opportunity, if any, of this group. Given these assumptions, it is hypothesized that advancement opportunity of a minority group may be analyzed in terms of skill-status of members of the group in that the skill-status of individuals of the group is a significant indication of the existence or non-existence of opportunity when compared to the relevant total situation of jobs existing at all levels of skill. Other data must be brought to bear on the analysis to avoid the pitfalls of mistaking the advancement of one Mexican-American in a plant for a symbol of group integration. To summarize, the existence or non-existence of advancement opportunity and thus degree of integration of a minority group is thought to be revealed through comparing the level of skill of the minority group members with that of the total group in the department, plant, industry, or labor market, whichever is comparable.

The advantage of this approach is that it can be applied to data available in the books and reports mentioned earlier as well as to the more factual data collected after 1950. Wage data, even if available, would have offered serious complications to analysis if a comparison over a twenty-five year period were attempted. For the postwar years, certain other indications of degree of group integration such as union

[4] Marjorie S. Brookshire, "The Industrial Pattern of Mexican-American Employment in Nueces County, Texas," unpublished Ph.D. Dissertation, The University of Texas, 1954.

membership, general employment opportunities and relative wage status are revealing even though these cannot be compared specifically with similar data for earlier years. So much for the problem.

If the approach of this paper to the problem is a valid approach, then certain limited conclusions may be drawn:

First Conclusion. The Mexican-American group in Nueces County has, since 1929, made some gains toward integration in the local industrializing economy. These gains for the group are evidenced by:

1. some relaxation during the war of restrictions on its employment and upgrading in war and defense industries
2. widespread employment of Spanish-name persons in all industries characteristic of the area (See Table 1, last column.)
3. Mexican-American participation in union organization; for example, in the three major industries of oil, chemical and primary metals manufacture (See Table 2.)
4. high skill-status of individual Mexican-Americans in eight of the total of fifteen plants in these same three industries (See Table 3.)

Second Conclusion. The Mexican-American group, although no longer "typed" locally as a source of common labor only, continues to be a labor group with an average quarterly earnings status in covered employments which is inferior to the average quarterly earnings status in such employments of the non-Spanish-name group. (See the first three columns of Table 1.) This inferior wage status may be due to concentration of Spanish-name persons in high labor turnover employments or to their concentration in low occupational levels or perhaps to their being paid relatively lower wages in given occupations.

Third Conclusion. Integration of the group has not proceeded evenly nor upon all fronts. This is evidenced by the variation in hiring, assigning, and upgrading Mexican-Americans which cannot be summarized adequately in this limited space.[5] Some of the results of these variations are reflected in Table 3.

[5] More complete data on these plant patterns and upon the effects on these patterns of decisions made by union and managerial representatives is the subject of a paper which I hope to publish in the near future.

TABLE 1

Average Quarterly Wage of Workers, by Industries, Ranked According to Proportion of Labor Force Which is of Spanish Name, Nueces County, 1950

Industry	Average Quarterly Wage of Employees		Spanish-Name Group Average Wage as Percentage of Non-Spanish Name Group Average Wage	Proportion of Workers with Spanish Names (Percent)
	Spanish-Name Group	Non-Spanish Name Group		
Nonmanufacturing:				
Service	$185	$376	49.2	50.4
Nonmetallic Mining	254	639	39.7	49.2
Amusement and Recreation	206	357	57.7	40.3
Building and Construction	253	684	36.9	35.3
Trade	283	424	66.7	31.1
Banking, Insurance, and Real Estate	290	551	52.6	25.6
Transportation	310	397	78.0	23.3
Medical, Law, Civic	300	392	76.5	13.2
Crude Petroleum and Natural Gas	292	546	53.4	8.6
Manufacturing:				
Paper and Allied Products	372	439	84.7	53.8
Iron, Steel, and Aluminum	684	774	88.3	50.7
Food and Kindred Products	409	644	63.5	49.7
Furniture and Finished Lumber	274	437	62.7	40.4
Stone, Clay, Glass	396	721	54.9	33.3
Machinery (except electric)	377	650	58.0	21.5
Petroleum Production	675	934	72.2	14.8
Printing and Publishing	565	668	84.5	14.3
Lumber and Timber	445	550	80.9	14.2
Chemical and Allied Products	619	967	64.0	13.2

Source: Nueces County employer detail reports to Texas Employment Commission, June quarter, 1950.

Fourth Conclusion. The factors affecting the integration or failure to integrate the Mexican-American group in Nueces County include, but may not be limited to the following categories:

1. characteristics of the group itself, such as language ability, or failure to acquire citizenship although remaining permanently in the United States,
2. characteristics of the local economy, such as growth patterns,

TABLE 2

Mexican-American Employee Participation in Union Membership in Unionized Plants of the Oil, Chemical and Primary Metals Industries, Nueces County, 1952

Unionized Plants	Percent of total Employees which is Mexican-American 1	Percent of total Union Membership which is Mexican-American 2
Chemical Plant	66.0	66.6
Chemical Plant	less than 35.0	36.3
Chemical Plant	0.0	0.0
Primary Metals Plant	70.0	70.0
Primary Metals Plant	60.0	69.0
Oil Refinery	16.8	14.7
Oil Refinery	2.0	1.0
Oil Refinery	6.0	6.0

1. Source: Employer
2. Source: Union Official

3. characteristics of the years reviewed, such as depression, war years with the accompanying labor shortages, postwar years of relatively high employment,

4. characteristics and especially attitudes of the persons and groups making decisions which affect the patterns of employment of the Mexican-American.

