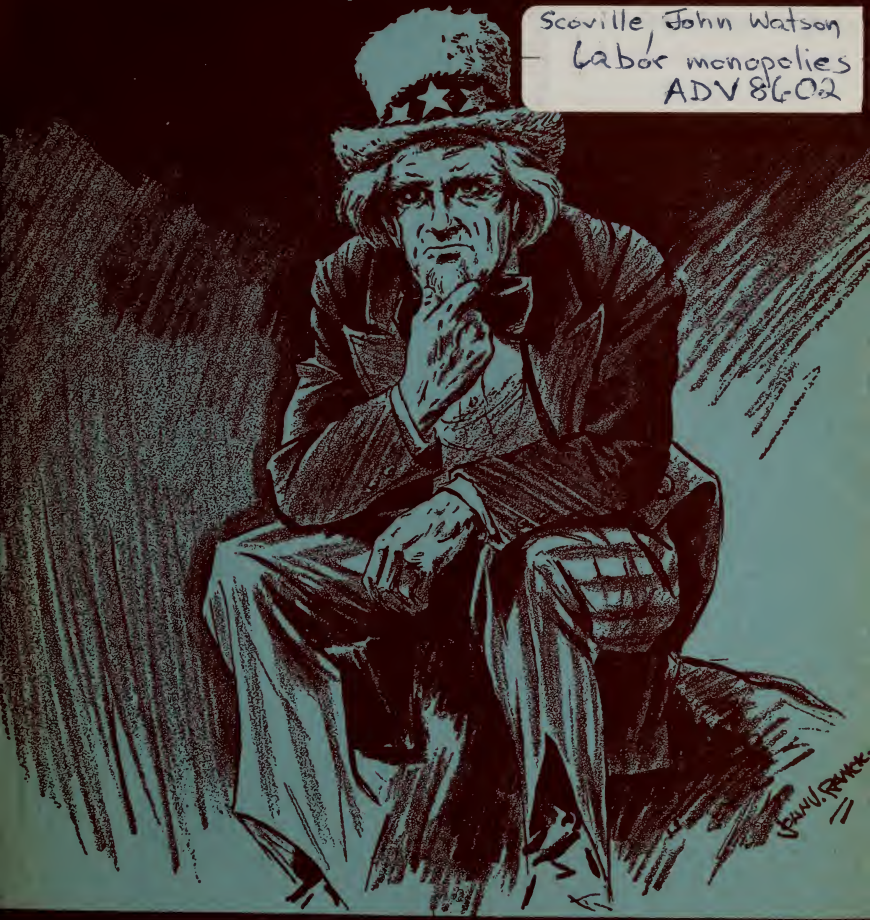
LABOR MONOPOLIES — OR FREEDOM

by JOHN W. SCOVILLE



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1284

A striking member of the Newspaper and Mail Deliverers Union, bites the wrist of a boy carrying copies of a New York daily affected in the strike which kept papers off the stands.

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by JOHN W. SCOVILLE

COMMITTEE
FOR CONSTITUTIONAL GOVERNMENT, Inc.
New York City

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Single copy.....	$1.00
3 copies for.....	2.00
5 to 80 copies..... (each)	.60
100 to 800 copies... (each)	.55
1,000 or more copies. (each)	.50

See publisher's statement on last page.

First Printing September 1946, 150,000
Second Printing December 1946, 200,000

Mail Orders for this *special edition* may be sent to

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205 East 42nd Street, New York 17, N. Y.

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I DEDICATE

THIS BOOK TO ALL THOSE

MEN AND WOMEN, LIVING AND DEAD,

FOR WHOM INDIVIDUAL LIBERTY WAS AND IS

THE "PEARL OF GREAT PRICE," WHO HAVE

BEEN AND NOW ARE WILLING TO SUFFER

AND, IF NEED BE, TO DIE, RATHER

THAN BEND THE KNEE TO THOSE

TYRANTS WHO SEEK TO ESTABLISH

THE DOMINION OF MAN

OVER MAN.

Preface

Both Western Europe and our own nation have, in recent years, come to look upon collective bargaining as a cornerstone of labor welfare. The assumption is that, without collective bargaining, labor is too weak to enforce fair treatment at the hands of powerful and often unscrupulous employers. In our last presidential election, this point of view was endorsed by the candidates of all the sizable parties. Today, it is supported by most of our newspapers, regardless of their political affiliations. Many prominent employers give it lip service. Economists, for the most part, either endorse it, or remain discreetly quiet.

But John Scoville has never been a worshipper at the altar of expediency. His doctrine is "to hew to the line, and let the chips fall where they may." The pages which follow exemplify this point of view. As a nationally known consulting economist, he has spent years watching the workings of collective bargaining in practice. His observations have reinforced his long-time view that no one has as yet invented any satisfactory substitute for individual liberty. He still believes in freedom of speech, freedom of religion, freedom of movement, freedom of enterprise, freedom of bargaining, and freedom of contract.

Nowadays, millions of Americans feel that advocacy of these freedoms rests mainly on a nostalgic attachment to the horse-and-buggy days — days which, whether one likes it or not, are gone forever. As they see it, free competition between individuals represents a mode of doing

business which is entirely inadequate to meet the requirements of our present highly complex economic system. With this point of view John Scoville radically disagrees, and he has expressed his ideas so clearly and so vigorously that the thoughtful reader, whether he agrees or not with the conclusions expressed in the book, can scarcely avoid reviewing his own convictions in this connection. John Scoville's clearly presented evidence, his careful analysis, and his straight-from-the-shoulder blows at his opponents are, to say the least, stimulating.

My own feeling is that he has brought into the open an outstanding economic issue that has been "hush-hushed" far too long. The issue needs to be settled on its merits. This book presents one side of the case clearly and forcefully. If the friends of collective bargaining are in a position to answer Mr. Scoville's arguments, they will, if wise, reply categorically to his charges. In the long run, the American public will decide as to the practical outcome of this historically important debate.

WILLFORD I. KING, *Chairman of the Committee for Constitutional Government*

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Introduction

This book has been written to present the basic facts and principles in regard to labor unions and collective bargaining. I believe that most of the thinking about labor unions is based on emotionalism rather than reason. Many arguments have been advanced by those who have an ax to grind — by labor organizers who live on the dues collected, by politicians who seek the votes of "labor," and by employers who are harassed by labor union activities.

Labor unions are today the sacred cows. Most writers and speakers are afraid to expose the anti-social tendencies of organized labor, for if they do so, they know they themselves will be denounced as fascists, anti-labor, labor baiters, and reactionaries.

Organized labor has appropriated the word *labor*, although less than a quarter of the laborers in this country are organized. Someone ought to tell the truth about labor unions and collective bargaining. That is why this book was written. If the arguments and facts in this book are wrong, let the "labor leaders" expose the fallacies, if they can. Name calling will not be an adequate rebuttal.

Even employers are confused over the basic principles involved. Many employers in answering questions about wages and collective bargaining give the wrong answers and fall headlong into the traps that are set for them. Perusal of this book may help employers to give correct answers. For example, if the labor union representative says, "You should increase wage rates because you can afford to," the employer frequently replies, "We cannot afford to raise wages." This is the wrong answer. The

correct answer is: "The fact that I have a certain income or a given amount of property does not obligate me to give it to you." When the employee says, "You should raise my wages because the cost of living has risen," the employer frequently admits that wages should rise as the cost of living increases. But this is the wrong answer. The correct answer is: "You are asking me to follow the communist doctrine — from everyone according to his ability, to everyone according to his needs. Your wages should be the value of what you produce and should not be based on your needs. A rise in the cost of living injures all consumers. Why should you ask to be relieved of your share of the common burden, thereby increasing the burden of others?"

Employers frequently say, "We believe in high wages," thereby endorsing the fallacy that high wages are better than low wages. The correct statement is: "We believe in fair wages." Wages that are too high are just as unfair as wages that are too low. Employers frequently say: "The Wagner Act is unfair and should be amended." They should say: "The Wagner Act establishes labor monopolies, and should be repealed."

It is pathetic to listen to a debate between a conservative or a businessman and a socialist, communist, or labor representative. The conservative concedes too much, gives the wrong answers, and hesitates to say things which he thinks will be unpopular. He usually loses the debate. The fact that a man has been successful in manufacturing mouse-traps does not necessarily indicate that he knows very much about history, economics, or politics. The radical, on the other hand, has often spent years in reading and study and knows his subject as well as the tricks to be used in debate and argument.

It is not necessary to read scores of volumes to arrive at a correct analysis of the so-called labor problem. The

fundamentals of a situation can usually be stated in a few short sentences. Kepler studied the motions of the planets for seven years but his final conclusions could be written on a postcard. I have studied the labor question for many years and I can state my final conclusions in one short sentence: "Employers and employees should be free to make voluntary agreements with each other." The employer should be free. The worker should be free. Neither should be subject to coercion, intimidation, or compulsion from any source. It is just that simple.

This is revolutionary doctrine. Most people believe that workers and employers should not be free. They believe in compulsion — the compulsion of the labor union, the compulsion of an employers' association — or the compulsion of the law. In the text that follows, I shall attempt to show the advantages of freedom and the evils which result from compulsion.

JOHN W. SCOVILLE

Detroit, Michigan
August, 1946.

Chapter 1

RIGHT TO ORGANIZE

"BIRDS of a feather flock together." People with similar interests, beliefs, or occupations also tend to flock together. They unite in organizations. Those with similar religious beliefs organize churches. Those who enjoy golf organize golf clubs. Manufacturers have organized the National Association of Manufacturers. Investors pool their savings and organize corporations to produce goods or services. Workers in certain industries or of similar occupations unite in labor unions. Persons of similar political beliefs unite in political parties to spread their opinions and to get control of the machinery of government. One of the most important organizations is the federal government. Group action is essential for progress. A group can accomplish more than the persons in the group acting as individuals. Without the cooperation of individuals there could be no society — no civilization.

Workmen have the right to organize and to join a labor union. Our appraisal of an organization must be based on its acts and purposes. Organizations are of two types — constructive and predatory. Most corporations are benign — they are a combination of investors, workers, and managers united to produce goods and services.

Some organizations are predatory. Their purpose is to benefit the members regardless of injury to others. Most predatory organizations seek to establish a monopoly and to reduce or eliminate competition.

Predatory organizations naturally do not disclose their

true purposes—they claim that they seek to alleviate some injustice suffered by the members, to promote the general welfare or achieve some high moral purpose. Thus automobile dealers get laws to prevent anyone from selling automobiles unless he gets a license. The alleged purpose of these laws is to protect the public against fly-by-night or unscrupulous dealers who might cheat the public. The real purpose is probably to limit the number of dealers so that the existing dealers can make more profit.

About fifty years ago many industrial combinations or trusts were formed, ostensibly for the purpose of increasing efficiency and reducing costs. The real purpose was probably to form a monopoly and to increase prices and profits. Manufacturers procure tariff laws for the alleged purpose of protecting American workmen and promoting domestic prosperity; but the real purpose is to increase the profits of the protected industries by limiting foreign competition.

The National Labor Relations Act states its purpose in these words: "Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees." These are pious high sounding phrases! But they sound rather silly when we note that after the Act was passed the number of strikes was trebled. The real purpose of the Act was probably to capture the labor vote and perpetuate the political party in power.

In 1776, it was not legal in England for workers to

combine. We quote from "The Wealth of Nations," by Adam Smith:

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

"It is not, however, difficult to foresee which of the two parties must upon all ordinary occasions have the advantage in the dispute, and force the other into a compliance with their terms. The masters, being fewer in number, can combine much more easily; and the law, besides, authorizes, or at least does not prohibit their combinations, while it prohibits those of the workmen.

"We have no acts of Parliament against combining to lower the price of work; but many against combining to raise it. In all such disputes the masters can hold out much longer. A landlord, a farmer, a master manufacturer, or merchant, though they did not employ a single workman, could generally live a year or two upon the stocks which they have already acquired. Many workmen could not subsist a week, few could subsist a month, and scarce any a year without employment. In the long run the workman may be as necessary to his master as his master is to him; but the necessity is not so immediate.

"We rarely hear, it has been said, of the combinations of masters; though frequently of those of workmen. But whoever imagines, upon this account, that masters rarely combine, is as ignorant of the world as of the subject. Masters are always and everywhere in a sort of tacit, but constant and uniform, combination, not to raise the wages of labor above their actual rate. To violate this combination is everywhere a most unpopular action, and a sort of reproach to a master among his neighbors and equals. We seldom, indeed, hear of this combination, because it is the usual, and one may say, the natural state of things which nobody ever hears of.

"Masters, too, sometimes enter into particular combinations to sink the wages of labor even below this rate. These are always conducted with the utmost silence and secrecy, till the moment of execution, and when the workmen yield, as they sometimes do, without resistance, though severely felt by them, they are never heard of by other people.

"Such combinations, however, are frequently resisted by a contrary defensive combination of the workmen; who sometimes, too, without any provocation of this kind, combine of their own accord to raise the price of their labor. Their usual pretences are, sometimes the high price of provisions, sometimes the great profit which their masters

make by their work. But whether their combinations be offensive or defensive, they are always abundantly heard of. In order to bring the point to a speedy decision, they have always recourse to the loudest clamor, and sometimes to the most shocking violence and outrage. They are desperate, and act with the folly and extravagance of desperate men, who must either starve, or frighten their masters into an immediate compliance with their demands.

"The masters upon these occasions are just as clamorous upon the other side, and never cease to call aloud for the assistance of the civil magistrate, and the rigorous execution of those laws which have been enacted with so much severity against the combinations of servants, laborers, and journeymen. The workmen, accordingly, very seldom derive any advantage from the violence of those tumultuous combinations, which, partly from the interposition of the civil magistrate, partly from the superior steadiness of the masters, partly from the necessity which the greater part of the workmen are under of submitting for the sake of present subsistence, generally end in nothing but the punishment or ruin of the ringleaders."

The law which prevented the combinations of workmen in England was repealed about 1824.

Labor unions and strikes made their appearance in this country as early as 1780. The courts at that time and for several decades, frowned upon the labor unions as conspiracies in restraint of trade.

A labor union can perform useful functions, such as: the provision of sick benefits, assistance to members looking for work, education and social intercourse. But no labor union, or any other group, should be allowed to establish a monopoly or to use the mass power of the group to injure other people. A labor union should be judged by its acts. The law should not prevent workmen from uniting in a labor union; but the law should prevent these unions from injuring other people and from interfering with the rights and liberties of other people.

Chapter 2

FREEDOM OF WORKERS

ONLY rarely, in the history of the world, have employers and employees been free to make voluntary agreements. The worst form of coercion was slavery. We cannot imagine that free men in Egypt would have built the pyramids. Those Egyptain workers would undoubtedly have preferred to make things for their own use and enjoyment. It was slaves who provided leisure for the cultured Greeks.

In England, in 1562, employer-employee relations were minutely regulated by law. Workers were hired by the year. We quote from the law:

"And be it further enacted by the authority aforesaid, that no manner of person or persons after the foresaid last days of September now next ensuing, shall retain, hire or take into service, or cause to be retained, hired or taken into service, nor any person shall be retained, hired or taken into service, or cause to be retained, hired, or taken into service, by any means or color, to work for any less time or term, than for one whole year, in any of the sciences, crafts, mysteries or arts of clothiers, weavers, tuckers, fullers, etc."

The present agitation for an annual wage harks back to the English law of three hundred and eighty years ago. This English law specified the working hours. We quote:

"And be it further enacted by the authority aforesaid, that all artificers and laborers being hired for wages by the day or week shall between the middle of the months of March and September be and continue at their work at or before five of the clock in the morning and continue at work and not depart until between seven and eight

of the clock at night, except it be in the time of breakfast, dinner, or drinking, the which times at the most shall not exceed above two hours and a half in the day that is to say at every drinking one half hour, for his dinner one hour and for his sleep when he is allowed to sleep, the which is from the middle of May to the middle of August half an hour at the most and at every breakfast one half hour; and all the said artificers and laborers between the middle of September and the middle of March, shall be and continue at their work from the spring of the day in the morning until the night of the same day, except it be in time fore appointed for breakfast and dinner upon pain to lose and forfeit one penny for every hours absence to be deducted out of his wages that shall so offend."

Wage rates of artificers, husbandmen, laborers and workmen were set by Justices of the Peace and proclaimed by the Sheriff. Any employer convicted of paying more than the legal wages was subject to imprisonment for ten days and a fine of five pounds; a worker who accepted more than legal wages was subject to imprisonment for twenty-one days. At harvest time the Constable could compel artificers to work in the fields. Unmarried women between the ages of twelve and forty were compelled to work.

Before one could become a journeyman, it was necessary to serve as an apprentice for seven years. Persons refusing to become apprentices could be imprisoned until they agreed to comply.

We now summarize the British Labor Laws of 1802. The law applied to employers of three or more apprentices or twenty or more other persons. Factory walls had to be whitewashed at least twice a year and there had to be enough windows and openings to provide a proper supply of fresh air. Apprentices were to be provided with a new suit each year. Apprentices were not to work more than twelve hours in any one day. Apprentices were to be instructed in reading, writing and arithmetic. Not more than two apprentices were allowed to sleep in one bed, and males and females had to be in separate rooms. The employer had to pay to have apprentices instructed

in the principles of the Christian religion, for at least one hour on Sunday. A justice of the peace and a clergyman were appointed to inspect the mills and factories at any time and report their findings.

In this country employers and employees have been relatively free to make voluntary agreements. This freedom is now being lost. In the last fifteen years many laws have been passed to regulate labor relations. We have federal laws on hours of labor, minimum wages, collective bargaining, wages, employment, and conditions of work. These laws are not progressive; they follow the pattern which prevailed in England a hundred and fifty and three hundred and fifty years ago.

It is difficult to understand why workmen and employers, after many decades of freedom, are now willing to give up this freedom, and submit to the various laws and regulations which destroy their liberties. The new labor laws are introducing a form of partial slavery, under which neither the employers or workers are free men.

Chapter 3

FAIR WAGES

NO HUMAN institution is perfect. Some of the activities of labor unions are improper and against the public interest. But before we expose the fallacious arguments advanced in defense of the anti-social activities of labor unions, we will outline the fundamentals of what we believe to be the correct philosophy of the relations between employers and employees.

I suppose that everyone agrees that wages paid should be *fair*. But there is disagreement over the definition of fair wages and the proper methods for securing fair wages. I think we can all agree that if a person produces something — the thing produced is the reward for the labor expended. The man employs himself, and that which he produces is his wages. If Robinson Crusoe caught some fish, those fish were his wages. He received the full product of his toil. If an artist paints a picture, that picture (less the small cost of the paints and canvas) is his wages.

But suppose two men produce something. Suppose a carpenter builds a boat and a fisherman goes out in the boat to catch fish. What fractional part of the catch is due to the efforts of the carpenter and what fractional part is due to the efforts of the fisherman?