Fifth Conclusion. That although a degree of integration of the Mexican-American group has been realized in certain industries since 1929, the factors involved in this realization have been so varied that this study has no predictive value whatsoever. In other words, we cannot assume that integration realized represents an irreversible trend.

TABLE 3

Highest Skill Status of Mexican-American Employees of Oil, Chemical and Primary Metals Manufacture, Nueces County, 1952

Industry	Total Plants Included	Number of Plants Where Mexican-Americans Had Achieved As Their Highest Skill Status:			
		Unskilled	Semi-skilled	Skilled	None Hired
Chemical	8	1	3	3	1
Primary Metals	2	....	....	2	....
Oil	5	1	1	3	....
	15	2	4	8	1

Source: Interview study—reported in unpublished Ph.D. Dissertation. See Brookshire, Marjorie S., "The Industrial Pattern of Mexican-American Employment in Nueces County, Texas," The University of Texas, 1954.

This being the case, it is particularly important to attempt a weighting of the factors which have contributed to integration. In my opinion, the factor which has contributed most to the positive integration of the Mexican-American in Nueces County is that of a continuing labor shortage associated with the war years and the concurrent economic effort to industrialize.

If this labor market experience may be generalized to suggest a principle, it is that the advancement opportunity of a minority labor group tends to vary in the same direction as the total employment opportunity of all groups. To put it differently, further integration of minority groups into the industrial labor force may be contingent upon the maintenance of high, perhaps even extremely high levels of employment. One implication of this reasoning is clear: While public action directed toward facilitating economic integration of minority groups might include such programs as FEPC type legislation, of first importance is the necessity of providing sufficient jobs for all.

Part XI

BUSINESS REPORTS

PROGRAM OF EIGHTH ANNUAL MEETING

New York City, December 28-30, 1955

Hotel Roosevelt

WEDNESDAY, DECEMBER 28

9:30 a.m.

MAJOR TRENDS IN AMERICAN TRADE UNION DEVELOPMENT, 1933-1955

Chairman: Milton Derber, University of Illinois

Papers:

(a) *Rebirth of the American Labor Movement*
David J. Saposs, Harvard University

(b) *Major Collective Bargaining Trends 1933-1955*
David Dolnick, Amalgamated Meat Cutters & Butcher Workmen of North America

(c) *Major Trends in American Trade Union Development, 1933-1955*
William B. Barton, United States Chamber of Commerce

(d) *AFL-CIO*
Arthur J. Goldberg

9:30 a.m.

STATE AND FEDERAL JURISDICTION IN LABOR RELATIONS

Chairman: Herbert W. Haldenstein, Attorney, New York City

Papers:

(a) *Federalism and the Taft-Hartley Act: a Constitutional Crisis*
Paul R. Hays, Columbia School of Law

(b) *State and Federal Jurisdiction in Labor Relations*
David L. Benetar, Attorney, New York City

(c) *State and Federal Jurisdiction in Labor Relations*
Louis Sherman, International Brotherhood of Electrical Workers, AFL-CIO

2:30 p.m.

CONTRIBUTIONS AND NEEDS OF COMPANY RESEARCH IN INDUSTRIAL RELATIONS

Chairman: Sander W. Wirpel, Inland Steel Company

Papers:

(a) *Industrial Relations Research in Industry: Definition and Organizational Location*
Sander W. Wirpel

(b) *Industry's Contributions to Research in Industrial Relations*
Matthew Radom, Cornell University

(c) *Industry's Use of Outside Human Relations Research Organizations*
Robert C. Hood, Ansul Chemical Company

(d) *Dynamics of Reaching Management*
W. R. G. Bender, E. I. du Pont de Nemours and Company, Inc.

2:30 p.m.

GERMAN EXPERIENCE WITH CODETERMINATION (a panel discussion)

Moderator: William McPherson, University of Illinois

Panel:
W. Michael Blumenthal, Princeton University
Peter Keller, German Embassy, Washington, D. C.
Clark Kerr, University of California (Berkeley)
Herbert J. Spiro, Harvard University
Oscar Weigert, Bureau of Labor Statistics

2:30 p.m.

UNEMPLOYMENT COMPENSATION IN A PRIVATE ENTERPRISE ECONOMY

Chairman: Edwin E. Witte, University of Wisconsin

Papers:

(a) *The Present Status of Unemployment Insurance in the United States*
William Haber, University of Michigan

(b) *Supplementary Unemployment Benefits*
John W. McConnell, Cornell University

Discussion:
Karlton W. Pierce, Ford Motor Company
Leonard Lesser, UAW-CIO
Robert C. Goodwin, U. S. Department of Labor

8:30 p.m.

ARE UNION PRACTICES MONOPOLISTIC? (Joint Session with AEA)

Chairman: Richard A. Lester, Princeton University

Paper:

Labor Monopoly and All That
Edward S. Mason, Harvard University

Discussion Panel:

Peter O. Steiner, University of California (Berkeley)
Jules Backman, New York University
Peter Henle, AFL-CIO
Charles C. Killingsworth, Michigan State University
Matthew A. Kelly, New York Employing Printers Association

THURSDAY, DECEMBER 29

9:30 a.m.

ECONOMIC GROWTH VII—THE SHORTENING WORK WEEK AS A COMPONENT OF ECONOMIC GROWTH (Joint Session with AEA)

Chairman: Gerhard Colm, National Planning Association

Paper:

The Alternatives
Charles Stewart, U. S. Department of Labor

Discussion Panel:

Clark Kerr, University of California (Berkeley)
Solomon Barkin, Textile Workers Union of America
Nelson N. Foote, University of Chicago
Lester Kellogg, Deere and Company
Harold G. Halcrow, University of Connecticut

9:30 a.m.

COMPARATIVE STUDIES OF FOREIGN LABOR MOVEMENTS: ROLE OF THE UNION IN THE PLANT

Chairman: Adolf Sturmthal, Roosevelt University

Papers:

(a) *The Role of the Union in the Shop in Britain*
Aaron W. Warner, Columbia University

(b) *The Role of the Union in the Plant in India*
Van Dusen Kennedy, University of California (Berkeley)

(c) *The Role of the Union in the Shop in Germany*
Nathan Reich, Hunter College

12:15 p.m.

LUNCHEON AND PRESIDENTIAL ADDRESS

Research and Practice in Industrial Relations
Lloyd G. Reynolds, Yale University

2:30 p.m.

DECISION MAKING IN LOCAL UNIONS

Chairman: Joel Seidman, University of Chicago

Papers:

(a) *The Local Industrial Union in Contemporary Collective Bargaining*
John R. Coleman, Carnegie Institute of Technology

(b) *Decision Making in a Business Agent Group*
Hjalmar Rosen and R. A. Hudson Rosen, University of Illinois

(c) *Workers and Decision Making on Production*
Lawrence B. Cohen, Columbia University

Discussion:
Leonard Sayles, University of Michigan
Seymour M. Lipset, Center for Advanced Study in the Behavioral Sciences

2:30 p.m.

WHAT KIND OF TRAINING IS DESIRABLE FOR STUDENTS HEADED FOR JOBS IN INDUSTRIAL RELATIONS?

Chairman: R. W. Fleming, University of Illinois

Discussion Panel:
E. Wight Bakke, Yale University
Nelson M. Bortz, Bureau of Labor Statistics
M. P. Catherwood, Cornell University
Lawrence Rogin, Textile Workers Union of America
George Torrence, General Time Corporation

5:00 p.m.

GENERAL MEMBERSHIP MEETING

8:30 p.m.

SMOKER FOR ALL MEMBERS

FRIDAY, DECEMBER 30

9:30 a.m.

CONTRIBUTED PAPERS

(a) *The Case for Henry Simons' Trade Unionism*
William H. Peterson, New York University

(b) *Union-Management-Sponsored Attitude Surveys: Some Implications of a Case Study*
John McCollum, University of Chicago

(c) *The No-Raiding Agreements: A Progress Report for 1955*
Joseph Krislov, American Federation of State, County and Municipal Employees

(d) *Maritime Subsidies and Maritime Labor Relations*
Joseph P. Goldberg, Bureau of Labor Statistics

(e) *Some Notes on the Integration of Mexican-Americans Since 1929, Nueces County, Texas*
Marjorie S. Brookshire, San Diego State College

EXECUTIVE BOARD MEETING

Philadelphia, Pennsylvania, April 29, 1955

The Executive Board met April 29, 1955, at 5:00 p.m. Present were: Lloyd Reynolds, presiding; Board Members Ross, Ruttenberg, Tripp, Chamberlain, Palmer, Seitz, and Young.

The minutes of the previous meeting were approved. Reports were presented by the Secretary-Treasurer on membership and finances.

The Secretary raised the question of the meeting space for the New York meeting, and it was agreed that he should make the best negotiations he could with the Roosevelt Hotel.

George Taylor reported for the Nominating Committee.

The Board voted that Harper & Brothers should go ahead with the printing of the Emergency Disputes volume at its present length, and the Board would appropriate the extra costs. It was stressed by the Treasurer that this could happen only once, that the Association

could not do this in the future, and that we would have to look closely to our printing contract.

Peter Seitz reported on his attempt to get management into the Association. He reported that his group was looking hard to get other employers to join.

A general discussion of the New York program followed. Stressed were the importance of balance and the involvement of new participants in programs. It was agreed that for the New York meetings Neil Chamberlain was to get the names of participants from the various chairmen and try to prevent duplication. At this point it was decided to try at the Milwaukee spring meetings in 1956 to have a committee which would set up the whole program, that committee to be chaired by Professor Witte, and to include Mr. Aherne and Mr. Ruttenberg. President Reynolds reported that as yet he had no editor for the volume on the ten years of industrial relations research, and the Board unanimously voted that Neil Chamberlain be made the editor of such a survey, the other members to be appointed by a consultation between Chamberlain and Reynolds. The Secretary-Treasurer was authorized to make the local arrangements for the spring meeting and to establish an exact date.

The Board voted to authorize Reed Tripp to act as Secretary-Treasurer of the Association in the absence of Edwin Young, who will be out of the country during the academic year 1955-56.

EXECUTIVE BOARD MEETING

New York City, December 28, 1955

The Executive Board convened at 5:00 p.m. on Wednesday, December 28, 1955, presided over by President Lloyd Reynolds. Present were: Board Members Chamberlain, Cole, Garrett, Kerr, Lester, Palmer, Peck, Ruttenberg, Seitz, Shishkin, Tripp, Wallen and Wirpel (for Caples, who was ill).

The minutes of the Executive Board meeting in Philadelphia in April were distributed and approved.

The report of the Elections Committee was presented. Elected were: President, Richard A. Lester; Board Members, Murray Edelman, Robben W. Fleming, Charles C. Killingsworth, and Arthur Stark. Mr. Shishkin moved, and it was agreed, that the report of the

Elections Committee be adopted and President Lester be congratulated on his election.

The Secretary presented the membership report, commenting that the total figure seemed to be fairly well stabilized. In 1955 there were 1529 regular members, 112 junior (student), 8 contributing (of which 2 were new), 16 life (1 new), and 11 family. In addition, there were 125 subscribing libraries. Currently there are 551 charter members, who originally joined in 1948.