When the whaling ships left New Bedford, the oil they brought back constituted the wages of the crew and of those who built the boats. Before a boat sailed, agreements were drawn up to show what fractional part

of the oil should be paid to the cook, to the captain, to the harpooners, to the owner of the boat, etc. This fractional part was called the lay. All parties could increase their wages by killing more whales and doing it as quickly as possible. The oil certainly belonged to the group that produced it.

But no formula or theory could be invented to determine what fractional part of the oil should go to the boat owner and what part should go to the crew. And no formula could be devised to show by how much a harpooner's share should exceed the share going to the cook. But as a practical matter, the distribution had to be made. I suppose that the harpooners went to different ship owners and hired out to the captain who made what appeared to be the best offer. I suppose the captain hired the harpooners who demanded the least. If he could not get enough harpooners, then the captain probably offered a bigger lay. He probably found that cooks did not demand as big a lay as harpooners.

The division of the oil was based on the principle of competition. By the principle of competition, we mean that each seller of goods or services is free to accept the best offer he can get, and each buyer is free to buy as cheaply as he can. Competition simply means economic freedom. The harpooners were free. They could apply to different captains. They could get jobs on merchant ships. They were not compelled to sail the seas. They were free to work as farmers, carpenters, clerks, or at whatever occupations would please them more. The shipbuilders were free. If whaling became unprofitable, they were free to use their talents and capital in other fields.

Wage rates are prices. The fair price for any article is what others will give in exchange for it in a free market. Suppose that fifty thousand persons own stock in a corporation. Suppose that one hundred thousand persons desire to buy some of these shares. Some of the

owners would sell their stock at ninety dollars a share; some demand a hundred dollars a share; some demand a hundred and ten dollars a share; some are holding out for a hundred and fifty dollars a share. Some of those who wish to buy shares will offer only thirty dollars a share; some will offer forty dollars; some will offer fifty dollars; and a few are willing to pay ninety dollars a share. Now the few owners who will sell for as low a price as ninety dollars a share can deal with the few prospective buyers who will pay as much as ninety dollars. We say, therefore, that ninety dollars is the market price. It is a fair price, in that no sellers will sell for less and no buyers will pay more. It is fair in that the bids and offers were made freely. However, most of the owners think the stock is worth more than ninety dollars a share, and most of the potential buyers think it is worth less.

Now let us consider wage rates. In a group of workers, say carpenters, there are some who demand a dollar and ten cents an hour, some who demand a dollar and twenty cents, some who demand a dollar and thirty cents, and so on. Of those who wish to employ carpenters, some will offer only seventy cents an hour; some will offer eighty cents; some will offer ninety cents, and so on. Employment can take place only when the demands of some of the carpenters are equal to the offers of some of the employers. If all of the employers and job-seekers are free, the market price will be a fair price. Those employers who offer less will hire no carpenters. Those carpenters who demand more will be unemployed. Those employers who need to hire carpenters will be compelled to offer the market price; those carpenters who really want to work will be compelled to accept the market price.

What, then, are fair wages? They are the wages which result from the competition of employers for workmen and the competition of workmen for jobs, when all of the individual workers and employers are free. These fair wages will be less than the workers desire to receive

and they will be more than the employers desire to pay. If the employers form a combination to force wages down or if the workers form a labor union to force wages up, the resulting wage rates are most certain to be unfair.

In the United States Supreme Court, a verdict is based on the opinions of nine Justices. This is likely to be more just, more fair, than the opinion of one man. Under competition, the going rate of wages is based on the opinions of many employers and many workmen. But if workmen combine in a labor union, the wage demanded may represent the opinion of only one man — or a very small group of officers. The same is true if employers combine.

A democracy is better than a monarchy, for it relies on the opinions of many persons rather than on the opinion of one man. If a workman claims it is proper for workers to unite in a union to force wages up, ask him if it is proper for employers to combine to force wages down.

Fair wages are the wages that result from competition. "After all, what is Competition?" asks Bastiat in his "Harmonies of Political Economy." "Is it a thing which exists and is self-acting like the cholera? No, Competition is only the absence of constraint. In what concerns my own interest, I desire to choose for myself, not that another should choose for me, or in spite of me — that is all. And if any one pretends to substitute his judgment for mine in what concerns me, I should ask to substitute mine for his in what concerns him. What guarantee have we that things would go on better in this way? It is evident that Competition is Liberty. To take away the liberty of acting is to destroy the possibility, and consequently the power, of choosing, of judging, of comparing; it is to annihilate intelligence, to annihilate thought, to annihilate man. From whatever quarter they set out, to this point all modern reformers tend — to ameliorate society they begin by annihilating the individual, under

the pretext that all evils come from this source — as if all good did not come from it too.

"We have seen that services are exchanged for services. In reality, every man comes into the world charged with the responsibility of providing for his satisfactions by his efforts. When another man saves us an effort, we ought to save him an effort in return. He imparts to us a satisfaction resulting from his effort; we ought to do the same for him.

"But who is to make the comparison? For between these efforts, these pains, these services exchanged, there is necessarily a comparison to be made, in order to arrive at equivalence, at justice; unless indeed injustice, inequality, chance, is to be our rule, which would just be another way of putting human intelligence hors de cause. We must, then, have a judge; and who is this judge to be? Is it not quite natural that, in every case, wants should be judged of by those who experience them, satisfactions by those who seek them, efforts by those who exchange them? And is it seriously proposed to substitute for this universal vigilance of the parties interested, a social authority (suppose that of the reformer himself), charged with determining in all parts of the world the delicate conditions of those countless acts of interchange? Do you not see that this would be to set up the most fallible, the most universal, the most arbitrary, the most inquisitorial, the most unsupportable — we are fortunately able to add, the most impossible — of all despotisms ever conceived in the brain of pasha or mufti?

"It is sufficient to know that Competition is nothing else than the absence of an arbitrary authority as judge of exchanges, in order to be satisfied that it is indestructible. Illegitimate force may no doubt restrain, counteract, trammel the liberty of exchanging, as it may the liberty of walking; but it can annihilate neither the one nor the other without annihilating man."

Chapter 4

FREEDOM TO TRADE

SEVERAL years ago I was motoring through Wyoming on my way to the Yellowstone. I came to a fork in the road. On the right fork there was a huge sign. It said: *Turn Right;* and then it described the scenic beauties to be found on the right fork. Such is the power of suggestion that I turned right. There was no sign on the left fork describing the advantages of that road.

The American people have come to a fork in the road. On the left side there are politicians, writers, columnists, professors, clergymen, editors and reformers shouting to the people to turn left and describing the beautiful scenery on the road which leads to socialism, communism and statism. On the right fork, there are only a few voices proclaiming the advantages of the road which leads to freedom. The people have traveled the right fork for a hundred and fifty years and have experienced the ruts, the mud and the dust on this road. They have not experienced the difficulties to be encountered on the left fork. They are beguiled by the left fork barkers, and millions of our people are turning left.

I venture the opinion that less than ten percent of our citizens believe in economic freedom or competition. But if we reject competition or economic freedom — what is the alternative? The opposite of freedom is lack of freedom; it is constraint, compulsion, coercion, imprisonment, slavery.

If you ask a man whether he prefers to run his own

life, choose his own occupation, run his own business, decide what he will buy, decide where he will live — or whether he would prefer to be under an overseer who would make these decisions for him — is there any question as to his answer? Does not everyone prefer liberty to serfdom? The instinct for liberty is powerful and universal. How does it happen, then, that the American people are being persuaded to give up their liberties? Why do we collectively surrender that which as individuals we all desire?

I think the paradox can be explained by noting that most people desire to maintain their own liberties and to infringe on the liberties of others. The Pilgrims wanted religious freedom for themselves, but they were not willing to grant religious freedom to Roger Williams. Most people favor regulations which will benefit them, and oppose regulations which they think will hurt them. Labor organizers favor laws to help them subjugate the employers; but they yell like stuck pigs over laws to curb the labor unions.

Those who invoke the law to curb the liberties of others forge weapons which at a later time may be used against them. If I use the law to destroy the freedom of my neighbor, I have no defense when my neighbor uses the law to destroy my freedom.

Do you realize how much your economic freedom is restrained by law? The law regulates prices, hours of labor, wage rates, income which you can retain, inheritance, importation, interest rates, education, gifts, banking, installment selling, railroad rates, prices of farm products, insurance, employment. You must get a permit to enter business, to enter a profession, to establish a bus line. There are export subsidies, domestic subsidies, excise taxes. To enforce the legal interferences with trade, you support an army of agents, lawyers, judges, collectors, inspectors, clerks, arbitrators, conciliators, tax gatherers, and members of innumerable boards and

commissions. You are enmeshed in reports, forms, questionnaires, indictments, complaints, laws, regulations, hearings, conferences, and court trials. These interventions are worse than useless; they reduce output, obstruct trade, paralyze enterprise.

Over the centuries, we have had religious wars and religious persecutions. The majority used the power of the state to imprison, fine, persecute, torture and kill those who would not assent to the state religion. Whole populations were driven from their homes. Brave and noble men were burned at the stake. How was this slaughter and persecution ended? By adopting the principle of the separation of the church and state; by respecting the right of the individual to choose his religion without coercion or intervention from the state or any other source; by accepting persuasion, rather than force and violence, as the proper method for changing opinions.

Our country now is harassed by strikes and industrial warfare. How can we get peace? By accepting the principle of the separation of trade and state; by making the citizens free to engage in economic activities without any intervention from the state. Let each citizen be free to produce, work, buy, sell, consume, save, and employ, without state intervention.

In commercial transactions, buyers and sellers have adverse interests. Buyers want lower prices, sellers want higher prices. If the state intervenes, it must favor one party at the expense of the other. But this requires favoritism and discrimination.

Will a just government discriminate between the citizens? Should not all be equal before the law? And who will be favored by state intervention? Who will the politicians favor? Will they not favor the strong, the powerful? Will they not favor the group that can deliver the most votes at the next election? How then can we expect justice? How can minority rights be protected?

In times gone by, the few have used the power of the

state to pillage the many. Is it right now that the many use the power of the state to pillage the few? May not this principle lead to civil war — to the destruction of our republic? Do we not have enough intelligence — enough morality — to accept the principle that the state shall not interfere with the economic activities of the citizens? Are we so corrupt, so depraved, that we cannot say: "I have no right to use the law to subjugate and plunder my neighbor."

Listen to Bastiat, whose voice comes to us over nearly a century of time:

"The law perverted! The law — and, in its wake, all the collective forces of the nation — the law, I say, not only diverted from its proper direction, but made to pursue one entirely contrary! The law become the tool of every kind of avarice, instead of being its check! The law guilty of that very iniquity which it was its mission to punish! Truly, this is a serious fact, if it exists, and one to which I feel bound to call the attention of my fellow-citizens.

"What, then, is law? As I have said elsewhere, it is the collective organization of the individual right to lawful defense.

"Nature, or rather God, has bestowed upon every one of us the right to defend his person, his liberty, and his property, since these are the three constituent or preserving elements of life; elements, each of which is rendered complete by the others, and cannot be understood without them. For what are our faculties but the extension of our personality, and what is property but an extension of our faculties?

"If every man has the right of defending, even by force, his person, his liberty, and his property, a number of men have the right to combine together, to extend, to organize a common force, to provide regularly for this defense.

"Collective right, then, has its principle, its reason for existing, its lawfulness, in individual right; and the common force cannot rationally have any other end, or any other mission, than that of the isolated forces for which it is substituted. Thus, as the force of an individual cannot lawfully touch the person, the liberty, or the property of another individual — for the same reason, the common force cannot lawfully be used to destroy the person, the liberty or the property of individuals or of classes.

"For this perversion of force would be, in one case as in the other,

in contradiction to our premises. For who will dare to say that force has been given to us, not to defend our rights, but to annihilate the equal rights of our brethren? And if this be not true of every individual force, acting independently, how can it be true of the collective force, which is only the organized union of isolated forces?

"Nothing, therefore, can be more evident than this: — The law is the organization of the natural right of lawful defense; it is the substitution of collective for individual forces, for the purpose of acting in the sphere in which they have a right to act, of doing what they have a right to do, to secure persons, liberties, and properties, and to maintain each in its right, so as to cause justice to reign over all.

"And if a people established upon this basis were to exist, it seems to me that order would prevail among them in their acts as well as in their ideas. It seems to me that such a people would have the most simple, the most economical, the least oppressive, the least to be felt, the least responsible, the most just, and, consequently, the most solid Government which could be imagined, whatever its political form might be.

"For, under such an administration, every one would feel that he possessed all the fulness, as well as all the responsibility of his existence.

"So long as personal safety was ensured, so long as labor was free, and the fruits of labor secured against all unjust attack, no one would have any difficulties to contend with in the State. When prosperous, we should not, it is true, have to thank the State for our success; but when unfortunate, we should no more think of taxing it with our disasters, than our peasants think of attributing to it the arrival of hail or of frost. We should know it only by the inestimable blessing of Safety.

"It may further be affirmed, that, thanks to the non-intervention of the State in private affairs, our wants and their satisfactions would develop themselves in their natural order. We should not see poor families seeking for literary instruction before they were supplied with bread. We should not see towns peopled at the expense of rural districts, nor rural districts at the expense of towns. We should not see those great displacements of capital, of labor, and of population which legislative measures occasion; displacements, which render so uncertain and precarious the very sources of existence, and thus aggravate to such an extent the responsibility of Governments.

"Unhappily, law is by no means confined to its own department. Nor is it merely in some indifferent and debatable views that it has left its proper sphere. It has done more than this. It has acted in direct opposition to its proper end; it has destroyed its own object;

it has been employed in annihilating that justice which it ought to have established, in effacing amongst rights, that limit which was its true mission to respect; it has placed the collective force in the service of those who wish to traffic, without risk, and without scruple, in the persons, the liberty and the property of others; it has converted plunder into a right, that it may protect it, and lawful defense into a crime, that it may punish it."

Chapter 5

COLLECTIVE BARGAINING

Is COLLECTIVE bargaining desirable? Suppose the grocers in a city decided to engage in collective bargaining. They could claim that their profits were small; that each year a number of grocers were forced out of business; that many grocers did not receive enough income to maintain a decent scale of living. They could form a union and decide to increase the selling price of groceries, say by thirty percent. They could put a picket line around any store that did not join the union to prevent customers from trading at a non-union store. They could get a law passed to guarantee to grocers the right to engage in collective bargaining and to make it illegal for a customer to trade at a non-union store.

Would you be in favor of such a grocers' union? Do you think the prices established by such a union would be fair? Could the desirability of such a union be established by showing that it had been successful in increasing the incomes of grocers?

In certain cities, automobile dealers have formed associations and agreed that they would all increase the prices of automobiles. This has been done in many cities. Are you in favor of such collective action by automobile dealers?

In California there is a Walnut Growers Association whose members control eighty-three percent of the crop. In an advertisement in the *Pacific Rural Press* they say: "The Association vigorous sales policies have raised

prices to growers." "It was the Association that secured tariff protection against cheap foreign walnuts . . . and it is the Association which leads the fight to maintain that protection." "It is the Association that speaks with the voice of authority in all current dealings with government agencies." As a consumer, are you in favor of this collective bargaining which compels you to pay higher prices for walnuts?

Suppose the landlords in a city decided to form a union so that they could act collectively and get higher rents. Would you favor collective bargaining by landlords?

Or, suppose the physicians formed a union to bargain collectively with their patients so that they could increase their fees. Would you favor collective bargaining by physicians?

If collective bargaining is a good principle, then it should be practiced by all groups — physicians, landlords, farmers, factory workers, grocers, etc. If collective bargaining is an evil principle, then no group should practice it.

I think there are serious objections to the principle of collective bargaining.

1. Under collective bargaining, there is no method for determining the price which is fair. If we have competition, the avarice of the seller is checked by the frugality of the buyer. If the profits of grocers are too small, many grocers will fail and go out of business. The smaller number of the remaining grocers will then be able to raise prices and make a fair profit. If the profits of grocers are too great, more grocers will enter the business, and the greater competition will bring prices and profits down. Competition is a regulator which tends to establish fair prices and fair profits. In collective bargaining, some authority establishes the price. But this authority has no means of knowing what the fair price would be.

2. If, under collective bargaining, the seller can increase the price to what he considers a fair level, he can use his power to raise the price still higher to an unfair level.

3. Collective bargaining cannot work without establishing a monopoly. If half of the grocers joined a union to raise the price of groceries, they would lose trade to the non-union grocers. If laborers

in a labor union did not have a monopoly, they would be displaced by non-union workers who would demand less. Labor unions, to be effective, must seek complete unionization and the closed shop.

4. Collective bargaining exploits the consumers. The gain in income to the members of a union is a loss of income to others.

5. Collective bargaining, once started, tends to expand, and as it grows, it becomes less effective. If ten percent of the workers engage in collective bargaining, they may increase the income of the organized workers by decreasing the income of the ninety percent who are unorganized.

The purpose of collective bargaining is to secure profits, wages or prices, above the level that would result from competition. The purpose is exploitation. But this demands unorganized groups which can be exploited. The unorganized groups are compelled to pay more for what they purchase, to receive lower incomes from their property, or to receive lower wages. If all groups bargain collectively the gains of one group are paid out in tribute to other groups. The gains to organized farmers, due to higher prices, are paid in higher prices for the things they buy which are produced by organized city workers. The higher wages received by organized city workers are dissipated in the higher prices they pay for farm products, for goods produced by organized city workers, in higher rents, etc.

The higher dividends received by investors in business monopolies are dissipated in paying higher prices for whatever they buy. When all groups, through collective bargaining, steal from each other, there is no net gain. The monopolist finds that his own pocket was picked while he was picking the pocket of another. Collective bargaining for some groups will not be effective unless other groups are forbidden the right of collective bargaining.

We conclude that collective bargaining is an evil principle, and that it is against the public interest for farmers, merchants, physicians, laborers or other groups to establish monopolies and destroy competition. It is not

only the collective bargaining by workmen that we condemn — it is collective bargaining by any group for the purposes of destroying or limiting competition.

Some forms of collective bargaining are harmless, necessary and unavoidable. For instance, the residents of a city form a city government to furnish certain services. The city government, through a board of education, hires school teachers. The citizens must act collectively in hiring teachers. But the purpose of the union, the city government, was not to depress wages. Investors combine to form a corporation to produce certain goods and services. They necessarily delegate to some person the task of hiring workmen. But this union of investors (the corporation) was not formed for the purpose of depressing wages. Nor, in a free society, would the corporation be able to depress wages below the level resulting from competition.

But the labor union is not a necessary combination. It is not organized, like the corporation, to lower the costs of production. We would be more prosperous if labor unions did not exist. The labor union is formed to raise wage rates above the competitive level. It is purely predatory. If a number of firms in the same industry combined in a pool, trust, or union in order to bargain collectively with those who furnished materials or labor, or with those who bought the product, this combination would be predatory and against the public interest.