A discussion of membership followed, centering on methods of publicizing the Association and expanding the membership. It was suggested that the membership of other organizations, including the allied social science associations, be circularized with invitations to join. It was moved by Mr. Seitz, seconded by Mr. Ruttenberg, to set up a committee of 3, 4, or 5 "from the various estates general" to circularize their membership with an invitation to join IRRA. Motion carried. It was left to the incoming President to appoint such a committee, as well as a committee on publicity and public relations.

The Secretary presented the financial report. He explained that the figure for dues receipts was higher, although the membership total was slightly lower, than last year because of the earlier mailing this year—consequently 1956 dues came in before the end of the fiscal year. The Secretary warned that although the financial picture was sound (see Auditor's report) it should not be considered as too rosy, because one of these years there will be three volumes instead of two to pay for. The meeting adjourned at 6:30 p.m. for the annual Board dinner.

EXECUTIVE BOARD MEETING

New York City, December 28-29, 1955

The Executive Board convened following the annual Board dinner on December 28, 1955, with newly-elected President Richard A. Lester presiding. Present were: Messrs. Chamberlain, Cole, Edelman, Fleming, Garrett, Kerr, Killingsworth, Peck, Reynolds, Ruttenberg, Seitz, Shishkin, Stark, Tripp, Wallen, and Wirpel (for Caples).

Mr. Fleming reported for W. E. Chalmers and his editorial board on the progress of the Human Relations volume. Mr. Tripp, as Association Editor, explained the importance of keeping down the length to avoid the necessity of raising the price of the book. Discussion followed of specific ways in which the too-lengthy manuscripts might

be cut. Motion made, seconded and carried, that the Executive Board, through the Editor, tell the authors that their manuscripts would have to be cut.

Mr. Chamberlain reported on the progress of the Ten-Year Survey volume. He stated that his committee is Frank Pierson, Theresa Wolfson and himself. Thirteen chapters are planned. Discussion followed on length and content, with the possibility considered of dividing the work into two volumes. Mr. Shishkin moved, seconded by Mr. Reynolds, that the whole question be left up to the editorial board. Consensus was that the publication should be one volume.

The Editor reported on 1955 royalties from Harper's on MANPOWER IN THE UNITED STATES. He reported also on the arrangements with Harper's and raised the question as to payment of postage—the question now pending as to whether IRRA would pay all or half the postage on mailing the special volume. It was moved, seconded and approved to authorize the Editor to negotiate this matter with the publishers.

The Editor reported on the matter of securing reprints on special volumes. It was suggested that the matter be explored, with special effort made to get reprints on the Ten-Year Survey volume. The meeting adjourned at 8:15 p.m. to reconvene the following day, Thursday, December 29, at 9:00 a.m.

The reconvened meeting opened at the appointed time with discussion of the nominating committee. President Lester pointed out the necessity of people from the west coast having their own expense accounts or some other way of financing their travel expense if they are to participate.

The matter of an arrangements committee for the Cleveland meeting was discussed. This was followed by discussion of whether or not the time of the annual meeting should be changed. It was agreed to poll the Association membership and have them express preferences.

Mr. Wallen asked whether there was any formal arrangement for stimulating local chapters. It was agreed that such chapters should be encouraged where there was interest.

Harold Davey came into the meeting for the special purpose of reporting on the work of the Research Committee. Serving with Mr. Davey on the Committee are: Russell J. Bauder, Otis Brubaker, L. Reed Clark, John E. Cosgrove, Archibald Cox, Anna G. Douglas, Arthur Kornhauser, Herbert J. Lahne, Sar A. Levitan, Jean T. McKelvey, Herbert R. Northrup, Arthur W. Saltzman, Her-

man H. Somers, and Paul Webbink. The Committee's recommendation is that in 1958 the Association put out "New Impacts on Collective Bargaining" and include therein special sections: implications of the AFL-CIO merger as it affects collective bargaining; technological change as it affects collective bargaining; problems of industrial relocation (depressed industries); changes in the composition of the labor force and how they affect collective bargaining; and a number of others. Mr. Ruttenberg moved that the Executive Board authorize the Research Committee to go ahead on the volume. The motion was seconded and unanimously approved. Mr. Davey said the selection of the editorial board was left by his committee to the Executive Board. President Lester called for suggestions for editor, and agreed to follow up on them. It was moved, seconded and agreed that the matter of choosing the editorial board could be left to the editor of the volume.

Edwin Witte came into the meeting to report on progress of plans for the Milwaukee meeting May 4 and 5 at the Schroeder Hotel. Local arrangements committee and program were discussed.

President Lester presented a tentative program for the December annual meeting, which was discussed by the board. The matters of program length and meeting content were discussed at length. What makes the best meeting? What makes a poor meeting? What do the participants like and what don't they like? It was agreed that suggestions from the membership on these matters would be welcome.

The place of meeting in the spring of 1957 was discussed. Mentioned were: St. Louis, Denver, Boston.

The meeting adjourned at 12:15 p.m.

GENERAL MEMBERSHIP MEETING

New York City, December 29, 1955

The general membership meeting convened at 5:00 p.m. Thursday, December 29. The outgoing president, Lloyd Reynolds, presented the incoming president, Richard Lester. President Lester took the chair, and began the meeting by calling for reaction from the members on matters pertaining to the Association. The question was asked, Why doesn't IRRA get out a quarterly? Several members discussed this question at length. It was brought out in the discussion that the Association could not finance such a journal with its present

resources, particularly with the Cornell journal already in existence in the same field.

President Lester talked on building membership, and appealed to the present membership to interest others. Mr. Tripp spoke of the help which local chapters could provide in getting word around and interesting new members in joining the Association. Several existing chapters are presently doing this.