Fifty years and more ago industrialists wanted to bargain collectively with the public. They formed unions called trusts. The Oil Trust was formed in 1882, the Cotton Oil Trust in 1884, the Linseed Oil Trust in 1885, the Whiskey Trust, the Sugar Trust, the Lead Trust, and the Cordage Trust in 1887. These monopolies, unlike the labor unions, were not entirely predatory; they resulted in some economies in production and distribution. There was a general outcry against these trusts and in 1890 Congress passed the Sherman Act which

prohibited every contract, combination or conspiracy in restraint of trade among the several states.

Fifty years ago the problem was how to protect society from industrial monopolies. Today the problem is how to protect society from labor monopolies.

Thoreau said: "Thousands are hacking at the branches of evil to one who strikes at the root." It is useless to discuss union reforms — cooling off periods before striking, incorporation of unions, compulsory arbitration, public accounting by unions, responsible leadership of unions, etc. We should stop "hacking at the branches" and strike at the root of the evil — *collective bargaining.*

Collective bargaining must be abolished.

Chapter 6

DEFINITION OF COLLECTIVE BARGAINING

It is impossible for two persons to discuss any subject intelligently unless they agree on the meaning of the words they use. If by collective bargaining we mean that the workers in an establishment form an organization and appoint a spokesman to discuss with the employer such things as working conditions, wages, safety, hours of labor, etc., then very few employers would object to this type of collective bargaining. Just as the employer hires a lawyer to represent him in court, so the workers could elect an intelligent representative to discuss grievances with the employer.

Compulsory collective bargaining began with the National Industrial Recovery Act of 1933, which stated in Section 7(a) — "That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection." The N.I.R.A. was invalidated in 1934 by the unanimous decision of the United States Supreme Court. In 1935, the National Labor Relations Act was passed which declared that it was the policy of the United States to eliminate . . . the causes of . . . obstructions to the free flow of commerce . . . by encour-

aging the practice and procedure of collective bargaining.

It is an amazing fact that these laws which made collective bargaining compulsory as to the employer failed to define collective bargaining. The law said to the employer, "You must engage in Practice X, but we will not tell you what X means." What is the employer compelled to do when he bargains? On what subjects is he compelled to bargain? No one knows. The law does not say. Must the employer come to an agreement with the labor union? Must this agreement be in writing?

In collective bargaining discussions the labor unions discuss profits, selling prices, salaries of the executives, location of plants, installation of machines, etc. The law does not limit the subjects about which the employer must bargain. Congress did not define collective bargaining in the Wagner Act, but collective bargaining cannot be enforced unless it is defined. The National Labor Relations Board and the courts have therefore had to do the job that Congress left undone.

Section 6(a) of the N.L.R.A. reads as follows: "The Board shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry on the provisions of this Act." In making these rules and regulations, the Board really makes the law.

Suppose the union asks for a ten percent raise in wages, and the employer says he will maintain the existing rates. Did the employer bargain? The courts have ruled that he did not bargain in *good faith*. But what does that mean? Must the employer always concede something? The employer must make a counter-proposal. In the Globe Cotton Mills case the court ruled: "Still when a counter-proposal is directly asked for, it ought to be made." In the George P. Pilling and Son Company case the court ruled: "But, agreement by way of compromise cannot be expected unless the one rejecting a claim or demand is willing to make a counter-suggestion

or proposal. And where that is expressly invited but is refused, in such circumstances the refusal may go to support a want of good faith and, hence, a refusal to bargain."

Suppose the counter-proposal was to reduce wages by ten percent. Would that be a satisfactory counter-proposal? Or must the counter-proposal always concede something to the union? Why is not the offer to continue existing wage rates a good counter-proposal? If the employer rejects the union demand, how can such action be construed as a refusal to bargain? And how can any judge look into an employer's mind to determine whether he is bargaining in *good faith?*

In the Highland Park Manufacturing Company case the court ruled: "The Act, it is true, *does not require that the parties agree*; but it does require that they negotiate in good faith with the view of reaching an agreement if possible; and mere discussion with the representatives of the employees, with a fixed resolve on the part of the employer not to enter into any agreement with them, even as to matters as to which there is no disagreement, does not satisfy its provision." But if the Act does not require agreement, the employer must retain the right to resolve not to agree. This court decision was stupid. Bargaining presupposes that both parties act voluntarily and that neither party is being threatened or intimidated.

But the labor union threatens to strike and inflict a loss on the employer if he does not agree to the demands of the union.

Section 13 of the N.L.R.A. states: "Nothing in this Act shall be construed so as to interfere, impede with or diminish in any way the right to strike." By this threat, the employer is put under duress when he bargains collectively. He is like an automobile dealer who is told by a prospective buyer that if he does not reduce the price the customer will slash the tires and break the

windows. Is it bargaining when one of the parties is threatened?

But the union goes further in the use of force. It says to the employer: "We will put a picket line around your plant, and prevent workers who are willing to accept your terms from entering your plant." It may say: "We refuse to work with non-union workers." "We refuse to work on materials supplied by non-union shops."

Collective bargaining implies much more than negotiating an agreement with an employer. It implies the use of threats and coercion on the employer which may take many forms.

Before discussing collective bargaining, one should always ask: What do you mean by collective bargaining? Do you mean the right to strike, to picket, and to inflict a loss on the employer?

It is practically impossible to find in any law or in any book a definition of collective bargaining. It is one of those nebulous phrases which means different things to different people. It is forced on the employer by law — but no one knows what it really is.

Chapter 7

PEACEFUL PICKETING

SINCE labor unions claim to have a monopoly of the jobs in an establishment, when they go on strike they throw a picket line around the plant to prevent willing workers from taking the jobs they have left. But since unionists do not like to admit that they are monopolists, they claim that the purpose of the picket line is to advertise the fact that a strike is in progress. Of course a few signs, or just a few barkers, would be sufficient to advertise the strike.

The hypocritical phrase that is used is "peaceful picketing." A few headlines taken at random show just how peaceful the pickets are. From The New York Times of January 5, 1946 — "42 Pickets battle 1000 non-strikers at Kearney Plant. 18 are injured before police break up melee in Western Electric Walkout. Only 40 run the gantlet. Using fists and clubs to compensate for their comparative lack of numbers, forty-two pickets succeeded yesterday morning in denying entrance to 1000 non-striking executives, supervisors and maintenance employees."

From the Chicago Tribune, January 12, 1946 — "Outbreaks lasting more than an hour occurred this morning when 350 striking CIO United Farm Equipment workers and reinforcements from other CIO unions tried to keep workers out of the J. I. Case factory here. All available Rock Island police were sent to the scene as were 13 State Highway policemen, and they forced a path thru

James Callahan, 60, veteran foreman at the strike-bound Yale and Towne Mfg. Co., Stamford, Conn., with his face badly battered after he was waylaid on his way to work and beaten up by three men.

Picket clenches fist and shouts protest as he and some 100 other strikers were escorted to police station. Pickets were charged with preventing non striking workers from reporting to their jobs.

the picket lines to permit workers to enter the plant."

From the Chicago Tribune, February 20, 1946 — "Thirteen pickets and CIO unionists, including one woman, were arrested yesterday on charges of attacking workers who tried to enter the strike-bound D. O. James Manufacturing Company plant, 1140 Monroe Street."

From the Chicago Tribune, January 8, 1946 — "Pickets slug six employees in Gear strike. 34 arrested in mob fight outbreak."

From the Chicago Tribune, December 27, 1945 — "Mayor assails CIO Picketing as Mob Tactic. City Hall stormed after 31 arrests."

From The New York Times, January 4, 1946 — "Riot squads were required today to hold in check the tempers of one thousand striking employees of the General Motors Corporation, who sought briefly to prevent the white-collar workers from gaining entry into an office building."

From the Chicago Tribune, January 15, 1946 — "Owen, who held that everyone has a right to work, that's what taxpayers are paying taxes for, walked up and told 65 pickets, marching in a circular line in front of the main gate, that he was going in to do a day's work. When the pickets bunched in his path, he dropped his lunch and put up his fists. Clarence Depooter, secretary of the CIO local at the Farmall works, inserted his bulk in Owen's path. So Owen hit him on the jaw and went to work despite fistic opposition by Depooter."

In The New York Times of January 21, 1946, we have a memorandum of the American Civil Liberties Union:

"The American Civil Liberties Union has always supported the right to picket at any time, at any place, for any purpose. Picketing, as the courts have held, is a form of free speech and assembly and is supported on that principle. The only limitations by public authorities on picketing supported by the Union are those to keep traffic open for pedestrians and vehicles, to insure access to places picketed, to prevent the use of fraudulent signs, and to maintain order. The Union has supported mass picketing where these conditions are met.

"But no claims of the rights to picket justify the use of force to prevent access to plants on strike by those who are willing to cross picket lines. Reports of current strikes show instances in which pickets have prevented access to plants by executive officers, by maintenance crews keeping up such services as heat and lighting, and by clerical workers not members of the striking union. These are plain abuses of the right of picketing. In the view of the American Civil Liberties Union, the right of access, not only of these persons, but of any and all others, is undebatable. The two rights — of picketing and of access to places picketed — are not conflicting.

"The present issue, however, goes further than the right of access to places across a picket line. It affects profoundly the rights of organized labor itself, for wherever the use of force by pickets is successful, public sympathy with unions is alienated and encouragement is given to the opponents of labor's rights.

"These excesses connected with picketing are bound to have a disastrous effect in the long run on the basic right to picket. It is, therefore, greatly in the interest of the unions themselves so to control picketing that access to plants is not denied by force. Police efforts to keep access to plants open should be supported by responsible leaders; not resisted as some reports indicate. If they are defied, the inevitable result will be resort to the courts by those aggrieved, with consequent injunctions. Even the statutes protecting labor's legitimate rights from injunctions may thus be endangered."

The evidence is overwhelming that picket lines are private armies which seek to direct traffic and prevent the free and lawful movement of persons.

The right to picket rests on a shaky foundation. People have the right to assemble and to move about on the streets — hence they have the right to picket. But the purpose of the picket line is to prevent others from assembling in the factory to work and to prevent the movement of persons through factory gates.

This is the argument: People have the right to assemble to prevent others from assembling; they have the right to move about freely in order that they may prevent others from moving freely. It is the duty of the police to protect persons who desire to pass through a picket line.

Fear of losing the labor vote often prevents officials

from protecting the civil rights of citizens. Where the police allow picket lines to interfere with traffic, we have collusion between the city officials and the labor unions.

Even though there is no violence, the existence of a mass picket line would tend to intimidate workers who desired to pass through the factory gates. As for assaults by picketers, no new laws are needed to prevent this type of violence. What is needed is a police force that does not believe that a labor union card is a license to commit crime.

It would be desirable to have local ordinances or laws to limit the number of pickets to, say, one or two to an entrance. Whenever a labor union establishes picket lines to intimidate those who wish to work, we have proof of the existence of a labor monopoly. Such picket lines use force and violence.

Chapter 8

COLLECTIVE BARGAINING AND STRIKES

It is only rarely that those who discuss the labor situation deal with fundamentals. The Detroit News of January 27, 1946, published a very penetrating editorial, which we quote:

"THE ONLY CURE IN SIGHT"

"The truly remarkable aspect of the current shocking industrial scene is that nobody — neither labor, industry nor the bystanding public — regards the strikes as desirable, or even tolerable.

"One is not exactly astounded at this attitude. Yet the fact is that we have made collective bargaining a national policy and, indeed, by law require its practice. And strikes are an integral part of collective bargaining.

"Thinking on this whole subject is so far from straight that even that last statement needs explanation. Strikes are inevitably a part of collective bargaining, because people who sit down to bargain do not inevitably reach agreement — nor will they, this side of the millennium.

"Failing agreement, the strike is the only possible outcome of collective bargaining, in which, indeed, the threat to strike, on the one hand, and on the other the willingness to endure a strike are the very materials of bargaining.

"There is no alternative. The industrialist can not say, as one might in bargaining for a used automobile, 'Very well, I will take my business elsewhere.'

"He can not hire himself a new labor force, in lieu of the one with which he fails to agree. Our law forbids the recruiting of strike-breakers, and, in fact, the one cheerful feature of the current scene is that, with strike-breaking forbidden, strikes become comparatively peaceful, if much-prolonged, tests of endurance.

"Yet of all the millions of voices raised to protest the strikes as

unendurable, only those of extremists like the 'Sentinels' include collective bargaining in their complaints.

"And of all the millions of voices raised to praise collective bargaining and, indeed, to urge it as a 'cure' for strikes, the single one we have heard praising strikes is that of William H. Davis.

"Mr. Davis, formerly chairman of the War Labor Board, is a true believer in collective bargaining. He says of strikes: 'Fine! That's collective bargaining. Let 'em strike.'

"But, as for the rest of us, appalled at the price the national economy must pay for strikes, it is very apparent we have accepted the principle of collective bargaining, by legally franchised and protected unions, without truly accepting the full implications of our policy.

"Instead, when the strikes came, we — all of us, labor, industry and the public . . . ran to the Government to save us from collective bargaining. We didn't all run at once, but each of the three groups clamored in its own way and on its own terms that the Government do something.

"First it was the public and the newspapers. Then it was labor, welcoming the fact-finding boards — not, of course, Mr. Truman's proposed law with the 30-day prohibition of strikes, but the informal boards that proposed generous wage settlements, which industrialists have been so loath to accept. Labor also has wanted the Government to do something about the excess profits tax and a claimed conspiracy among industrialists, both of which are alleged to enable industrialists to bargain too effectively.

"Finally, we just have heard from Mr. Fairless, chief spokesman at the moment for industrialists, a proposal that the Government end the strikes by fixing a national wage policy, with some slight assistance, of course, by industrialists.

"This readiness to flee from the implications of collective bargaining into the arms of Government is, perhaps not the most curious, but certainly the most significant aspect of the situation.

"It marks a trend, which, this newspaper is sure, must end ultimately with adoption of the only means by which, under collective bargaining, a rational wage and labor policy can be effectuated; namely, the compulsory settlement of labor disputes by adjudication, instead of strikes.

"We have accepted collective bargaining. We have not, and in fact will not and can not accept strikes; they cost too much and, besides, we dislike their disorderliness. From those two, seemingly unalterable attitudes, will come compulsory arbitration.

"It will not come soon, since both labor and industry oppose it. But it is coming, and has been coming, at least ever since Congress in 1935 enacted the Wagner law."

The conclusion that we have accepted collective bargaining, that collective bargaining results in strikes and that strikes must be prevented by settling labor disputes by arbitration, we believe to be not the only cure in sight. Strikes should be eliminated by rejecting collective bargaining.

Compulsory arbitration is not in harmony with the principle of free competitive enterprise. Neither workers nor employers are free when some government board determines the price at which labor is bought and sold. Compulsory arbitration of labor disputes is a cure which is worse than the disease.

Chapter 9

THE RIGHT TO STRIKE

WORKMEN have the legal right to strike. But do they have the moral right to strike? It is said the individual has the right to quit his job. Is this always true? Does a surgeon have the right to quit in the midst of an operation? Does a fireman have the right to quit when he is playing water on a burning building? Should not the worker consider the effect of his quitting on the employer?

It is also claimed that since each workman has the right to quit, that all the workmen in a factory have the right to quit at the same time. The depositor in a bank has the right to withdraw his deposit; but do all of the depositors have the right to combine so that all may withdraw their deposits on the same day? A farmer has the right to cease shipping milk to the city; but do all farmers who supply the city with milk have the right to stop shipments on the same day?

The purpose of the strike is to damage the employer. If workers have the right to strike, then they have the right to inflict damage on the employer. If they smashed machines they could be sued and fined for inflicting loss on the employer. To close the factory by a strike inflicts a loss on the employer. The law permits workers to inflict losses on the employer, if they use certain methods (strikes) but not if they use other methods (smashing machines).

From the legal standpoint, it is not the damage done,

but the method used, which is important. Dr. Gus W. Dyer of Nashville, Tennessee, has stated the case so clearly, that we quote his pamphlet on "The Right to Strike":

"The so-called right to strike has been confused with the constitutional right of a worker to quit work. The right to strike and the right to quit work represent acts radically different in nature and it is unfortunate that this distinction has not been drawn.

"Under constitutional industrial freedom the right of a citizen to give up his job and quit work is an essential factor of his freedom as an American citizen. But when he quits work he severs all business relations with his employer. When an employee quits his job, he has no more right to interfere with his former employer's business than the employer has to interfere with him in his new business connection. These are plain facts that every American citizen whose mind has not been upset by Communism understands and accepts.

"The so-called right to strike, as it is understood today, has a meaning radically different from the constitutional right to quit work. The right to strike is the right to quit work and still hold on to the job, the right to quit and not quit. It is the right of employees to close the industry and keep it closed by various means of compulsion until the employer complies with their demands. It is the right of employees to threaten and cause serious loss to the employer's business as a means of forcing him to give them what they demand. In brief, the right to strike is the right of organized employees to take property from an employer by force without compensation and still hold their jobs, however anxious the employer may be to sever all business relations with them.

"The so-called right to strike carries with it the right of employees to hold their employer under a condition of involuntary servitude to them. The relation between employer and employee is a relation of mutual service. The employer serves the employee in return for services received from the employee. The right to strike is the right of the employees to hold the employer in their service against his will and against his interest, as a peon, or one bound under service by law.

"In this mutual relation of service between sovereign citizens, if the employer seeks to hold the employee in his service by any sort of compulsion, direct or indirect, he is prosecuted as a felon. On the other hand, if the employer seeks to terminate the service, seeks to quit because he considers a continuation of the employee's service is antagonistic to his interest, he is prosecuted and punished as a lawbreaker.

"The right to strike is the right to degrade those who create the opportunities of service for employees and take all the risks in business to the status of peons bound under service to labor union dictators.

"In order to understand the extreme radical nature of the 'right to strike,' it is necessary to understand the foundation and nature of the American system of industrial freedom.

"The right to strike, as we know it today, is the right to repudiate and abolish the American constitutional system for fixing values on the market as it affects members of labor unions. The labor unions demand that the compensation for labor for union members shall be over and above the market value of their services and independent of any market value measure.

"As a matter of fact, the prime purpose of labor unions today is to raise the wages of their members as far above their market value as it is possible to go. The unions in repudiating the American standard of value, positively refuse to submit to any concrete standard for wages fixed by society as a whole, and insist on the right to fix any standard they please and change it as often as they please.

"The right to strike is the right of the unions to hold up business any time they plan, and demand from those in charge of business, with threats of injury, any amount they can get by compulsion, regardless of the market value of their services. In resisting these outlaw raids on business, those in charge of the industries are given no protection by the courts and can expect no effective protection from the administrative government. In many cases it means surrender to the raiders or witness the destruction of the business. No such condition can be supported and defended by any government that has a right to be classified as civilized.

"The responsibility for the chaotic industrial condition brought about by the spread of the strike is not primarily on the labor unions, but on the administrative government, Congress, the Chief Executive and the Supreme Court. Labor union leaders at least are not under oath to preserve, protect and defend the Constitution.

"As everyone knows who is posted on the Constitution, the federal government is not permitted by the Constitution to give any monopoly privilege nor any other special privilege to any group of citizens. 'Equal and exact justice to all and special privileges to none' is the very foundation of the American constitutional Republic. Yet under laws passed by Congress, approved by the Chief Executive and upheld by the Supreme Court, this powerful political organization, the labor unions — composed of only about one-fourth of the wage earners and only about fifteen percent of the real productive workers of the nation — has been given a monopoly on employment by Congress in practically all the leading industries in the land. Under this uncon-

stitutional special monopoly privilege, no American citizen who stands for his constitutional rights of industrial freedom is permitted to work in any of these supposed American industries.

"Under laws passed by Congress and approved by the President and the Supreme Court, the labor dictatorship is permitted to repudiate the constitutional market value for fixing wages and arbitrarily fix their wages as far above their market value as they please, and thus disregard justice to consumers, disregard the sanctity of property of those who have invested their money in business, and use force, threats and acts of destruction against the industries they hold up and raid to compel the owners to meet their demands. This policy is defended and condoned by the administration notwithstanding the fact that it is clearly and definitely condemned by the Bill of Rights in the statement that no person shall be deprived of his property without due process of law, which means through the regular order of courts of justice.

"So completely is the administrative government under the domination of the labor dictatorship it has created that it has brought itself under the severest condemnation by the Chief Justice of the Supreme Court of the United States. The Chief Justice is a 'hold over' from the old constitutional Supreme Court. We read the following statement:

> 'In March 1942 six out of seven justices, led by James F. Byrnes, the present Secretary of State, freed from any punishment members of Local 807 of the New York Teamsters' Union who had been convicted in the District Court of holding up with firearms a New Jersey dairy farmer, making him pay $8.41 for permission to drive his own truck, loaded with his own milk, down a public highway.'

"Chief Justice Stone alone dissented, saying that this decision made common law robbery an innocent pastime.

"The chief responsibility for this radical revolution against constitutional government that now threatens the life of American industry and the life of the American Republic is on Congress. With labor unions holding the power of life and death over American industries, anything like industrial efficiency, industrial stability and industrial progress, of course, is impossible. If this condition is continued we may expect business men of ability and self respect to withdraw from industry and capital to seek other fields of investment. This will be the beginning of the end of the great American industrial system.

"This, in substance, is the prediction of the highest authority in business efficiency and industrial progress in the world today. In a report made to a Senate committee recently, the heads of the auto-

motive industry of the United States, after stating that strikes and work stoppages were five times as numerous in the midst of the war as before the war, notwithstanding the pledge not to strike, said:

> 'Unless union opposition and obstruction to the efficient use of manpower is stopped, the result will be a low standard of living — general poverty — and, perhaps, a disintegration of our whole economic system and the anarchy we saw in France at the beginning of World War II.'

"It was the repudiation of constitutional industrial freedom by Congress that opened the way for Congress to give to the labor union monopoly the so-called 'right to strike.' There can be no right to strike under constitutional industrial freedom. The 'right to strike,' is a barbarian, savage, outlaw weapon that is antagonistic to justice, morals and social order, and can have no place in a society based on civilized principles. Any attempt to organize a strike against the life of society under modern conditions should be made a felony, and those guilty should be punished as deadly enemies of social order.

"Congress has the power and authority to meet this serious industrial crisis successfully by restoring the constitutional industrial freedom that it has repudiated. Congress has the power and authority to save American industrial efficiency and American industrial progress by leading us back to a recognition of the supremacy of constitutional authority over the federal administrative government. Has Congress the courage to exercise the power and authority given it by the Constitution under oath, and save the life of the greatest industrial system known to human history and save the life of the American Republic? We will see."

Chapter 10

THE BROKEN YARDSTICK

A WORKMAN should receive in wages the full value of his toil. If by working, he created thirty dollars of value, then he should receive thirty dollars in wages. But, in order to measure the value which he created, we must have free competition, no monopolies, and no use of force.

The labor unions which engage in collective bargaining, by setting up a monopoly and by seeking higher wages by the use of force, destroy the only mechanism by which the value of the labor may be measured. Hence the wage rates which result from collective bargaining are not a true reflection of the values created and therefore almost certain to be unfair. Since the bargainers have destroyed the yardstick for measuring the value of the labor, they could not establish fair wages, even if they desired to do so.

Since workmen must compete with each other if wage rates are to be fair, the formation of the labor union to promote collective rather than individual bargaining, is proof that the members of the labor unions hope to get wages which will be unfair. They hope to be paid more than the full value which they create. And, of course, if the labor union members receive more than the share they produce, others must receive less than they produce.

Suppose that in a village there is one shoemaker who is the only one who has the right to make or sell shoes. When the villagers seek to deal with him and give him

butter, eggs, cloth, potatoes, etc., in exchange for shoes, the shoemaker can drive a hard bargain. He can demand and receive an excessive price for his shoes. The villagers can pay his price or go barefoot. But if there were several shoemakers, the villagers would shop around. Competition among the shoemakers would result in fair prices for shoes. If shoemakers made higher wages than the other villagers, more persons would become shoemakers and this would bring down the wages earned by shoemakers. And if shoemakers earned less than others, some shoemakers would go into other occupations, and the wages of the remaining shoemakers would rise.

Under competition, wages and incomes tend to equalize, so that equal effort brings equal reward. If all the shoemakers formed a union, they could establish a monopoly and get excessive prices for shoes. If all the workers in automobile factories belong to the same union — the United Automobile Workers — they can destroy competition. For example, if they have a contract which requires the employer to pay $1.30 an hour for a certain kind of labor, others who would be glad to take this work at $1.00 an hour would not be allowed to do so. The employer would not be free to buy labor in a competitive market.

Below are some average hourly wage rates in August, 1945:

Automobiles	123.6 cents
Furniture	85.8 cents
Boots and Shoes	83.2 cents
Retail Trade	77.2 cents

In order to buy the product of an hour of labor by an automobile worker, the furniture worker must work 1.44 hours; the boot and shoe worker must work 1.48 hours, and the store worker must work 1.60 hours. These figures do not prove that the automobile worker is exploiting other workers. But since the automobile workers do belong to a monopolistic labor union, the

presumption is that they are exploiting other groups which are unorganized or less well organized. Industry-wide bargaining makes it easy for labor unions to exploit the public. We quote from "The Economic Basis for Fair Wages," by Jacob Cox, Jr.:

"COLLECTIVE BARGAINING"

"This brings up the whole question of the usefulness of 'collective bargaining' as a means of promoting justice in wage relationships. 'Bargaining' is surely an unfortunate word to use in this connection, for it implies the complete absence of ethical considerations or ethical standards. The 'Bargain Theory of Wages' rests on two assumptions which we have already seen are false, and which are as vicious as they are fallacious: First, that the standard of living depends on the wage level; and second, that the wage level is not the outcome of natural economic forces or controlled by economic laws, but is a matter of bargaining and trading between employers and employees, to be thrust up or down, carrying the living standard up or down with it, according to which party is for the time being the stronger.

"This is a monstrous doctrine, and so long as such notions hold sway on either side, confidence, fair dealing and co-operative relations between employer and employee are plainly impossible. It is like that other bad old doctrine of the Mercantilists which for so many years embittered the relations of foreign traders and made confidence or fair dealing between merchants of different nations well-nigh impossible, until it fell to the fortunate lot of Adam Smith to discredit and destroy it, a hundred and fifty years ago.

"TWO KINDS OF COLLECTIVE BARGAINING"

"Collective bargaining can be an acceptable and perhaps desirable means of effecting wage adjustments, when both parties accept the ethical principle of fair wages laid down in this chapter, and the 'bargaining' takes the form merely of a review of the facts of the labor market in order to determine a fair relative wage. This, in fact, is what occurs in most cases of shop committee and company unions, and similar forms of cooperative industrial relationships. In so far as they are successful such arrangements owe their success to the tacit acceptance by both sides of the ethical principle of the relativity of fair wages, and the large number of cases of successful experiments of this nature would indicate that the natural disposition of American workers is to accept such a standard as fair.

"But the advocates of 'Collective Bargaining' are usually not content with the results of any such method of determining fair wages. They desire much more, and demand collective bargaining primarily

as a means of acquiring a monopoly of available labor. Under such conditions 'Collective Bargaining' ceases to be a matter of reason and discussion and becomes instead a measure of coercion, commonly accompanied by threats, violence, and lawlessness. This is, of course, the explanation of the determined resistance which it has encountered from employers.

"THE PUBLIC INTEREST"

"As long as the field of collective bargaining is confined to a single employer and his employees the public is perhaps not especially concerned, except to see that law and order are preserved and the lawful rights of both parties safeguarded. For if an individual employer under pressure grants an advance in wages beyond the fair market level it is usually not within his power to pass it on to the public in the form of increased prices, and he must either bear the extra cost himself if he is able, or close his doors if he is not. In neither case does the public suffer seriously, and it is further protected by the fact that the employer in such a case will make a determined fight against excessive wage costs and can almost always win when it is a matter of sufficient necessity for him to do so.

"NATIONAL AGREEMENTS"

"But when the field of collective bargaining is extended to a whole industry, or to practically the whole of an industry, as it is in a number of the highly organized trades, such as coal mining, and the railroads, the public's interest becomes a very direct and personal one, for its pocketbook is being touched. Where the field of collective bargaining includes all or nearly all the employers in an industry, it costs them nothing to grant a scale of wages even greatly above the going market level. All competitors being equally obliged to pay it, they are all on the same footing, and the excess wage cost is not a handicap to any of them. It is easily passed on to the public.

"Under such conditions the employers have no particular incentive to oppose the demands of the wage earners except the natural wish to have something to say about running their own business, and a certain degree of patriotism and public spirit which makes every one rebel at being made the instrument of injustice and extortion. But without public support they are often unable to help themselves, and so their natural tendency is to seek to prevent outside competition from employers not included in the collective bargaining arrangements, or to compel all such to conform to these arrangements if possible. Under such circumstances conditions may grow up which are extremely unjust to the public, and the public is showing signs that it is beginning to recognize that fact. What the outcome may be no one at this time can safely predict, but it seems certain that if the public

concludes to put an end to such widespread collective agreements there is ample power in our legislators to do so under the conspiracy laws. The cost of such nation-wide strikes, shutting off necessities of life from the whole community, falls upon the public rather than upon the employers and the public must find and enforce the remedy. It is entitled to and should insist that both parties accept such fair and just wage scales as ordinarily arise under normal conditions of individual freedom and the free action of economic laws."

Since collective bargaining destroys competition, which is the only method which brings fair wages, the labor unions feel obliged to find other criteria for fair wages. We will examine these spurious criteria in succeeding chapters.

Chapter 11

COST OF LIVING

WHEN prices rise, wage earners ask for higher wage rates and the labor unions argue that wage rates should rise enough to offset the rise in the cost of living. The labor unions are always pressing for higher wage rates and, when prices are rising, the cost of living theory is advanced to justify the demands. When prices fall, the unions abandon the cost of living argument; it is only when prices are rising that they want wage rates to be tied to the cost of living.

While employers should reject the cost of living argument as completely unsound, many employers accept the theory that wages should rise with the cost of living and spend much effort in trying to determine how much the cost of living has risen.

The cost of living argument fits into the communist principle — from each according to his ability, to each according to his needs.

The cost of living varies greatly. For a single man with no dependents the cost of living would be small — but for a married man with many dependents, the cost of living would be high. If wages were to be based on needs, the man with many dependents would get much higher wages than the single man. This would violate the principle of equal pay for equal work. If wages were based on needs, the man with the most dependents would get the highest wage, and would therefore have the greatest difficulty in securing employment.

In periods of rising prices and labor shortages, it is the basic hourly rate which the unions claim should be advanced with the cost of living — but when the tide turns and employment declines, then it is the "take home" pay which the unions claim should be tied to the cost of living. The labor unions shift to whichever argument would bring the highest wages under the existing circumstances.

Since about eighty-five per cent of the cost of goods and services is wages and salaries, there is a tendency for wages and the cost of living to rise and fall together, irrespective of pressure exerted by labor unions.

If the wages of all wage earners are advanced to offset a rise in the cost of living, the higher wages cause a further rise in the cost of living, which will cause the labor unions to ask for a further increase in wages, and this alternate rise in wages and prices is sometimes called the vicious spiral. If there is a shortage of goods relative to money incomes, this shortage cannot be overcome by granting wage increases. If, when goods are scarce, certain groups refuse to reduce their consumption, then these favored groups transfer the burdens they should bear to others.

For example, suppose one fourth of the workers are unionized and that the supply of goods for consumption is reduced by twenty percent. If the unionized workers get wage increases so they can maintain their rate of consumption, then the rest of the population must reduce its consumption by twenty-seven percent. Instead of each group reducing its consumption by twenty percent, we have one group which refuses to reduce its consumption at all, thus compelling the others to reduce their consumption by twenty-seven percent.

When labor unions demand wage increases to offset increases in the cost of living they proclaim that they are a privileged group which refuses to share in the sacrifices due to a shortage of goods. They say to their fellowmen:

"You pull in your belts still more, so that we need not pull in our belts at all." Whenever labor unions ask for wage increases because the cost of living has risen, their scheme should be denounced as a selfish and anti-social attack on the rights of others.

We quote from the Executive Council Report, A. F. of L. Proceedings, 1921:

"The American trade union movement believes that the lives of the working people should be made better with each passing day and year. The practise of fixing wages solely on the basis of the cost of living is a violation of the whole philosophy in progress and civilization and, furthermore, is a violation of sound economic theory and is utterly without logic or scientific support of any kind."

Chapter 12

WAGES BASED ON BUDGETS

Closely allied to the cost of living basis for wages is the theory that wages should be based on family budgets. A survey is made and a budget is prepared showing the expenditures for food, clothing, rent, etc., based upon a standard family which might be taken as a man, wife and two children. Such a budget might be based on a "subsistence minimum." Or, the budget could be expanded to a "health and modest comfort" level. Other terms used are a "health and decency" wage, a "living" wage, a "savings" wage, a "cultural" wage, etc.

The investigator decides where he will place the worker on the scale from poverty to riches, and then requests a wage which will enable the worker to reach the degree of affluence which has been predetermined by the investigator.

This budgetary approach to wage determination is completely false. The worker should receive the full value of his toil, the full value which he creates, and whether this enables him to live in a palace or compels him to live in a hut is of no concern to the employer. Whenever employers are compelled to pay wages in excess of the values created by the workers, because of the alleged needs of the workers, the employers will discharge such workers. No sensible employer will hire workmen who reduce the net income of the employer. If a worker can produce only ten cents worth of value in an hour, then his hourly wage should not exceed ten cents. Any addi-

tional income which he needs to maintain his life should be a charge upon his relatives or upon society — but it should not be a charge upon the employer. For, if the employer is compelled to pay more than the wages earned, he will discharge the workman and the workman will not be able to make even a modest contribution to the total output. The workman, instead of being partially self-supporting, will become wholly dependent.

If certain persons receive more than they produce, then others must produce more than they can keep for themselves. To pay certain workmen on the basis of needs is to deny to other workmen the right to receive the full value of their toil. In a communistic society, the productive workers could be robbed to make gifts to the less productive workers. But free men in a free society would not submit to this form of injustice.

Chapter 13

ABILITY TO PAY

One of the fallacies advanced by labor union spokesmen, and endorsed by certain officials of our federal government, is that wages should be based, at least in part, on the ability of the employer to pay. Here is what Jacob D. Cox, Jr., wrote on this topic in 1926:

"The ability of the employer to pay is not a proper factor to be taken into consideration in passing on the justness and fairness of a wage scale. If there are not sufficient earnings to pay fair wages, that is not the fault of the employees and should not be allowed to hold wages below a fair level. An industry which cannot pay fair wages is to that extent parasitical and should close its doors. On the other hand, the existence of large profits is not a sound argument for higher wages. If profits are excessive, that should be remedied by reducing prices to the consumer rather than by saddling permanently higher prices on the consumer through increased wage scales. If the profits are not excessive but no more than a fair producer's surplus, earned by superior management, it is not fair nor conducive to the public welfare that the management should be deprived of the just rewards of superior ability, even though large."

Our next quotation is an editorial in The New York Times of December 24, 1945, by Henry Hazlitt:

"The President could hardly have realized the dangerous and revolutionary nature of the doctrine he endorsed when he authorized fact-finding boards to examine the books of an employer to determine the extent of that particular employer's 'ability-to-pay' a demanded wage increase. This implies that each employer should pay a different wage level in accordance with his own particular 'ability-to-pay.'

"If such a principle were sound for wages it would be equally sound for prices. When you asked the salesman of an automobile 'How much is it?' he would reply 'How much have you got?' and insist on prying

into your bank account and rifling your safe deposit vault before stating what the price would be to you.

"There is a sense, of course, in which 'ability-to-pay' is relevant in fixing prices. The price of any commodity must be fixed with some regard to the ability of the buying public in general to pay it. Otherwise a large part of that commodity will remain unsold. In the same way the 'ability-to-pay' of industry in general must be considered in fixing wage rates, for if wage rates are too high in relation to this ability there will be heavy unemployment. But all this has nothing to do with the effort to force a different wage on each particular employer. In fixing wage rates, the profits of a particular company are irrelevant.

"It is clear that neither the UAW nor labor as a whole would be consistently willing to accept the ability-to-pay argument in the form now put forward. Suppose it were found that General Motors could 'afford' to pay higher wages than Ford or Chrysler? Would the UAW demand higher wages from General Motors and accept lower wages from its competitors? Does it seem probable that the workers for Ford or Chrysler would acquiesce in such an arrangement? The conclusion is hard to escape that the UAW wants to find first of all what the most profitable concern in the industry can afford to pay — and then force every other concern to pay the same amount. The only result of this would be to force the less profitable concerns out of business altogether and provoke widespread unemployment.

"We need hardly go on to inquire whether the UAW or any other union would be willing to accept an immediate cut wherever it could be shown that a company was already losing money. We already know what the answer of the UAW would be. They tell us that labor should not be asked to suffer because of 'inefficient management.' In other words, high profits are taken for granted, as if they came automatically; it is only losses for which management is held responsible.

"The UAW and similar unions could be expected to reverse their present position the moment we came to hard times. Then, instead of talking about 'ability to pay,' they would insist that it was a duty of companies losing money to 'preserve purchasing power' by 'maintaining existing wage standards.' These unions have already completely reversed their attitude compared with that adopted during the war on the issue of take-home pay. The principle of wage payments in accordance with the profits of particular companies is already, in fact, inconsistent with the traditional union principle of 'equal pay for equal work.'

"The President and Secretary of Labor Schwellenbach do not seem to recognize that they are trying to fix a rate of return for a particular employer, but this is necessarily implied in an examination of books

to determine what size wage increase a particular employer can 'absorb.' What is the measurement of ability-to-pay or ability-to-absorb?