Arnold Zack of Yale University announced the Public Affairs Conference to be held at Yale in April, 1956, in which local IRRA members would be active. This year's conference is to be devoted to current problems in labor relations as a tribute to Harry Shulman. Mr. Zack suggested that this might be a good time for the people in the Connecticut area to form a local chapter.

There was criticism from one of the members on the Association's publicity, or lack of publicity. He also thought that the word *Research* is not underscored enough. President Lester commented that a committee on publicity would be appointed in connection with the annual meeting and the spring meeting.

One of the members commented on the length of meetings. He suggested that there be only one paper at a session, 15 to 20 minutes in length, and that discussants not prepare separate papers but actually discuss the main paper.

A member from Philadelphia, where a local chapter has recently been organized, urged more participation by people in their local chapters. He believes there should be a minimum of paper reading and a maximum of discussion at local meetings. President Lester commented that the tendency as shown by the trend at the spring meetings is to become more formalized. The spring meetings originally were to consist entirely of discussion, but more and more participants have presented written papers, leaving less and less time for discussion at the end of the meetings. It is a question of conflict and balance.

Mr. Bortz of Washington, D. C., reported on the thriving status of the chapter there, and made a strong plea for the organization of more local chapters as a stimulus to membership. There should be the nucleus, he believes, for such a chapter in many large places where universities are situated, with instruction in industrial relations plus management and labor groups. This stimulated considerable discussion by the members present of the factors making for successful local chapters. At Cornell the membership is divided about 50-50 between graduate students and faculty. Washington, D. C., encourages dis-

cussion in their chapter meetings. San Diego has the nucleus of a local chapter but needs help and leadership in organizing—an "organizing principle."

Mr. Tripp mentioned that news of local chapters is now carried as a regular part of the published annual proceedings, and President Lester suggested that members interested in setting up a chapter refer to these. The headquarters office will provide help whenever it can, if called on.

Mr. Teplow commented on the value of a publicity committee to the Association in its press relations. Further discussion by the membership concerned publicity, publications program, and time of meetings. The meeting adjourned at 6:00 p.m.

KELLOGG, HOUGHTON AND TAPLICK

CERTIFIED PUBLIC ACCOUNTANTS

Fred C. Kellogg, C.P.A.
Vernon F. Houghton, C.P.A.
Robert W. Taplick, C.P.A.

Madison 3, Wisconsin
Insurance Building

December 19, 1955

Executive Board
Industrial Relations Research Association
Madison, Wisconsin

Dear Sirs:

We have examined the financial records of the Industrial Relations Research Association for the fiscal year ended November 30, 1955. Our report consists of this letter and the following exhibits:

Exhibit "A"—Statement of Cash Receipts and Disbursements for the Fiscal Year Ended November 30, 1955

Exhibit "B"—Comparative Statement of Cash Receipts and Disbursements for the Fiscal Years Ended November 30, 1954 and November 30, 1955

Exhibit "C"—Bank Reconciliation as at November 30, 1955

The available cash resources of the Association on November 30, 1955 totaled $15,074.50. This total consisted of a net bank balance in the First National Bank of $10,074.50 as shown in Exhibit "C", and a $5,000.00 investment in Certificate No. 3384 at the Home Savings and Loan Association. Confirmations of these balances were received directly from the respective depositories.

For the fiscal year ended November 30, 1955 cash receipts totaled $16,141.20 and cash disbursements totaled $12,801.64. As shown in Exhibit "B" this repre-

sents an increase in cash receipts of $2,937.40 and an increase in cash disbursements of $355.42 over receipts and disbursements respectively for the fiscal year ended November 30, 1954.

As a part of our examination we test-checked cash receipts from membership dues, sales, subscriptions and other income into the records, compared cash receipts with bank deposits, and examined cancelled checks in support of cash disbursements.

In our opinion the statement of cash receipts and disbursements represents correctly the cash transactions of the Association as recorded for the fiscal year ended November 30, 1955.

Respectfully submitted,

KELLOGG, HOUGHTON & TAPLICK
Certified Public Accountants

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
MADISON, WISCONSIN

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
Fiscal Year Ended November 30, 1955

Cash Balance—December 1, 1954		$ 6,734.94
Cash Receipts:		
Membership Dues	$12,982.59	
Subscriptions	612.50	
Sales	1,224.88	
Mailing List	225.22	
Miscellaneous	1,096.01	
Total Receipts 1954-55		16,141.20
Total Cash		$22,876.14
Cash Disbursements:		
Secretarial Salaries	$ 1,743.33	
Withholding Tax	332.09	
Printing	261.40	
Postage	727.71	
Services	211.14	
Publications	7,300.52	
Supplies	121.11	
Travel, Conference, and Meeting Expenses	1,863.47	
Telephone and Telegraph	150.87	
Indemnity Bond	62.50	
Refunds	27.50	
Total Disbursements		12,801.64
Cash Balance—November 30, 1955		$10,074.50

OFFICERS AND COMMITTEES FOR 1956

President: Richard A. Lester

Executive Board: William G. Caples
Neil Chamberlain
David L. Cole
Carroll R. Daugherty
Murray Edelman
Robben W. Fleming
Charles C. Killingsworth
Gustav Peck
Lloyd Reynolds
Stanley Ruttenberg
Peter Seitz
Boris Shishkin
Arthur Stark
Joseph Tiffin
Saul Wallen

Editor: L. Reed Tripp

Counsel: Sylvester Garrett

Secretary-Treasurer: Edwin Young

Nominating Committee
Edwin E. Witte, *Chairman*
Allan Cartter
Wilbur Cohen
Harold Enarson
Robert H. Ferguson
Otto Pragan
Harold Story