"Unless favoritism and discrimination are to apply a different standard to each employer, the criterion must be uniform. This means that the best that the most efficiently managed concern could hope for in the best times would be to work for cost-plus-a-fixed-fee.

"This would remove all incentive for economy or efficiency. It would even remove the incentive to make one product rather than another. The result would be an inevitable shrinkage of the nation's output.

"If this doctrine is adopted, in short, the greatest injury of all would fall upon labor itself. Wages depend upon national productivity. Increased productivity depends upon the continuous encouragement and investment of new capital."

Quoted below is a letter by the author, which appeared in several newspapers in November, 1945:

"The arguments advanced by Walter Reuther in favor of a 30% advance in wage rates by General Motors are based on an incorrect theory of the manner in which our economic system functions. He says General Motors can *afford* to pay the increase demanded.

"Those who sell steel, copper, coal, tires, and other things to General Motors could of course say that General Motors could afford to pay higher prices for their products. The basic assumption of Mr. Reuther is that the prices paid for labor and supplies should depend on the wealth or income of the purchaser. Applied to the purchases of workers, the grocer should charge a higher price for butter, eggs and meat to a worker earning $3,000 a year than to a worker earning only $2,000 a year, on the theory that the worker with higher earnings could afford to pay more.

"Would Mr. Reuther contend that firms which are losing money should pay less than standard wages on the theory that these firms could not afford to pay the going rates?

"The prices which result from competition are called market prices. Buyers cannot buy for much less than the market price and sellers cannot secure much more than the market price. All buyers of labor or products of a certain quality tend to pay the same price. The competition of workers for jobs tends to prevent wages from getting too high; the competition of employers for workmen tends to prevent wages from falling too low. But to argue that a prosperous firm should pay higher wages than other firms which are less prosperous is to argue that one who owns property does not really own it but is under an obligation to give it away.

"Such an argument is really an advocacy of theft. If the prices paid for labor and materials are to rise and fall with profits, then efficient firms cannot accumulate or acquire capital for expansion and inefficient firms which ought to be liquidated can continue to operate.

"Prices based on the *ability to pay* argument would destroy the mechanism which regulates our economy and which continually reduces the effort and cost of producing and distributing goods. The ability to pay argument, if accepted and practiced, would prevent further economic progress and would lead to economic chaos.

"The only legitimate reason for an increase in wage rates is that existing rates will not attract the desired number of workers. For all products, including labor, prices should advance when the demand exceeds the supply.

"It is only monopolies which can secure arbitrarily high prices not based on the forces of supply and demand."

Chapter 14

EQUALITY OF BARGAINING POWER

FROM Section 1 of the National Labor Relations Act: "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 . . . protection by law of the right of employees to organize and bargain collectively . . . promotes the flow of commerce . . . by restoring equality of bargaining power between employers and employees."

What is meant by bargaining power? Suppose a farmer takes some eggs to town which he wants to sell to the grocer. If the grocer will not offer as much as the farmer wants, the farmer must take time to find other buyers, perhaps in other towns. If he keeps the eggs they will become stale. The grocer will not suffer much if he does not buy the eggs. In this case, the grocer has more bargaining power than the farmer. Adam Smith wrote in "The Wealth of Nations": "A landlord, a farmer, a master manufacturer, or merchant, though they did not employ a single workman, could generally live a year or two upon the stocks which they have already acquired. Many workmen could not subsist a week, few could subsist a month, and scarce any a year without employment. In the long run the workman may be as necessary

to his master as his master is to him; but the necessity is not so immediate."

But suppose the farmer has wheat ready to harvest and he wishes to hire some men to harvest the grain. In this case the farmer has less bargaining power than the harvest hands; for if he does not hire them he will lose the wheat — while the loss to the workers will be only a few dollars in wages.

When two persons enter into a commercial transaction, the one who will suffer the greater loss or relinquish the greater gain, if the deal is not consummated, is the one who has the lesser bargaining power. Now it is rarely that two persons who make a business deal have equality of bargaining power. Nor is it necessary or desirable that they should have equality of bargaining power. Nor would it be possible to bring about equality of bargaining power, even if that were desirable. In general, ambitious and frugal persons who acquire property, have more bargaining power than lazy, thriftless persons who save nothing. Workmen need capital in order to earn high wages. Incentives must be offered persons to cause them to forego immediate pleasures in order to accumulate capital. If one of the incentives is that the owner of property will have more freedom of action, more bargaining power — well and good. It is to the advantage of all — including wage earners — to preserve this inequality of bargaining power.

It is a gratuitous assumption, stated without proof, in the Wagner Act, that the protection of collective bargaining by law establishes equality of bargaining power between employers and employees. When the labor union can establish a monopoly, call a strike, and close an establishment for weeks or months, and get the help of the federal government in overpowering the employer, we can hardly assume that the contending parties have equality of bargaining power. The following quotation is from the pamphlet, "Collective Bargaining":

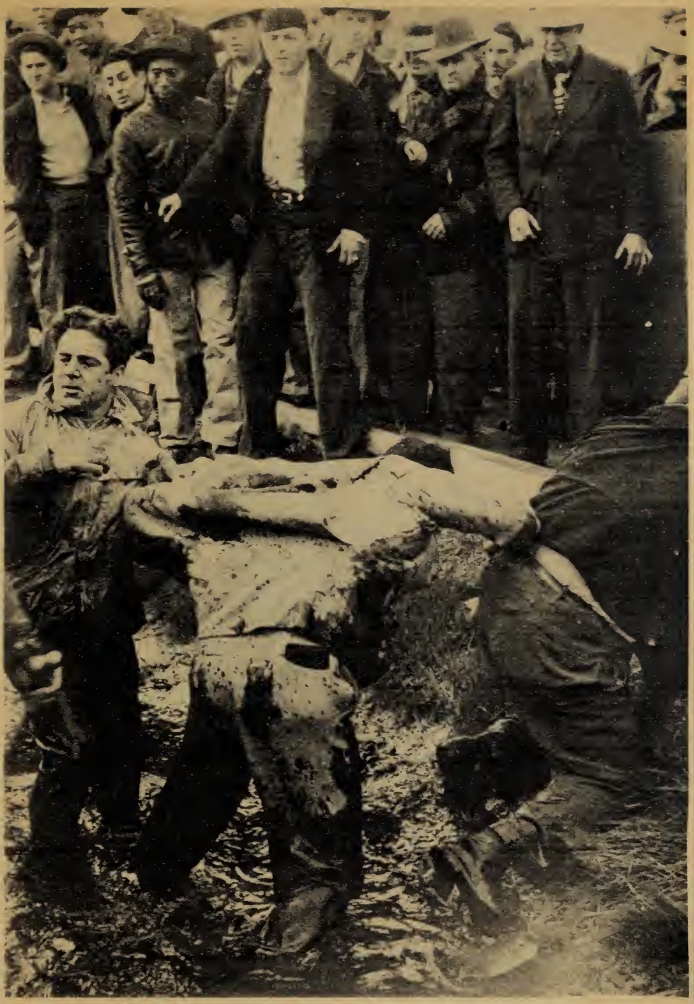
"They say that labor unions are necessary to establish equality of bargaining power. If this argument were valid, the largest corporations would pay the lowest wages. But this is not the case. In the American Steel Foundries case in 1921, Chief Justice Taft said: 'Union was essential to give laborers an opportunity to deal on equality with their employer.' Equality in what? In wealth? Must buyers and sellers have equal wealth? Am I oppressed when I buy a railroad ticket because I have less wealth than the railroad corporation? Am I oppressed when I buy a shirt in a department store because the owners of the store have more wealth than I have? Is it not true that practically every commercial transaction is between persons of unequal wealth? Did Justice Taft refer to equality of benefits? Is a parent oppressed because he needs a doctor to cure his child more than the doctor needs his fee? Is the man who buys nitroglycerine tablets to save his life oppressed because his need is great, while all the druggist gets is a few cents profit?

"These people who talk about equality of bargaining power never explain what they are talking about. Justice Taft said: 'The strike became a lawful instrument in a lawful economic struggle.' If there is a law which sanctions violence in an economic struggle, this law is wicked and immoral. Acts which are lawful are not necessarily just. In this decision the United States Supreme Court put itself on record in favor of violence and monopoly. The doctrine of equality of bargaining power is demagogic nonsense!"

The following quotation on the theory of unequal bargaining power is taken from "Fact and Fancy in the T. N. E. C. Monographs," pages 311, 312, 313:

"Automobiles are produced in the United States by 11 manufacturers and new automobiles are distributed by more than 30,000 retail dealers. The arrangements which exist between these manufacturers and their dealers are a product of unequal bargaining power. The manufacturer needs a dealer organization to sell his cars, but his need for any single outlet in the group is slight. If a dealer should attempt to obtain concessions by threatening to drop his line, the manufacturer could easily refuse to yield. The dealer, on the other hand, usually depends upon a single manufacturer. If the manufacturer should threaten to cancel his contract, he would face the alternatives of taking a loss in shifting to another line or retiring from the field.

"We have here the 'unequal bargaining power' argument which is used so often that we perhaps should tarry and dissect it. There is a subtle fallacy in this 'unequal bargaining power' argument. We say



Non-striker, William Indig (with torn shirt), who was tossed into a muddy ditch and mauled by strikers when he tried to report for work at the Bethlehem Alameda Shipyard where he is an assistant outfitting superintendent.

---Speaking of Atomic Power!

the heart is more important than the blood corpuscles; for if the heart is cut out the patient dies, but if one blood corpuscle is removed, there is no visible effect. Correct! But if all the blood corpuscles are removed the patient also dies!

"When a customer trades in a department store we have apparently a case of 'unequal bargaining power.' The store is big, it occupies a whole block and is eleven stories high. This big store will not suffer if one customer with only a few dollars in his pocket does not buy the shirt he had in mind. But if the single customer turns away because the merchandise is poor in quality, or high in price, or because the clerk was not courteous, other customers also will turn away for the same reasons. If enough customers go to another store, the big store will have declining sales — it may finally become bankrupt. While the store may become bankrupt — all of the customers will not become bankrupt. All of the customers have as much power as the store. In fact, if only 25 percent or 50 percent of the customers desert the store, the entire store may have to close its doors. But the store is not in competition with its solitary customer. It is competing with the other stores. The big store must offer merchandise and service which compares favorably with the merchandise and service offered by competing stores. Some economists may claim that the big store has greater bargaining power than the solitary customer. But the manager of the big store knows otherwise. He sends shoppers to other stores to see if his own merchandise is competitive. He knows that his customers are king and that he is a slave. If he seeks to exploit one solitary customer, the same procedure will tend to exploit all of his customers. And all of his customers can crush him. On the other hand, he cannot crush all of his customers — he cannot crush even one of his customers. The big store enters into no bargain or agreement with its customers. It offers merchandise in competition with other stores. It solicits patronage. The 'unequal bargaining power' theory in this example is a myth.

"Now consider a manufacturer who wishes to secure dealer outlets He draws up an agreement. But the prospective dealer is under no compulsion to sign. The prospective dealer has other opportunities for the use of his time and his capital. He may operate a hotel, a farm, a garage, a bakery, or a lumberyard. The manufacturer must offer terms so attractive that they will draw the prospective dealer away from these alternative opportunities. The agreement must be as attractive as the agreements or opportunities offered by other manufacturers. This contract was not drawn up for a solitary dealer It was expected that it would appeal to thousands of dealers. All of the dealers of a farm implement company or of an automobile company may together have more capital than the manufacturer. Suppos

the manufacturer offers such a poor contract or is so arbitrary and unfair that he loses a solitary dealer. You say it will not hurt the manufacturer to lose just one dealer. But those same causes will bring about the loss of other dealers. And when the dealers quit, the manufacturer's sales decline. And when the sales decline enough, the costs rise. Then more sales are lost, and bankruptcy may be in the offing. The possession of millions, or even billions, of dollars will not enable the manufacturer to sign up a dealer, even a small dealer with small assets, unless the manufacturer offers the dealer opportunities which compare favorably with other opportunities available to him. A millionaire could not buy a cow from a poor farmer for forty dollars if the local butcher would pay fifty dollars.

"The 'unequal bargaining power' argument is likewise advanced as a reason for labor unions. The 'unequal bargaining power' argument is so full of popular appeal and so devoid of general economic merit that it should be reserved for the exclusive use of demagogues."

Chapter 15

PURCHASING POWER FALLACY

ONE of the fallacious arguments used by labor union spokesmen is that a rise in wages of industrial workers increases the total volume of trade and production and promotes the general welfare.

The following quotations illustrate the argument:

"We must have increases in workers' incomes to assure an increase in our purchasing power. Increase in purchasing power will enable the people to replace Uncle Sam as customers of all we can produce. In that way we will have full employment."—"The First Round," page 378.

"We believe that full employment at high wages is a vital step towards creating the purchasing power that provides fuel for our gigantic industrial and agricultural productive machine."— William Green in The New York Times.

"The first decision that must be made is that America shall be a country of high wage standards, where the masses of the people have sufficient purchasing power to create a great domestic market for ever expanding production. If our country's wealth is to be used for the increasing welfare of all our people, industrial wages must be immediately and substantially raised to restore the workers take-home pay and to put money in circulation in a fashion that will benefit the whole community."— Phillip Murray, The New York Times, January 1, 1946.

"America's post-war problem is not production, it is the maintenance of purchasing power so that the American people can buy back the abundance they can produce."— Walter Reuther, The New York Times, November 25, 1945.

"I guarantee that if we maintain the consumer's purchasing power through higher wages the market will be there to maintain full production." — Solomon Barkin, of the C.I.O.

"The wage increases which the C.I.O. unions are seeking do not concern the members alone. When they are won, as won they must be,

they will set a pattern of higher wages from which practically all American working people, in and out of the C.I.O., will benefit. More than this, the restoration of American labor's take-home pay and the expansion of its purchasing power, are the first essential for expanding production and employment throughout American industry. The fruits of C.I.O. victory will be passed on by higher-paid workers to farmers, professional people, business men. They will provide a solid basis for increased purchasing power for the prosperity of all the people."—C.I.O. News, January, 14, 1946.

"Obviously then, the welfare of the rest of the country is tied up with labor's welfare, as measured by labor's take-home pay and labor's purchasing power."— Independent Citizens' Committee of the Arts, Sciences and Professions, Inc., January 23, 1946.

"Substantial wage increases are good business for business because they assure a large market for their products; substantial wage increases are good business for labor because they increase labor's standard of living; substantial wage increases are good business for the country as a whole because capacity production means an active, healthy, friendly citizenry enjoying the benefits of democracy under our free enterprise system."— President Truman's Message to Congress, January, 1946.

Two conclusions which emerge from these quotations are:

1. That a rise in money wages paid to a group will increase the purchasing power of the group;

2. That the benefits will spread over all the people, increasing total output and promoting the general welfare.

The first conclusion may or may not be true. If the wage increase in an industry results in higher prices for the product which causes a decline in sales and in employment, then total payrolls may decline as the hourly rate rises. That is, the decline in the income of those who lose their jobs may exceed the gain in income of those who are employed at the higher rates.

It is the second conclusion, however, that wage increases to a group stimulate business and promote the general welfare, which is always false. The argument is so plausible that it is almost universally accepted. The textile workers in a mill town get a wage increase, say fifteen cents an hour. The merchants experience an in-

crease in sales. They increase their orders from the manufacturers, who must now hire more workers to fill the extra orders. More money is available for doctors and dentists; attendance at the movies increases. More of the workers can now buy homes, automobiles, and household appliances. It is a fact that the townspeople are now more prosperous. Each worker now has about three hundred dollars more to spend in the year.

Now let us consider the hidden facts which lie beneath the surface. Where did the money come from to pay the wage increases? The mills secured this money by adding to the price of the textiles or by reducing the dividends paid to the stockholders. On account of this wage increase, some woman out in Tulsa paid twenty cents more for a dress. Her purchasing power was reduced by twenty cents. Hundreds of thousands of consumers suffered a reduction of purchasing power. Some stockholder took a cut of fifty cents in dividends.

Each of these stockholders and consumers scattered through all the states suffered a slight decline in purchasing power. But the aggregate decline in the purchasing power of those who paid for the wage increase, was equal to the gain in purchasing power of those who received the wage increase. The mill town became more prosperous, but thousands of other towns suffered a slight decline in prosperity and in the volume of trade. The benefits were concentrated and noticeable; but the penalties were widely diffused and inconspicuous. A thousand consumers were taxed thirty cents each, in order that Tilly Jones, in the mill town, could receive three hundred dollars more.

A wage increase to certain workers is simply a transfer of funds from certain persons to other persons. A redistribution of money or incomes does not increase total purchasing power or total production.

The letter which follows appeared in The New York Times of February 4, 1946:

"Editor, The New York Times:

"The Independent Citizens' Committee of the Arts, Sciences & Professions, Inc., in an advertisement in the *Times* of January 23rd, support the wage demands of strikers by advancing the Purchasing Power Fallacy. The argument is that the welfare of all 'is directly linked up with labor's capacity to buy goods and services.'

"The Committee feel that the unions are working for the best interests of the national economy in their efforts to maintain the country's pay envelopes, purchasing power, employment rolls and production quotas at 1941–1945 levels.

"The fallacy is in assuming that our prosperity depends on prices rather than on the quantity of goods produced. If we produce more clothing, more shoes, more automobiles, more radios, more of everything, then we have more to consume. The superficial theory is that if organized workers receive higher wages, they can buy more goods and services, thus increasing total output, consumption and the general welfare.

"This conclusion, however, is demolished, by a complete analysis of all the facts. The wage increases of the organized workers come from two sources:

1. From consumers who pay higher prices for the goods produced by organized workers;

2. From investors, who receive lower profits and dividends.

"The increased purchasing power of workers who receive the wage increases is offset by the decreased purchasing power of consumers and investors.

"The statement in the advertisement that 'the welfare of the butcher, the baker, the grocer, . . . the doctor, the dentist, . . . the farmer, etc., is directly linked up with labor's capacity to buy goods and services,' is false. If the purchasing power theory is correct, then the fees of physicians and lawyers should be increased, the profits of merchants should be increased, the dividends of stockholders should be increased, the rents received by landlords should be increased, so that the professional people, merchants, investors, and landlords would buy more goods and thus increase the welfare of all groups. Obviously, if the money income of each group was doubled, this increase of purchasing power would not increase the general welfare or the consumption of goods. Each transaction involves a buyer and a seller. If the price is increased, the gain to the seller equals the loss to the buyer.

"If wage increases can bring greater prosperity, we should not be niggardly in using such a magic formula. We should increase the

money income of every group (not just wage workers), and the increases should be 100% or 500%, not an insignificant 30%.