Elections Committee
Edwin Young, *Chairman ex officio*

Membership Committee
L. Reed Tripp, *Chairman*
Stephen K. Galpin
Lazare Teper
Leo Teplow

Publicity Committee
John Herling, *Chairman*
Daniel Bell
Stephen K. Galpin

Research Committee
Harold W. Davey, *Chairman*

Editors, Special Volumes
1957: Neil Chamberlain
1958: Harold W. Davey

Local Arrangements Committees
Spring Meeting—Gordon Haferbecker, *Chairman*
Rev. Thomas F. Divine, S.J.
J. F. Friedrick
W. J. McGowan
Robert Ozanne

Annual Meeting—Dallas M. Young, *Chairman.*

Program Chairmen
Spring Meeting—Edwin E. Witte
Annual Meeting—Richard A. Lester

Part XII

LOCAL CHAPTER REPORTS

LOCAL CHAPTER REPORTS

University of California Chapter

Officers: President: John O'Neil; Vice-President: Henry Saar; Treasurer: Arthur Kezer; Secretary: Virginia Male.

February 29, 1955.

Organizational meeting.

Suggestions for speakers were discussed; a project was discussed consisting of gathering statistical data from leading employers on what sort of education they expect from college-trained employees, how they hire their industrial relations and personnel people, and what changes they recommend in the present curricula of the industrial relations program.

October 24, 1955.

Our speaker was Jack Howard, a University of California alumnus, who is now a reporter for the San Francisco *Chronicle.* Mr. Howard gave an account of the organizational strike involving the Sebastopol Apple Growers Union, some legal aspects of the strike, and how he himself became involved in the dispute.

December 9, 1955.

Our speaker was Lysle E. Shaffer, professor of mining at the University of California. Mr. Shaffer spoke on personnel recruitment and selection, using the mining industry as an example.

December 12, 1955.

Chancellor Clark Kerr spoke on a research program in which he is participating in the field of labor relations. He explained that it was an inter-university project whose aim is to get interested in labor problems of other countries. He then discussed some of the questions that were being asked in reference to a series of countries—How their labor force got recruited? To what extent is unrest inevitable?

January 1, 1956.

Our speakers were Mr. Hanze, public relations director of Kaiser Steel Corporation, and Mr. Brisco, the director of research for United Employers Association. Next semester's officers were selected.

Report submitted by Virginia Male, Secretary

CORNELL CHAPTER

The year 1955 was one of considerable activity for the members of the Cornell IRRA Chapter. Following the pattern set in previous years, the Chapter held a series of informal, semi-monthly luncheon meetings at which members discussed their current research projects. Among the topics so discussed were the following: the setting of minimum wages under the Fair Labor Standards Act for Puerto Rico and the Virgin Islands; alcoholism and personnel administration; compulsory arbitration in Australia; the New York waterfront problem; and research methodology on a presidential commission.

In addition to the research luncheons, the Chapter sponsored more formal meetings to which specialists in different phases of industrial and labor relations were invited as guest speakers. The highlight of the more formal program was the Chapter's annual spring dinner meeting at which Miss Frances Perkins was the principal speaker.

The Chapter feels that its varied program is most useful in providing a vehicle for the development of the interest of its younger members in both the field of industrial relations and in the Association. The Chapter's program also provides a forum for the discussion of new ideas and approaches in the broad area of industrial and labor relations.

Report submitted by Roger W. Walker, President

DETROIT-AREA CHAPTER

The Detroit-Area IRRA Chapter, originally organized in 1954, has survived the usual growing pains and appears to be well established as a community organization for persons with a common interest in industrial relations problems, policies and research.

The principal activity of the Chapter continues to be the monthly dinner meetings held at Wayne University. Our dues-paying membership has increased from 85, one year ago, to about 125 at present with the following occupational distribution: academic, 20%; management, 25%; union, 23%; government, 7%; arbitrators, 10%; and others (lawyers, consultants, etc.), 15%. We are pleased at continuing to fulfill the unique function of facilitating the informal exchange of ideas within the industrial relations community as a whole.

Our programs, since January 1955, have been on the following topics:

"Automation," by Charles Hautau and Stan Ovshinsky, engineers

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

DETROIT - AREA CHAPTER

1955 - 1956

Officers

President
Ronald W. Haughton
Wayne University

Vice President
Mark L. Kahn
Wayne University

Treasurer
Stanley H. Brams
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Federal Mediation

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Arbitrator

Gerald Atkinson
Chrysler Corporation

Edward L. Cushman
American Motors Corp.

William Haber
University of Michigan

F. M. Harris
Int'l. Bro. Electrical Workers

John M. Maguire
Detroit Edison

Max Weinberg
United Auto Workers

A. L. Zwerdling
Attorney

The activities of this Detroit-Area IRRA Chapter, conducted primarily through its periodic meetings, aim at securing for members "the advantages of free exchange of ideas among persons who are interested in industrial relations."

This local IRRA affiliate hopes thereby to promote the purposes of the national organization, which are:

"1. The encouragement of research in all aspects of the field of labor — social, political, economic, legal, and psychological — including employer and employee organization, labor relations personnel administration, social security, and labor legislation;

"2. The promotion of full discussion and exchange of ideas regarding the planning and conduct of research in this field;

"3. The dissemination of the significant results of such research; and

"4. The improvement of the materials and methods of instruction in the field of labor.

"The Association will take no partisan attitude on questions of policy in the field of labor, nor will it commit its members to any position on such questions." (IRRA Constitution, para. 2.)

Membership in the national IRRA is not a condition of Detroit-Area Chapter membership, except that local Officers and Advisory Board members must belong to the national organization.

Membership is open to all persons who support the purposes of the Chapter. Regular Dues for 1955-1956 are $2.00.

Address Application to:

E. W. Scoyers, Secretary
Detroit-Area Chapter IRRA
% Institute of Industrial Relations
Wayne University
Detroit 1, Michigan

Membership Application 1955 - 1956

Detroit-Area Chapter
INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

NAME (in full)_____

ADDRESS_____ PHONE NO._____

CITY_____ ZONE____ STATE_____

OCCUPATION_____

EMPLOYER_____

(Make checks payable to Stanley H. Brams, Treasurer, Detroit-Area Chapter IRRA)

"Right-to-Work Legislation," by Sen. C. R. Feenstra, Grand Rapids, and Ted Sachs, attorney

"Role of the Federal Mediation & Conciliation Service," by Joseph F. Finnegan, Director of the FMCS

"Some Implications of Private Unemployment Benefits," by William Haber, University of Michigan

"When Labor Votes," by Harold Sheppard, Wayne University

"The Meaning of the AFL-CIO Merger," by James Hoffa, vice president of the Teamsters Union, and Jack Conway, administrative assistant to the president of the UAW

"Patterns of Behavior as a Basis for Personnel Selection," by James G. Miller, University of Michigan

The fruitful consequences of having a local IRRA chapter in this industrial relations center, as noted in our Chapter Report last year, continue to be in evidence. Shown on page 380 is a facsimile application and promotional form used by our chapter, which identifies this year's officers and the members of the advisory board.

Report submitted by Mark L. Kahn, Vice-President

UNIVERSITY OF ILLINOIS CHAPTER

The Labor and Industrial Relations Association at the University of Illinois now includes a membership of 46 graduate students, including 12 from Japan on Fulbright Fellowships. England, India, Puerto Rico and Germany are also represented in our meetings.

Our chapter has sponsored a number of speakers, in addition to a few social functions during the past year. Many of our members, particularly those from other countries, have also made field trips to companies, unions, and government departments in this State and others.

The programs conducted by our Association this year include such topics as: "Collective Bargaining Before Your Eyes"—a movie, together with the personal appearance of top negotiators from Rogers Corporation, a Connecticut plastics company; "Industrial Relations As a Career"—by David Kincaid, an Electro Metallurgical Personnel Officer; "Policies and Activities of the International Union Movement"—by Martin Bolle, ICFTU representative from Holland; "Problems in Job Interviewing"—by Earl Wolfe, one of our own professors; "Problems of Organizing Engineers"—by Everett Taft, President of the Federation of Minneapolis-Honeywell Engineers; "Workers' Education in Sweden"—by Herman Erickson, one of our professors; "Labor Unity: the Merger"—by Sidney Lens, of the Chicago Building Service Union—AFL; "NLRB Policy Changes During the Past Three Years"—by Bernard Karsh, one of our professors; "Aspects of the British Labor Movement"—by Milton Derber, one of our professors; "Israeli Labor Organization"—by Moshe

Bar-Tal, American representative on the Histadrut; "White-Collar Organizing"—by Sidney Lens; and "Economic Impact of Trade Unions"—by Economist Sumner Slichter, sponsored by the Economics Department here at Illinois. At present, we have several other similar programs on our agenda.

The athletic aspirants of our group have participated in intramural basketball, softball, and volleyball. Socially, our activities are rounded out by sessions in the halls and in local coffee shops.

Our officers for this past term were: Robert VerNooy, President; Hideaki Okamoto, Vice President; Stanley Goldstein, Treasurer; and Harold Hansen, Secretary. The purposes of our Association are outlined: (1) For providing exchange of ideas and opinions among members; (2) For making available the experiences of the membership to one another; (3) To encourage social interaction among members; (4) To further interest in Labor and Industrial Relations and bring awareness of progress of research in the field; and (5) To provide a means for contact between students and faculty.

A few of us were able to sit in on sessions of the IRRA Annual Meeting in New York City. We welcome and encourage greater participation with the members and activities of other Chapters.

Report submitted by Robert VerNooy, President

NEW YORK CHAPTER

The New York Chapter, in its third year of activity, includes approximately 150 members, representing substantially the same variety of occupation and interest in industrial relations as is found in the national organization. Monthly meetings are held from October through May.

The year 1954-55 was devoted to a discussion of the general topic of job evaluation, wage incentives and alternatives, as our previous report indicated. The Chapter's second annual dinner was held in May 1955, when new officers were installed. They are: Lloyd H. Bailer, Labor Arbitrator, President; Benjamin C. Naumoff, Chief Examiner, Region 2, National Labor Relations Board, Vice-President; and Jack Chernick, Chairman, Research Program, Institute of Management and Labor Relations, Rutgers University, Secretary-Treasurer. Our speaker at the 1955 annual dinner was Professor George P. Shultz, Industrial Relations Section, M.I.T.

For the year 1955-56 the Chapter decided to devote its attention to a review of the current state of research in personnel administration

and collective bargaining. It was also decided to draw on the membership of the Chapter for participants in this review. This attempt was successful to the extent that we were able to arrange two panel discussions led entirely by members of the Chapter. The meeting of March 1956 was given over to a panel discussion of "Wage Criteria in Collective Bargaining." The April, 1956, meeting was devoted to a similar panel discussion of "The Objectives of Labor and Management in Collective Bargaining." Additionally, Benjamin Naumoff led the discussion at one meeting on the role of the courts and NLRB in the expanding scope of collective bargaining.