"The advocates of the Purchasing Power Theory are never willing to take full advantage of their great discovery. The labor union drives in 1936 and 1937, pushed hourly rates in manufacturing from 59.9 cents in 1935, to 69.5 cents in 1937. According to the Purchasing Power Theory, this should have brought great prosperity in 1938. But in 1938, employment in manufacturing was sixteen percent less than in 1937, and per capita income dropped from $555 in 1937, to $495 in 1938. Apparently the rise in union wage rates in 1937 did not help the butcher, the baker and candlestick maker.

"When poets, singers, and actors seek to enlighten the public in regard to economic theories, it would probably be desirable for them to have their program analyzed by a competent economist. This is an age of specialization, and while few economists are good singers or actors, it would be strange indeed if many artists were good economists."

Bank robbers are truthful and do not claim that their operations promote the general welfare. But nearly all predatory combinations claim that their purpose is not so much to further their personal interests as to promote the general welfare. The Townsendites claim that the pensions to the old people will bring national prosperity. Manufacturers want tariffs so they can pay high wages. Farmers want high prices for farm products so they can promote full employment in the cities. Politicians ask to be elected so that grass will not grow in the streets of the cities.

Labor unions, in demanding higher wages, simply follow in the footsteps of other predatory combinations when they base their claims on solicitude for the welfare of their fellow men.

Selfishness is not a crime. But it is stupid and hypocritical to drape the torso of selfishness with the mantle of altruism.

The quotation which follows is from "Dictatorship of the Proletariat in the United States," by Hastings Lyon (pages 36 and 37):

"One of the most persistent of the fallacies about wages is that

increases in pay create purchasing power and consequent demand for goods, which result in greater employment during a period of unemployment. Naturally the proletariat, not subjecting such an idea to any critical analysis, eagerly seizes on it, as on any other idea that rationalizes its heart's desire for a wage increase, and adds the argument to its advocacy.

"And the management of industry has suffered from an easy acceptance of the idea, which has weakened, and sometimes entirely destroyed resistence to demands for wage increases. Persumably because of a subconscious awareness of fallacy, management has not advocated actual advances in pay in order to create 'purchasing power.' Real belief in the argument ought to produce such a proposal. However, the idea rationalizes for management, especially hired management, the easy way. Fighting other labor is at best a disagreeable task. Acquiescence in the purchasing power argument relieves the conscience of shirking. And, well, a hired management says to itself, we hope to pass the increased monetary costs on in the form of price to the consumer; if we don't, it is just unfortunate for the shareholder. In any case we will still have our jobs.

"Naturally politicians seize on the argument to justify policies by which they win proletarian support.

"Here is the rub: Assume that management adds the increased wage cost to price of product. From what source will the consumer be able to pay the increased cost? With respect to a particular item he can pay a higher price only by reducing his consumption of some other item. If the wage increase is not added to prices it must come out of the suppliers of capital. Wages are simply the economic mechanism for allocating to labor a distributive share of the economic product.

"We can not consume more than all there is."

Chapter 16

LABOR PRODUCTIVITY

It is frequently stated that wages in a certain company or industry should be increased because labor productivity has increased. Employers sometimes give a lefthanded endorsement of the fallacy by claiming that wages should not advance unless there has been an increase in productivity.

The annual volume of output of a group of workers depends upon:

1. The number of hours worked;
2. The speed and skill of the workers;
3. The machines, methods and other technological factors.

Average hours worked per week in manufacturing industries are indicated in the following table:

1900	59.0
1905	57.7
1910	56.6
1915	55.0
1920	51.0
1925	50.3
1930	45.0
1935	37.0
1940	38.1

In most other occupations, the hours worked per week or per year have declined. This decline in the hours worked tended to decrease real wages, to reduce per

capita output and to lower the level of living of all the people.

In the last few decades there has probably been little or no increase in the skill of the average workman or the speed with which he works.

Hence the phenomenal increase in real wages has been due to the third factor — technology.

According to Spurgeon Bell, from 1924 to 1938, the average output per hour of labor in manufacturing increased forty-three percent. According to Fabricant, output per hour of labor in manufacturing was three times as great in 1939 as in 1899. In the table which follows, we show mining output per man hour for certain minerals, in 1919 and 1939:

	1919	*1939*	*% Gain*
Copper	61	169	177
Iron Ore	49	140	186
Anthracite Coal	99	159	60
Bituminous Coal	79	118	49
Oil and Gas Wells	74	128	73

Output per agricultural worker has been estimated as follows:

1870	100
1880	120
1890	130
1900	149
1910	162
1920	179
1930	225
1940	284

(American Agriculture 1899–1939 by Barger and Landsberg)

The efficiency of housework has been stepped up by the use of various household appliances and electrical equipment.

The following table applies to workers in manufacturing industries:

Year	*Real Weekly Earnings*	*Average Hours*	*Real Hourly Earnings in Cents*
1900	$16.15	54.5	29.6
1905	16.06	53.3	30.1
1910	15.53	52.3	29.7
1915	16.13	50.8	31.7
1920	18.50	47.1	39.3
1925	19.53	46.3	42.2
1930	19.58	43.5	45.0
1935	20.40	36.6	55.3
1940	25.00	38.1	65.3
1944	36.48	45.2	80.4

In this table the weekly and hourly earnings were adjusted for changes in the cost of living. We assume that each year the prices of goods were the same as in 1939. Note that in 1944, the purchasing power of an hour of labor was 2.7 times as great as in 1910.

Percentage gain in the purchasing power of an hour of labor:

From 1910 to 1915	7.0%
From 1915 to 1920	24.0%
From 1920 to 1925	7.5%
From 1925 to 1930	6.5%
From 1930 to 1935	23.0%
From 1935 to 1940	18.0%
From 1940 to 1944	24.0%
Average gain in five years	15.7%

From 1910 to 1944 the purchasing power of an hour of labor has gained at the rate of about three percent a year. This gain in real wages has not been due to any efforts of the workers themselves — they have not worked harder or with more skill. It was a gift to all of us from the small number of inventors, scientists, business organizers and others who were able to breed better animals, improve plants, invent machines, plan large scale enterprises, and discover better ways of doing things.

A small number of creative thinkers are responsible for our industrial progress; but the benefits which flow from their inventions and discoveries are spread over the entire population. When an inventor creates a labor saving machine, or when such a machine is installed by a business firm, there is no logical reason why the worker who operates the machine should get higher wages. The first benefits go to those who create and install the machine. But the patents expire and the first one who improves his methods, machines, or designs has gains which are short lived. Other firms copy the improvements and competition finally causes these firms to reduce prices. All consumers then benefit by buying the product at a lower price.

In this way the benefits resulting from increased productivity are spread over all consumers who buy the product. The workers benefit through reductions in the cost of living. Improved agricultural machinery does not benefit the farmers only; all consumers benefit through the decline in the prices of farm products. All of us, including the factory workers, benefit a little each year from the improvements that are taking place each month and year in industrial processes.

Chapter 17

REPEAL OR AMENDMENT

MANY businessmen, politicians and others condemn the Wagner Act because they say it is unfair and one-sided. The Act refers to unfair labor practices by employers but does not specify any unfair practices by employees. People who hold these opinions claim that the Act should be amended to include unfair practices by employees.

I believe this criticism of the Wagner Act reveals complete confusion in regard to the basic issues. The people who sponsored the Wagner Act believed that it was wrong for employers to refuse to deal with labor unions and to bargain with their employees collectively. In order to eliminate this alleged wrong they passed a law which compelled the employer to deal with the labor unions. They set up machinery for prosecuting and punishing employers who refused to bargain collectively with their employees.

The Wagner Act was passed to eliminate what, in the minds of its proponents, was a specific evil. They were under no obligation to consider and incorporate in the law unfair and wrongful acts on the part of employees. Nor were they under any obligation to consider unfair practices on the part of employers other than the refusal to bargain collectively with their employees.

If Congress passes a law to punish kidnaping, it is under no obligation to list the wrongful acts of those who are the victims of the kidnapers. A law against kidnaping

might be considered to be one-sided. It prescribes punishment for those who kidnap, but it makes no reference to the conduct of those who are the victims of the kidnaper. It is nothing against such a law to say that it is one-sided. It seeks to eliminate a specific evil. Those who condemn the Wagner Act as being one-sided advocate that the law should be amended so as to include unfair practices on the part of employees. Such a procedure would be entirely illogical and would not make the law more fair or equitable.

The thing that is wrong with the Wagner Act is that it prohibits the employer from dealing with his employees as individuals on a man-to-man basis. The Wagner Act assumes that the right of the employees to bargain collectively is superior to the right of the employer to bargain individually. It seeks to give certain alleged rights to employees by depriving the employer of certain rights. Justice requires that the employer should have rights on a par with the rights of the employees. If workers desire to bargain collectively they should find an employer who also desires to bargain collectively. If the employer desires to bargain individually, he should hire employees who are willing to bargain individually. If the employer and the employees cannot agree on the method of bargaining, they should not do business with each other. The employees should find another employer and the employer should find other workmen.

It is the employer who furnishes the machinery and the capital and the money to meet the payroll. Those workers who do not like the methods of a given employer are free to quit and work elsewhere.

Many employers object to the unionization of their workmen. They know that this unionization will tend to destroy shop discipline, that it will make it difficult for the employer to discharge incompetent workmen, that it will interfere with the promotion of men according to

merit, that it will give union organizers the power to pull a strike and close down the plant, thus inflicting financial loss upon the employer which may be so great as to destroy his business. It is natural and entirely proper that many employers should object to a system which interferes with production and which may result in great losses of capital. The employer should have no special privileges, but in bargaining with his employees his desires should have as much weight as the desires of the employees.

The proponents of collective bargaining believe that collective bargaining, from a social standpoint, is superior to individual bargaining. I think they are mistaken. But even if we assume that collective bargaining is superior, this does not entitle the law-makers to make collective bargaining compulsory. It may be that brick houses are superior to frame houses, but this does not justify a law to prohibit the building of frame houses. It may be that for certain work women are more efficient than men, but this would not justify a law to prohibit an employer from hiring men.

The fact that so many employers object to collective bargaining indicates that they believe that collective bargaining is against their interests. Perhaps a majority of workmen believe that collective bargaining benefits them. But it is unjust for the law to compel one group of persons to suffer a loss in order to confer a benefit on another group. A government that does this denies that all citizens are equal before the law.

The Wagner Act is monstrously unjust. It is one-sided, not because it does not specify unfair acts of employees, but because it gives to employees the right to determine the method of bargaining and because it denies to the employer his right to determine how the bargaining should be conducted.

The injustice in the Wagner Act would not be removed by placing penalties on employees, or by compel-

ling labor unions to incorporate, or to publish financial statements, or to observe cooling-off periods before they strike. The fact that these amendments and palliatives are considered shows the utter confusion that exists in so many minds on this subject.

The Wagner Act should be repealed, thereby putting the rights of employers on a par with the rights of employees. The Wagner Act should be repealed because it sought to give to certain organizations like the A. F. of L., monopoly power to engage in the lucrative business of organizing labor unions.

The origin of the Wagner Act was described by Earl Harding in an address before the University of Virginia Institute of Public Affairs, on June 28, 1941. We quote from Mr. Harding's address:

"The Wagner Act had still another purpose — a concealed purpose. It was to eliminate competition from the labor organizing industry and create an air-tight monopoly protected by privately-sponsored law and exempt from public law.

"This could be accomplished by legalizing the closed shop and setting up the machinery for eventually compelling every wage-earner to pay tribute to the monopoly or be denied his right to work and live.

"Furthermore, the closed shop and its twin accomplice, the check-off, would remove the element of risk from the business of labor organizing. And the overhead for dues collection would be loaded off on the carefree employer.

"But some 40,000 competing labor groups stood in the way of this ideal. They were groups of workers in single plants, or in all the plants or businesses of a single company. They sought and usually obtained industrial peace by dealing directly with their employers, using their own collective bargaining procedure, and avoiding the excessive fees which the outside organizers require to cover the overhead of Big Unionism.

"To get rid of this competition, it was necessary to give all labor groups not affiliated with the projected monopoly a bad name — 'company union.' Moscow's slimiest techniques were turned to this purpose. Every unaffiliated union, whether truly independent or 'tainted' by employer influence, was branded for slaughter. On this point the record is clear.

"The Executive Council of the American Federation of Labor, in its report to the 1938 convention at Houston, complained that the Wagner Act

> 'does not accomplish to the degree intended the outlawing of company unions. There must be in the revisions and amendments of the Act definite and more specific provisions in respect to the abolition of company unions.'

"This complaint was made in the face of solemn assurances of the Senate Committee which reported out and recommended passage of the Wagner Act, that

> 'This bill does nothing to outlaw free and independent organizations of workers who by their own choice limit their cooperative activities to the limits of one company.'

"Elimination of employer-dominated unions was not enough to satisfy the back-stage authors of the Wagner Act. With the aid of a partisan Labor Board, they have carried on a war of extermination against all forms of independent unionism. The disclosures of the House Committee headed by Virginia's courageous Representative Howard Smith, show that the Wagner Act has been administered on the assumption that no independent labor organization has even a right to exist.

"The Executive Council of the A. F. of L., also complained bitterly that the Labor Board has treated some of its unions no better than company unions. Apparently it matters whose ox is butchered.

"But monopolistic intent was unconcealed. Speaking for the American Federation of Labor at the New York Herald-Tribune Forum in 1938, its General Counsel, Judge Joseph Padway, said:

> 'As President Green of the American Federation of Labor stated in Houston, before we can have anything like cooperation (between organized labor and industry) the question of union recognition and collective bargaining must be eliminated, and that means that company unions, WHETHER EMPLOYER-DOMINATED OR NOT, have got to go.'

"What was this but a challenge to government, a demand that the constitutional guarantee that every citizen shall be protected in his right to work must not be enforced?

"As to the authorship of the Labor Act, let Mr. William Green speak. In a signed article in Liberty Magazine, March 18, 1939, the President of the American Federation of Labor said of the Wagner Act:

> "We helped write it. We thought of it as 'Our Baby".'

"This was long after the 'House of Labor' had fallen in two.

While Mr. Green and Mr. Lewis were still brethren laboring in the same vineyard, it was stated that Mr. Lewis also was consulted in the writing of 'Labor's Magna Carta.'

"Be that as it may have been, Mr. Green was quoted as saying to a glass blowers' convention in Atlantic City on July 11, 1938: 'The A. F. of L., is wholly and fully responsible for the enactment of the Wagner Labor Relations Act. We and Senator Wagner drafted it and supported it. No other movement can claim credit for its enactment, and no loud-mouthed representatives of a dual labor movement can claim any of the credit.'

"Regardless of claims for credit and indictments for discredit, oft-repeated has been the assertion that the Wagner Act was a labor organizers' act, not a workingmen's act. And judged by the industrial strife it has created, it certainly was not an act in the public interest."

Chapter 18

THE UNDERDOG ARGUMENT

THE following quotation from a former workingman's letter, written in April, 1946, probably states the reasons why millions of people are favorably disposed towards labor unions:

"I believe that labor unions are necessary, very very necessary, to enable ordinary working people to offset or match the tremendous power possessed and used by large concentrations of capital, to the detriment of the common people. I believe you would agree with me in this if you had gone through some of my own experiences.

"When I started to work some 40 years ago in a railroad shop, there were no unions to amount to anything. I worked 10 hours a day, 60 hours a week for the magnificent sum of 10c per hour, and no extra pay for overtime. And no farmer would treat his cattle as we were treated. Men could be and were fired for little or no reason, without redress. Foremen were little tin gods, whose word and whims were law, from which there was no appeal.

"Not many years before I started work, 12 hour days and 72 hour weeks were common in many industries. Men were simply slaves. And business has fought every reduction in hours since that time. By almost superhuman effort, by attending night classes 4 to 5 nights a week, after working 10 hour days, I was able to lift myself out of the category of common laborer in which I started. But I have always had much sympathy for the underdog ever since.

"I agree that the Wagner Act is onesided, unfair, uneconomic and vicious generally. And it should be revised, drastically. Unions should be incorporated, made responsible, and subject to all the laws to which other people are subjected. This law and the Supreme Court interpretations thereof says in effect that 'Unions' and 'Union Members' are above the law and can do no wrong, that hi-jacking, blackmailing, bloodsucking, buccaneering and racketeering by union members is OK. This, of course, is all wrong and should be changed.

And I have done all that one individual could do toward that end, such as writing to Congressmen and Senators, publishing letters in the newspapers, etc. But to advocate the repeal of all labor laws, in my judgment, is a mistake. We will accomplish more by advocating reasonable and fair labor laws."

Apparently this man received about three hundred dollars a year in 1906. He must have been an apprentice, for the average full time earnings of male workers in car shops was at that time about eight hundred dollars. In 1902, after graduating from college, I was paid five hundred dollars a year as assistant principal of a high school. Haircuts at that time were twenty cents instead of one dollar and I was able to get board and room for three dollars a week. Incidentally, I was able to save half of my salary.

The large concentrations of capital were used to build railroads, steel mills, power and light plants, telephone systems, and factories of all kinds. These developments were not to the detriment of the common people, quite the reverse. Railroads must necessarily be large enterprises. Steel and automobiles cannot be made cheaply in small plants.

I suppose that foremen forty years ago had about the same characteristics as other people. The fact that men could be fired with little or no reason does not mean that injustice was rampant. Self interest would tend to prevent employers from dealing unjustly with their employees. It is true that forty years ago working hours were longer, real wages were lower, the scale of living was lower, people worked harder, and there was more poverty. But the gain in real wages and in the scale of living has been due to the inventors, the scientists, the engineers, business managers, and the savers of capital. As an hour of labor becomes more and more productive, it has been possible for the worker to have more leisure and also more and better goods. Without the improvements in technology, no amount of unionization could

have appreciably improved the condition of laborers. The most that a union could do would be to hurry up a change that was coming anyway. My great-grandfather cut hay with a scythe, cut grain with a cradle, and took his wheat to mill with a pair of oxen. The mowing machine, the combine, and the truck now replace those primitive tools.

The percentage of the gainfully occupied who were engaged in agriculture is indicated below:

1820	71.8%
1840	68.6%
1860	58.9%
1880	49.4%
1900	37.5%
1920	27.0%
1940	17.6%

The farmers who were released by the new machines and the improved methods moved to the cities to engage in manufacturing and other activities. The accumulation of capital in the form of buildings, factories, railroads, highways, machinery, etc., raised the scale of living. Many of the things we utilize now were built ten, fifty and even one hundred years ago.

In the table below we estimate membership in trade unions:

Year	*Union Members*	*Gainful Workers*	*% in Unions*
1897	447,000		
1900	868,000	28,282,000	3.1
1910	2,140,000	37,271,000	5.8
1915	2,582,000		
1920	5,047,000	41,236,000	12.2
1925	3,519,000		
1930	3,392,000	48,594,000	7.0
1935	3,890,000		
1940	8,500,000	53,299,000	16.0
1945	13,000,000		

The proportion of workers who were unionized prior to 1933 was too small to have any considerable effect on the real wages of workers or on the hours worked per week. Nevertheless, industrial wages kept increasing, as indicated below:

Decade Beginning	*Weekly Earning*	
	Skilled	*Unskilled*
1850	$9.57	$5.92
1880	13.95	8.93
1900	15.52	9.77
1910	22.72	13.69
1920	35.10	23.10
1930	28.56	18.78

The unionization drives in the decade 1930 to 1939 did not prevent weekly earnings from falling below the levels reached in the preceding decade.