For our review of research and findings in the area of personnel administration, we devoted two meetings to the psychological aspects of personnel administration and industrial relations. Speakers at successive meetings were Professor Albert Lauterbach of Sarah Lawrence College and Dr. Robert N. McMurry, President of McMurry, Hamstra & Company. To provide statistical background for problems considered during the year, our first meeting was addressed by Robert R. Behlow, Regional Director, Bureau of Labor Statistics and Charles A. Pearce, Director of Research, New York State Department of Labor. They discussed the statistical work of their agencies and pointed out existing "Gaps in the Collection and Distribution of Wage Data."

Members and officers of the Chapter participated with representatives of allied associations and national officers of the IRRA in arrangements for the National IRRA meeting in New York in December.

This year, for the first time, the practice was adopted of holding dinner meetings. This seems to have suited the needs of the members rather better than the arrangement followed in previous years of meeting from 5:30 p.m. to 7:00 p.m., or from 6:30 p.m. to 8:00 p.m.

Report submitted by Jack Chernick, Secretary-Treasurer

PHILADELPHIA CHAPTER

This is a newly organized chapter growing out of the initiative of a Steering Committee composed of Walter Gershenfeld, Jerome Melamed, Kirk Petshek, John Seybold, William H. Will and Paul Yager. Membership numbers 128 and is representative of all sectors of the industrial relations community of Philadelphia.

The following chapter officers were elected by the membership on January 16, 1956: President, John Perry Horlacher; Vice President,

Kirk R. Petshek; Secretary, Paul S. Holbrook; Treasurer, Jerome Melamed.

The significance of labor unity was discussed in the first general meeting, held in November. Observations by Jack Barbash were commented on by Morton L. Bachman, Leon Schachter, and Samuel Fessenden. The January meeting dealt with the impact of automation upon collective bargaining. Speakers were Ted Silvey and Joseph Kleinbard. Both these meetings were well attended. Ewan Clague is addressing the March meeting on the subject of Jobs, Machines, and Men in 1965—An Analysis of the Changing Labor Force.

A committee is currently at work developing a seminar program. The purpose is to provide a forum where an intimate group or groups can discuss the theoretical implications of major industrial relations developments.

Report submitted by John Perry Horlacher, President

WASHINGTON, D. C. CHAPTER

Officers of the Chapter are: John Herling, president; Joseph L. O'Brien, vice president; Nathaniel Goldfinger, secretary; Earl C. Smith, treasurer.

The first meeting of the chapter was addressed by Professor Philip Taft of Brown University, on "Samuel Gompers and American Labor's First Principles: How Do They Apply Today?"

The other meetings of the chapter were addressed by:

Malcolm L. Denise, General Industrial Relations Manager, Labor Relations, Ford Motor Co., on "The Historic Ford Contract . . . and All That!"

Seymour R. Wolfbein, Chief, Division of Manpower and Employment Statistics, Bureau of Labor Statistics, on "Mobility of Workers and Its Impact on Industrial Relations."

Daniel Bell, Labor Editor, *Fortune* Magazine, and Panelists David J. Saposs, Labor Historian, and Joseph Loftus, Washington correspondent, New York *Times,* on "The Meaning of the AFL-CIO Merger."

Serafino Romualdi, AFL-CIO Representative, Latin America, and Assistant Secretary, ORIT-ICFTU, on "What Next in Argentina—After Peron?"

Sylvester Garrett, Chairman, Board of Arbitration, U. S. Steel Co. and United Steelworkers of America, on "Problems of Arbitration Under a Master Agreement."

Ida Klaus, General Counsel, New York City Department of Labor, on "Unions and Government."

Howard S. Piquet, Senior Specialist on International Trade and Economics, Legislative Reference Service, Library of Congress, on "Impact of Foreign Trade on American Communities."

The final dinner meeting of the chapter, held on May 21, was addressed by John T. Dunlop, Professor of Economics, Littauer Center, Harvard University, on "The Past Decade of Labor-Management Relations and Future Trends."

The chapter held a one-day joint meeting with the local chapter of the American Political Science Association on "Personnel Security Programs in U. S. Industry." The sessions and luncheon were attended by several hundred persons and were addressed by leading spokesmen from business, labor and government.

Report submitted by Nat Goldfinger, Secretary

ACTIVITIES AND PUBLICATIONS FOR 1956

1956 Meetings:

May 4 and 5, Hotel Schroeder, Milwaukee, Wisconsin. Annual Spring Meeting. Discussion Sessions on: management and employee relations; developments and issues in the law of labor relations; developments in workers' education; protective labor legislation and social security; the changing labor market; collective bargaining in small and medium-sized establishments. Concluding session a luncheon meeting with a talk by Lemuel R. Boulware on "The Basis of Sound Employer-Employee Relations."

December 28-30, Cleveland Hotel, Cleveland, Ohio. Ninth Annual Meeting.

1956 Publications:

No. 16 in IRRA series. Proceedings of Eighth Annual Meeting in New York City.

No. 17 in IRRA series. HUMAN RELATIONS IN THE INDUSTRIAL SETTING. Editorial Board: W. E. Chalmers, Conrad Arensberg, Solomon Barkin, Harold Wilensky, James Worthy.

PAST PUBLICATIONS STILL IN PRINT

The following are available at the headquarters office: PROCEEDINGS OF THE FIRST, SECOND, THIRD, FIFTH, SIXTH, SEVENTH and EIGHTH ANNUAL MEETINGS; special volumes PSYCHOLOGY OF LABOR-MANAGEMENT RELATIONS, INDUSTRIAL PRODUCTIVITY, and the Membership Directory. Two past special volumes are available through Harper and Brothers: MANPOWER IN THE UNITED STATES, and EMERGENCY DISPUTES AND NATIONAL POLICY.