Wages were relatively high in the automobile industry, although it was non-union until 1937. It was a non-union factory, the Ford Motor Company, that startled the country in 1914 by establishing a minimum wage of five dollars a day. If labor unions really improve the conditions of workers, how does it happen that in England, which is highly unionized, wages are about a half less than in the United States? The effect of the labor union policies is to restrict production, thereby lowering the scale of living of all the people, including the industrial workers.

These brakes on production include strikes, slowdowns, opposition to labor-saving machines, make-work rules, and assaults on investors and profits. What workmen need are employers. Employers grow in number and expand their operations when there is an expectancy of good profits. A successful attack on profits will tend to prevent the expansion of existing firms and will tend to prevent many from starting a new business.

The campaign of the labor unions to lower profits, if successful, will harm the workers. The records show that

payrolls are highest in the years when profits are greatest. In the following table, we compare dividends paid and labor income (from Fact and Fancy in the T. N. E. C. Monographs, page 101):

Year	*Dividends*	*Labor Income*
	(*in millions*)	
1929	5,945	52,776
1930	5,634	47,919
1931	4,280	40,303
1932	2,727	31,394
1933	2,193	28,946
1934	2,725	32,814
1935	2,931	35,893
1936	4,651	40,021
1937	4,752	44,809
1938	3,370	41,037
1939	4,124	43,703

"In every year that dividends declined, labor income declined. And in every year that dividends advanced, labor income advanced. On the average, every dollar advance in dividends was accompanied by an advance of $5.59 in payrolls."

It is human nature to favor the underdog. If the employer lives in a fine house and the workman lives in an humble cottage, many jump to the conclusion that this condition represents an injustice and that the worker is underpaid. These thoughts come from the heart and not from the reason. If it were not for the ability and industry of the employer and for his willingness to risk his capital the worker might be living in a hut instead of a cottage. We cannot assume that all employers are rich and all employees are poor.

Each year about twenty percent of the business firms are discontinued. The next table shows the number of corporations that report profits and losses to the United States Bureau of Internal Revenue:

Year	*Profits*	*Losses*
1936	203,161	275,696
1937	192,028	285,810
1938	169,884	301,148
1939	199,479	270,138
1940	220,977	252,065
1941	264,628	204,278

In most years, more than half of the corporations lose money.

Labor unions are not wholly bad. They may curb employers and foremen who are unfair, they may protect certain workers from unjust discharge, they may improve working conditions, they may give to their members more dignity and security. No human institution is wholly bad. But in forming a judgment on labor unions, we must consider the liabilities as well as the assets, the debits as well as the credits.

On the debit side, there are many items:

1. The labor unions impede production;
2. Seniority is harmful to the younger workers;
3. Wages are lost through initiation fees, dues, assessments and strikes;
4. Coercion is applied to workers, especially to those who do not want to join the union;
5. Seniority interferes with promotion based on ability;
6. The labor unions stimulate class warfare;
7. They establish monopolies and weaken competition;
8. They diminish new investments in enterprise;
9. They coerce the courts and the legislators;
10. They benefit members by injuring other groups;
11. They promote economic fallacies and delusions;
12. They destroy property and interfere with the civil rights of citizens;
13. They give birth to economic dictators who can deprive the people of steel, coal, railroad service, etc.

When we examine all the effects of labor unions, we must conclude that the country would be better off with-

out them. They destroy liberty, they destroy competition, they lower the scale of living. Some labor unions may be without sin and above reproach. I hope to find one in that situation. My observations, however, apply to most of them.

To those whose opinions are based on sentimentality and who favor labor unions because they want to help the underdogs, I say, the labor unions are harmful to workmen and will tend to increase their poverty. Every decent person wishes to improve the conditions of those who work and those who deserve to succeed. The labor union is not a means to this end.

Chapter 19

THE INDIVIDUAL CONTRACT

THE American people have been subjected to such an avalanche of propaganda in favor of collective bargaining that probably few people today have ever considered the advantages of the individual contract over the collective contract.

The quotation which comprises most of this chapter is from a talk by Leon R. Clausen before the National Metal Trades Association in New York on April 22, 1920:

"I want now to suggest something that is constructive in place of this shop representation and collective bargaining thing, and that is the individual contract. I would like to read you a memorandum which we gave to our employees in a certain factory wherein we introduced this individual contract:

Memorandum

'It is desirable that the employe understand the advantages of the individual contract thoroughly when he makes the contract so that he will not be influenced by agitators and others who have ulterior motives in trying to force a wedge between him and his employer. The individual contract has the following advantages:

1. It stabilizes the job for the employe, as it guarantees to him wages and conditions for a definite period.

2. It preserves to the employe his natural and constitutional right —

(a) To liberty

(b) To pursuit of happiness

(c) To come and go

(d) To work and not to work

(e) To make his own contract

(f) To secure greater returns from greater efforts, all of which are of vital importance to him, and which are restricted or entirely removed under collective bargaining.

3. It protects the employe from the domination and dictation of third parties, walking delegates, etc., who attempt to and often do determine where, when and for whom the individual shall work, for how long and for how much. This is a form of economic serfdom and restriction of inherent constitutional rights of the American citizen which is absolutely unsound and which the individual contract helps to preserve him from.

4. It puts the relations of the employer and employe upon a high plane of mutual confidence and respect, which is the only stable relation that can exist in industry. It is a moral obligation by which each is individually bound.

5. It brings the employer and employe closer together, which is essential to common understanding and pleasant relationship.

6. It promotes a feeling of independence and self-confidence in the employe, which is American in spirit through and through.

7. It stimulates the ambition and initiative of the individual and therefore leads to a happier life.

8. It promotes individuality and emphasizes the individual man. It removes the deadening influence of collective grouping and bargaining.

9. It recognizes the individual as a unit in industrial life. Thinking of or dealing with men in groups or classes is foreign to our best American ideals. In this respect it affects both employer and employe. It is as bad for the employer to think of his organization as so many blacksmiths, so many machinists and so many grinders, instead of as John Smith, Bill Jones and Bill Brown, as it is for Bill Jones to think of himself as a member of the machinists' union instead of Bill Jones individually.

10. It provides a definite time and means for employer and employe to discuss wages and shop conditions, etc., which affect that particular man in his particular job.

11. It opens the way to the advancement of the individual.

12. It removes the restrictions existing in collective bargaining or grouping.

13. It adds dignity to industrial work, which is too often looked upon only as a job that has no length and very little breadth.

14. It places responsibility on the management. In industrial relations as well as in other business relations success is pretty well measured by the degree in which you meet the terms of your contract.

15. It places a definite responsibility on the man. Everyone has a deep-seated respect for his word.

16. It is economically sound because it is in the direction of proper reward for proper effort. Every man's reward should be in direct accordance with his production and with his economic service. The employer and the employe together are the best judges of the proper reward for his service. There are no others who can so correctly decide this question.

17. It is in accordance with natural law. Nature rewards every man in accordance with his ability and effort. Any disregard or violation of this law is bound to react against the violator and the community in time.

18. The general public respects contracts, and gives little support to men or institutions who fail to live up to them. This is very desirable from every standpoint.

19. Our particular form of contract is good and sound because it obligates the employer equally with the employe.

20. All men who have made a success in life have advanced through their own individual initiative, ambition and effort by individual bargaining, and there are no successful men who have been advanced in life by collective bargaining. That fact is sufficient evidence that the employes and the employer do bargain on an equal basis when they bargain individually, man with man. The only exceptions to this are the few labor leaders and agitators who have made a personal profit by exploiting and using the workmen as tools for their purpose.'

"You get individual responsibility under the individual contract, but you do not get individual responsibility under a collective contract or a collective arrangement of any kind.

"Now I want to read you something about what the unions think about the individual contract. Attorney Mulholland was present at a meeting in Washington at which the business agent and other grand

officers of the International Association of Machinists were in attendance, and he stated that,

> 'This was a very serious question, because under the freedom of contract clause in the Constitution, any employer had the right to employ whom he wishes to employ and had the right to make a contract with any employe, and that anyone who counselled breaking a contract could be prosecuted. He pointed out, however, that the union members could go as far as they liked in trying to educate the workers to seeing that such a contract was rotten, even though they could not counsel them to break it. He pointed out that in any case where a body of employes held such contracts with their employer, if they should suddenly go out on strike, such a contract was at an end and that then the union could solicit their affiliation, but that if a man was hired to break the strike and this man should sign a contract not to join a union, a union picket could be prosecuted for trying to induce such a strikebreaker to quit his employment. Several questions were asked of Mulholland along these lines, and suggestions were made that the field men should try to educate the workers in the respective localities in such a way that they would *refuse to sign these contracts if put up to them by any employer*.'

"As I see this collective bargaining and this shop representation proposition, it is nothing more than an exhibition of the tendency of the times. It is entirely in line with the movement and spirit that has been extending through the country in the *direction of direct government, that is the referendum and recall and the socialization of industry and the government ownership of railroads* and a great many other things that are being propounded and advocated even by men who ought to know better. The men who drew up the Constitution, I believe you will agree, were real statesmen, and they had the example of monarchies on the one hand and democracies on the other hand, and failure of one kind and another to guide them, and they were very careful to try to include in this Constitution certain safeguards and they have done it. But there has been a movement away from that. A certain Mr. Atwood wrote a book called 'Back to the Republic' that I think is very applicable just at this time. The tendency towards direct government by the people is of course a tendency to democracy, not to republicanism, and that same tendency is leading us to the feeling that there must be some kind of a democracy in industry.

"Now this country has the greatest per capita wealth of any country in the world; the people are better off; they have more of

those things which they want or think they want; they have one automobile for every six people in Iowa today, and there is going to be one for every four, later on. The workingman has conveniences now that a king could not buy a few hundred years ago, and generally speaking we are pretty well to do, and we have gotten there by maintaining individual initiative and individual bargaining in industry. If these things we want are good and promote happiness, and I believe they do, why not go on as we were? Why try to introduce something into industry that experience has indicated is not safe? Why try to take away or suppress the individual man?

"It is my belief that if you are going to try to do something for the workman, that you ought to pick out first the kind of a man you are going to do something for; you ought to pick out a good citizen, and then *don't do anything for him but help him to do something for himself. We have got too much of this doing for men in this country.* What the workmen of this country want, if I am a judge, and I am not very far removed from manual labor myself, but if I am any judge, what they *want is recognition of the individual, not mass recognition*, and this collective bargaining and shop representation scheme is nothing more *than mass recognition, and it is not the thing that is going to satisfy the man.* What he wants is individual recognition, and there is only *one way to get it, and that is to do business with that man individually.*

"I believe that if you are going to restore the happy conditions that existed in industry when we had these small shops that everybody talks about, you have got to go back to the same *individual recognition that the man had at that time.* Do not forget that 97% of all the institutions in this country have less than 250 men; certainly no one will *sanely propose a shop representation or collective bargaining scheme* to bring about industrial peace in *that kind* of a shop, where the owner and manager can know every man by his first name. If that is so, we have to confine our discussion to the 1%, or 2%, that have over a thousand men. I think that even in that kind of a shop you *are not going to satisfy the man by mass recognition; he wants recognition of the individual; he wants to feel that he is a kind of individual entity;* he does not want somebody else making his own bargains for him, and you cannot promote the spirit of individual ambition or individual initiative and keep this country going at the speed it has gone, in the direction it has gone, by such mass recognition. Before closing I would like to read something written 100 years ago by Lord Macaulay. He says: 'Your republic will be pillaged and ravaged in the twentieth century just as the Roman Empire was by the Barbarians of the fifteenth century, with this difference, that the devastators of the Roman Empire, the Huns and the Barbarians came from

abroad, while your barbarians will be the people of your own country and the product of your own institutions.' "

Who can read the prediction of Lord Macaulay today, without the haunting fear that he was right, and that our Republic is now being pillaged and ravished by the barbarians in our midst. Nations, like individuals, may die. This American Republic, is still an experiment. What greater responsibility rests upon every patriotic citizen, than to use every power and resource at his command to oppose the barbarians in our midst?

Chapter 20

FEATHERBEDDING ON THE RAILS

FEATHERBEDDING is the name given to the labor union rules by which workmen increase their pay without rendering a corresponding service. The quotation which follows is from "Wages and Labor Relations in the Railroad Industry 1900–1941," and gives testimony before the Labor Board hearings of 1921:

"A business car was in shop for repairs to the speedometer. The work which had formerly been taken care of by a shop foreman was claimed as machinist's work, so that it was necessary to place a machinist on the job, with a foreman supervising. It was also necessary to have a carpenter remove a board from the floor of the car, which required twelve screws to be removed in order to get at the cord. Formerly one man had performed all the work.

"In another instance, a shop committeeman would not permit a pipefitter to clean off a piece of sheet iron which was to be electrically welded on a tank, claiming it was boilermaker's work.

"On another railroad, when an engine was about to be coupled onto its train, it developed that a window light was broken in the cab. As there were indications of a storm, the engineer insisted on repairs being made. There was no engine carpenter on duty at the time, and it was necessary for the shop foreman to call one to do the work that he could have performed himself in a few minutes, with the result that the train was delayed an hour and thirty minutes.

"Controversies respecting some of these rules were taken before Adjustment Board No. 2, which in one case ruled that the work of repairing an electric headlight required the services of both an electrician and a machinist, although the size of the lamp made it impossible for both of them to work on it at the same time.

"Some of the consequences of the rules of sub-division were stated as follows:

1. To remove and replace a headlight generator required

an electrician to disconnect the wires, a sheet metal worker to disconnect the pipes, a machinist to unbolt and remove the generator and apply a new generator, a sheet metal worker to replace the pipes, and an electrician to connect the wires. As each of these three employees usually requires the services of a helper, it means that six men are employed on a job that ordinarily should be done by one machinist and a helper.

2. To repair a leak in a boiler requires a sheet metal worker to loosen the jacket, a locomotive carpenter to remove the lagging, a boilermaker to caulk the leak, after which the locomotive carpenter replaces the lagging, and the sheet metal worker tightens the jacket. Here again, as each of these employees required a helper, six men are employed on this trivial job.

"As one spokesman for the railroads put it: 'Many of the rules .....are so restrictive that they positively prevent reasonably economical operations, and result in serious interference with efficiency and production.' "

The next quotations are from proceedings before the Attorney General's Committee on Administration Procedure in the summer of 1940:

"1. The Board applies in its decisions the principle that independently of practice and independently of the actual agreement of the parties, certain operations must be performed exclusively by a particular type of employee even though the amount of work of that character is small and other employees have been paid for performing it. Thus, during a flood a bridge was badly damaged and a locomotive crane was moved to the scene of the damage to assist in making repairs and a telephone was installed to obtain information as to the approach of trains so that the crane could be moved out of their way. A conductor and two brakemen were assigned to protect the movement of the crane and the conductor was charged with obtaining information about the train movements over the telephone. The Order of Railway Telegraphers filed a claim that telegraph operators should be paid for not having been called to operate the telephone. The Board sustained the claim and ordered the payments made on the ground that the work of procuring information by telephone concerning train movements is an exclusive right of telegraphers. (Third Division, Award 1024.)

"2. The Board in its decisions applies the principle that even though work presents itself unexpectedly when none of the class of employees supposedly entitled to perform it is on duty, it cannot be

done by other employees unless these are paid extra wages and unless employees of the class held to have a monopoly of the work are also paid a day's wages. A local freight crew was required to stop at an intermediate point on its run to set out and pick up cars and to move certain cars standing on a siding in order that they might be unloaded. There was no switch engine crew on duty at the time at this point. For this work the conductor and crew of the local freight claimed an extra day's pay at yard rates. An extra yard conductor and brakeman who were not on duty and performed no service claimed a day's pay on account of not having been called to do this work. The work required approximately fifteen minutes. Although this was the kind of work generally required of local freight crews and the kind of work for which they received a rate of pay higher than the rate paid to through freight crews, the Board granted the claim of both the local freight crew and the extra yardmen. (First Division, Award 1947.)

"3. The Board applies the principle that where employees perform operations incidental to their function, but which the Board regards as a monopoly of another class of employees, the employees in question must be paid an additional day's pay for these incidental operations with the result that several days' pay is sometimes awarded for a single day's work. A regularly assigned fireman made a round trip of 50 miles. On the first leg of the trip the train carried only passenger cars and at the turning point the crew was required to back the passenger equipment to a point where the engine was turned. Returning, the train carried only freight cars. It was held that the fireman was entitled to three days' pay, a day in passenger service for the passenger run from the initial terminal to the turning point, a day as hostler for taking the engine to the point where it was turned, and a day in local freight service for taking the train back to the starting point. (First Division, Award 3751.)

"6. The Board has ignored the coverage and language of the so-called starting time rule so as to compel the employment and payment of crews during hours when their work was not needed, and in calculating penalty payments under the starting time rule for work not done has applied a principle which has resulted in largely inflating such payments. Thus, if a rule prescribed that starting time shall be eight o'clock, and the crew is supposed to work eight hours, the Board holds that it may be entitled to pay for twenty hours if it starts to work at 7:30 and works eight hours. The theory of this is that the period from 7:30 to 8:00 is a part of a different working day; an eight-hour day is guaranteed and, therefore, for the different working day from 7:30 to 8:00, eight hours' pay is due; however, since all of the work is within a twenty-four hour period, this separate working

day, which falls outside the starting time hours, must be paid for at the rate of time and one-half, or twelve hours, and these twelve hours added to the other eight hours produce a total of twenty hours. (First Division, Award 2251.)"

We now quote from an article by Theodore Brand in the Chicago Tribune of May 19, 1946:

"In replying to the demands of the brotherhoods, the rail lines stated that even existing working rules are burdensome to them and in many cases interfere with the operation of proper managerial discretion. They cited cost of so-called featherbedding, which arises from the dual basis of hourly and mileage pay for train and engine employes, the payment of two men for one man's work because of a question as to who should have done it, arbitrary allowances above regular wages for work not strictly within the blue-print of a given job and overtime paid under technicalities rather than because of actual excess hours on duty.

"In 1944, the carriers paid over the road train and engine employes a total of 587 million dollars for straight time. Of this total, 137 million dollars, or over 23 per cent, represented time paid but not worked.

"Interstate Commerce Commission statistics on railroad wages show that in 1945 total straight time paid to all train and engine employes amounted to 872 million dollars. Over 17 per cent or 150 million dollars was for time paid for but not worked. These calculations take no account of overtime at 119 million dollars or constructive allowances, including vacations, at 63 million dollars. A good portion of both figures is due to rules interpretations, but it is impossible to segregate it from ordinary overtime and vacation payments.

"According to the railroads, compensation of this character would mushroom under the proposals of the brotherhoods. In making his opening statement to the recent emergency fact finding board, the decision of which the employes refuse to accept, a carrier attorney cited the cumulative effect of four proposed changes. He showed that instead of the one day's pay which the crew now earns on a short turn-around frate run on the Norfolk & Western railway, they would be entitled to at least five days' wages for each day worked and under certain circumstances could make up to 17 days' pay on each run.

"This train runs for a total of 38 miles; 20 of which are covered in four short side trips for switching cars on branches. Under a proposed change, any side trip made by an over-the-road crew should be compensated for by one extra day's pay. Four side trips would mean four extra days' wages, or a total of five for the run.

"Under another proposal which seeks to limit the railroads' right

to use two locomotives on one heavy train, the train crew would receive an extra day's pay for double header operation. Two times five means 10 days' pay. A demand for time and one-half on any national or state holiday could raise the ante to 15 days' wages if the run described occurred on some legal, but generally unobserved, state holiday.

"Finally, if the train started after 6:30 p.m., the brotherhoods' request for higher night rates would bring the total to about 17 times the so-called basic day's wage.

"The brotherhoods claim that such an illustration is extreme, but the railroads retort that there is nothing in their experience with existing working rules to indicate that it is an impossible case. They quote instances like those following to show what can happen. These instances occurred on actual lines, but the names of the railroads used here for illustration are fictional.

'A switch train of the B. C. & D. railroad at Chicago pulled into the frate yard of the E. F. & G. railway recently with a string of frate cars for delivery to the latter road. Track 10, which had been specified for B. C. & D. delivery, could not hold all of the cars and there were a half dozen left over. The engineer looked for the yardmaster to get instructions, but failing to find him readily available placed the cars on the nearest empty track which happened to be No. 9. At this point, the yardmaster showed up and directed the engineer to move these extra cars from track 9 to track 11. The crew of the B. C. & D. train is now asking for an additional day's pay on the ground that the extra shift from track 9 to track 11 was yardwork which should have been performed by the yard force of the E. F. & G. railway.

'The XYZ railroad operates a daily way frate between two points in Illinois and en route it serves a certain small town which can be called Smithville. In addition to its regular station, Smithville also contains an industrial siding that is used to serve a live stock transfer and a couple of industries. This siding is about a mile from the regular station and the way frate ordinarily performs switching on it before proceeding into the town proper.

'Recently, after switching the siding and getting to the station at Smithville, the crew was instructed to return to the siding to pick up some stock cars which were needed by a connecting railroad at Smithville. For this extra work, which involved a two mile run, the way frate crew is now asking for one full additional day's pay.'"

Chapter 21

MAKE WORK RULES

A UAW–CIO sound truck in Detroit carried this motto painted on the rear of the truck:

"UAW Leads the Way
Shorter Hours and More Pay."

I am not sure about the last line — it may have read: "Less Work and More Pay."

Under competition, each individual seeks to improve his position, and he does this by seeking to give less and receive more. The automobile manufacturer would doubtless be pleased if he could cheapen the car and get a higher price. Employers would, in most cases, like to pay lower wages and get more work out of the employee. The tailor would like to put less cloth in the suit and still get a higher price for it. The fruit-grower would like to put a false bottom in the berry basket and raise the price of the berries. Competition assumes that people are selfish. The UAW motto was an expression of the selfishness of the union members.

In a free society the selfishness of the seller is checked by the selfishness of the buyer who also seeks to give less and receive more. But when a monopoly demands more or less, the customer is helpless — the checks and balances have been destroyed. The UAW is a labor monopoly, and those employees who would be willing to work more or receive lower wages cannot get employment. It is entirely proper for workmen to seek higher wages — but no workmen should be free to establish

monopolies and destroy competition in the labor market. The workman sells labor. He wants to sell more labor, just as the merchant or manufacturer wants to sell more goods. The laborer does not want to work himself out of a job; hence the labor unions make rules for lowering the efficiency and making the jobs last.

The manufacturer would like to increase his sales by making products that wear out quickly. But he is restrained by the competition of other manufacturers who make more durable products. But the union worker can reduce his efficiency without fear, for he cannot be discharged. And so the labor unions have adopted all sorts of rules for lowering efficiency and making work. In order to enforce these make-work rules, it is necessary to establish labor monopolies.

Labor unions are not the only offenders. We quote from "Trends in Collective Bargaining," page 106:

"Employers denounce unions for make-work tactics and for restrictions upon output — practices which are encountered in their own group. A federal law, for instance, helps glass manufacturers by prohibiting the sale or refilling of empty liquor bottles; and manufacturers of almost everything sought protective tariffs. Even government limited production, as when farmers were paid not to produce cotton and wheat. Wherefore, problems which technological displacement places upon collective bargaining cannot be understood if it is assumed, as it frequently is, that only labor organizations impose artificial restrictions upon methods and devices which give greater service at less cost."

From the same book, page 108:

"The security of old skills being challenged by modern innovations, building trade locals have set up all manner of restrictions against labor-saving tools, practices and factory-prepared materials which would otherwise shorten the time they spend on a job. Some plasterers refuse to handle gypsum boards, and Boston plasterers limit the size of their hods. Bricklayers seek to ban hollow tile either by union regulation or municipal ordinance. In some cities all concrete must be mixed on the job. Painters try to persuade city governments to pass ordinances against the use of lead paints in spray guns. Milwaukee carpenters require all hardware to be fitted on the job. Glaziers' unions try to forbid off-the-job glass installation work

New York steamfitters demand all pipe cutting and threading to be done on the premises.

"These are a few of a long catalogue of union restrictions in the building trades which do more than they should to make building expensive. Largely because of weakly organized contractors and of strong unions entrenched against change, technological advance has been obstructed in this industry. Also adding to building costs is the fact that frequently these restrictions are by collusive agreement between unions and contractors and some of them have resulted in indictments under antitrust laws. If the remedy for this situation is more law, then legal processes will supersede collective bargaining processes; and courts, and not labor and management, would finally determine how wide a 'fair' paint brush should be and how many bricks 'reasonably' may be laid an hour."

Of course the remedy is not more law, but the repeal of those laws which protect the labor monopolies. We quote from page 112:

"Restriction of output, however, is a tradition in printing trades unions. Many of these restrictions and regulations of working conditions never reach the stage of collective bargaining but are imposed upon employers in the shape of highly detailed union 'laws.' The pressmen's locals insist upon having a say about the number manning a press crew; which was partially responsible for the migration of magazine printing plants from New York City. Weirdest of all make-work rules in the printing trades is one governing the acceptance in newspaper composing rooms of advertising plates and of advertising matter which has been set in outside print shops. Under typographical union 'law' this matter may be used, provided a duplicate of it has been set up in the newspaper plant — and discarded."

Assistant Attorney General Arnold stated on December 5, 1941:

"The hodcarriers in Chicago have decided that no house builder or no contractor building an office building has the right to use ready-mixed concrete, lowering the quality of concrete and raising the price of building in Chicago. And the Supreme Court of the United States has said that there is no law which prevents their putting on that kind of embargo. Following that decision, all over the United States protective tariffs are being built up — boycotts of more efficient materials, boycotts of more efficient methods, the compelling of independent businessmen to hire useless and unnecessary labor, until my economist friends tell me that the charge on American consumers is over one billion dollars. And there appears to be today no law to

stop that sort of consumer exploitation. . . . Labor conspiracies in many large cities are preventing consumers from having cheaper houses, cheaper transportation, and cheaper distribution of the necessities of life."

Professor Sumner H. Slichter in "Union Policies and Industrial Management" lists nine ways in which labor unions *make work*:

"1. limiting daily or weekly output

2. indirectly limiting the speed of work

3. controlling the quality of work

4. requiring time-consuming methods of doing the work

5. requiring that unnecessary work be done or that work be done more than once

6. regulating the number of men in a crew or on a machine or requiring the employment of unnecessary men

7. requiring that the work be done by the members of a given skilled craft or occupation

8. prohibiting employers or foremen from working at the trade

9. retarding or prohibiting the use of machines and labor saving devices."

Most labor unions in furtherance of make-work policies oppose piece work and incentive systems of wage payments.

The International Executive Board of the UAW meeting in Chicago in April, 1946, adopted this resolution: "Where piece work systems still exist the companies in most cases are proceeding to cut piece-work rates in order to take back part of the blanket wage increase which they were forced to give." (Comment — note that the increases were forced.) "We must fight these cuts and continue our efforts to eliminate the piece-work system entirely. We reaffirm our policy established at the 1943 Buffalo Convention that piece-work systems shall not be instituted or extended."

We quote from the Hot Slug, a union paper published by the Chicago Linotype Operators Society, issue of February, 1926:

"Mr. Operator

"When you sit down to the linotype to begin your day's work, lo you remember that you are a union man?

"Do you remember that the union has established a deadline — he amount of type that is a fair day's work?

"Do you realize that when you produce a much larger amount han the deadline you are forcing some brother member to walk he streets who should be receiving pay for doing the work that you re doing for nothing?"

Here the union accepts the "lump of work" fallacy, hat there is only so much work to be done, and if a vorker increases his output, he deprives someone of a ob.

Businessmen, in order to increase their profits, seek o increase sales and output and to reduce costs by in- reasing efficiency. This increase in output and efficiency romotes the general welfare. What we all consume epends on what we all produce. The labor unions, by nake-work rules which reduce output and efficiency, ork in opposition to the general welfare.

The interests of labor union officials are sometimes pposed to the interests of the workers. The income of he labor union officials comes from dues levied on nembers, and if, by slowdowns and other devices, they an compel the employment of more workmen than are ecessary, they increase their income. But workmen are enefited when the total social output is increased. With rge output there is more to divide and everyone tends o benefit.

Employers, in promoting their own interests, are sually promoting the general welfare. Labor union rganizers and officials, in promoting their own power nd interests, must usually work against the general elfare. If businessmen ceased to operate, nothing would e produced to divide. The operations of businessmen re productive. But if labor union officials ceased to perate, there would be a greater output of goods and the fficials would be compelled to produce. Curiously

enough, many people think that it is a social gain to enlarge the powers of labor organizers and that the operations of businessmen are anti-social. This opinion seems to be the reverse of the truth.

Chapter 22

INDUSTRIAL PEACE

THE ESSENCE of life is conflict. There is conflict between the lions and the antelopes — between robins and earthworms — between birds and insects — between the corn and the weeds — between the trees in the forest, in the struggle for water and sunlight. As long as two men want the same woman, the same plot of ground, the same job, the same horse, the same house, the same bushel of wheat, there will be human conflicts. The idea that at some future time the lions and lambs will lie down together and that men will live and work together in contentment, peace and harmony is a dream which will never be realized.

The abolition of conflicts requires a dead world devoid of life. The belief that the interests and desires of employers and employees are in all respects mutual and identical is held only by those who do not know the facts of life. The problem is not to abolish conflicts, but to devise the rules of the game by which human conflicts will be resolved and settled.

These rules are established and enforced by an authority. These authorities are governments which make laws enforced by police, sheriffs, and soldiers, churches which enforce their decrees by appeals to the conscience and public opinion which establishes customs enforced by the desire of men to receive the approbation of their fellow men.

All of these laws, commandments and customs curtail

individual liberty. But most individuals are willing to give up their freedom to murder that they may be free from the fear of being murdered. However, it is always dangerous to give to certain persons the power to control their fellow men. The art of government consists in drawing the line between the freedom of the individual and the power of the state to control the individual. The phrase *freedom under law* is nonsense. Every law interferes with freedom. The law against theft interferes with the freedom to steal.

In regard to these matters we have in the world conflicting ideologies. Some advocate the extension of the power of the state so that practically all individual freedom is obliterated. This has been done in Russia. Others advocate a minimum of government and a maximum of individual liberty. The conflict is one of degree — not of absolutes. Nearly everyone wants a government. The conflict is over the extent of governmental power.

There have been times and countries in which governments exercised control over religion. The religious persecutions were done away with by adopting the principle of the *separation of church and state*. Freedom of religion means freedom of the individual from domination by the state. Just as the retreat of governments from the religious field brought an end to religious wars, so the retreat of government from the economic field will bring an end to industrial warfare.

We adopted the principle of separation of church and state; we should now adopt the principle of separation of Trade and State — or Free Enterprise. Individual persons and firms should be free to produce and exchange goods and services. Free from what? Free from dictation and control by the state.

Now the function of the state is to preserve this freedom, to defend the liberty of the citizen and to protect him from aggression. But our Federal Government (and to a lesser degree the states and cities) has destroyed

rather than preserved economic freedom. Instead of punishing aggression, it has itself become the great aggressor! It has engaged in the very tyranny that it was its duty to suppress.

Suppose my neighbor, John Jones, came to my home and demanded that I pay my gardener a certain wage, or that I must sell my wheat for a certain price, or that in order to work I must join a certain private club, or pay fifty dollars for the privilege of working on a certain job, or that I was forbidden to transport merchandise in my own truck, or that I could not have one hired man, but must hire not less than five, or that I must pay Jones five dollars a month for a life insurance policy he was selling, or that I could not sell automobiles without his permission, or that he would not allow me to sow more than fifty acres to wheat, or that I must pay him twenty dollars a week because he could not get a job; if my neighbor Jones said these things to me I would be shocked. I would say to him, "By what rule of justice or reason do you seek to control me? Am I your slave? Your brazen effrontery passes belief!"

But suppose Jones says, "The people in the thirteenth ward have decided to make these demands on you, and I represent them." I would reply, "The people in my ward have no more right to domineer over me, than have you. The tyranny is not less because a group of tyrants oppresses me, rather than a single tyrant. By what authority do the people in the thirteenth ward seek to deprive me of the freedom to make voluntary agreements with my fellow men?"

But suppose Jones says, "I am an official of the Federal Government, I came here from Washington, D. C., and my authority to control you, to fine and imprison you, stems from acts of Congress which derives its authority from the Constitution of the United States." I would say, "Jones, I have here a copy of this Constitution. I defy you to find one word, one sentence in this

document which authorizes you or the Congress, to compel me to buy life insurance, to determine how many acres I shall sow to wheat, to specify the price at which I shall sell my wheat, to compel me to join a private club, to pay money for the right to work, to forbid me transporting goods in my own truck, to determine the wages I pay my hired man, to order me to hire more men than I need. Jones, I defy you. You are a tyrant. And you are the agent of tyrants. Let me read from this Constitution which you say is the source of your authority. 'We, the people of the United States, in order to . . . secure the blessings of liberty to ourselves and our posterity . . .' In the name of an immortal contract ordained to secure the blessings of liberty, you come to destroy my liberty. Words fail me! The assassins of liberty derive their authority from a document ordained to make liberty secure! It is as though the ravisher claimed authority from the Virgin Mary or the murderer claimed authority from the sayings of Jesus! When a person deprives one man of the freedom to live, we call him a murderer. When he steals one wallet, we call him a thief. But the word has not yet been coined to express the infamy of those judges and legislators who have entered into a criminal conspiracy to destroy the liberties — not of one person, or of a few persons, but of all the citizens of this Republic. Be gone, Jones! You and your ilk may fine me, imprison me, or kill me. But while there is breath in my body, I will not bow the knee to you. Get out!"

For decades, and especially in the last fifteen years, Congress has been progressively destroying the economic freedom of the citizens. Industrial strife has reached a new crest. Usurpation of unconstitutional power has been the order of the day. I believe this destruction of economic freedom has been a cause of the great increase in conflicts between employers and workers.

While the government on the one hand has been mak-

ing forays into areas where it has no business to set foot, it has failed to perform its legitimate function of defending the rights of citizens and maintaining order. Neither the Federal Government, the states or the cities have done a good job in maintaining order. It is a serious breakdown of government when it will not protect a workman who wants to enter his place of employment or an owner who seeks to enter his own property.

The government has not only not suppressed lawlessness, it has itself become lawless, as when it seizes the property of an employer whose only offense is that he has not acceded to the demand of labor union racketeers.

To those who read the papers, it is not necessary to give examples. Public highways have been barricaded, workmen have been slugged, stink bombs have been thrown into stores and homes, buildings and bridges have been dynamited, homes have been entered and wrecked. Industrial peace cannot come until public opinion compels public officials to stop acting on the theory that a labor union card is a license to commit criminal acts.

But, you say, sixty years ago and earlier, before the recent usurpations of power by Congress, we had riots, strikes, and labor strife. That is true. But in the great railroad strike of 1877, the State of Pennsylvania at least tried to preserve order. The state militia was called into action. They were not told not to use their guns for fear someone would get hurt. When rioters burn buildings, dynamite bridges, and loot freight cars, it is probable that some will get hurt if the rioters are to be suppressed.

We will always have crimes and criminals. There is something worse than industrial warfare and strife. That comes when certain groups use physical force to plunder other groups, and when public officials refuse to defend the victims of the aggressors. When this happens we have a revolution, and the former government ceases to exist.

Chapter 23

CONFUSION IN CONGRESS

I HAVE just read in the Congressional Record of May 29, 1946, the Senate debate on labor legislation. I am unable to find any statement that indicates comprehension of the cause and the remedy for the turmoil and strife which afflicts the country. I assume that the Senators who did understand kept silent. The confusion in the minds of the Senators reflects the confusion in the minds of the people. No Senator alluded to the fact that Congress has no constitutional authority to pass these labor laws — or that the federal labor laws should be repealed — or that the federal laws had not prevented strikes and industrial strife from reaching new heights. Thoreau wrote: "There are a thousand hacking at the branches of evil to one who is striking at the root." The Senators were busy hacking at the branches, putting patches on bad laws instead of repealing them. Politicians are compromisers and appeasers. Men who strike at the root of evil are not elected to public office.

I think no Senators stated that the coal and railroad strikes were the natural results of laws passed by Congress.

Senator Wagner said: "It is obvious that there can be no collective bargaining without the right to strike, because without that right, labor has no bargaining force." And Representative Marcantonio said: "If you destroy the right to strike you make collective bargaining a mockery, and what does that mean? It means that

American workers can no longer obtain for themselves and their families a decent American living wage and keep up an American standard of living." The cat is out of the bag! Collective bargaining is the right to strike. And what is the right to strike? It is the right to quit work in a body and still keep on the payroll. It is the right to establish picket lines and thus deprive willing workers who wish to accept the wages offered, the right to enter the plant and work. Mr. Marcantonio should explain how slugging a worker who wants to pass through the factory gate helps this worker to "keep up an American standard of living." The Wagner Act, the much touted Magna Carta of labor, reduces to the right to use naked force on workers who do not join the labor monopoly or who do not obey the labor czars!

Senator Wagner said: "Under these circumstances, the only way to determine which party is *right* and which party is *wrong* is to look at the *merits* of the controversy." What does Senator Wagner mean by the right or wrong of a business transaction? A buyer offers a hundred and seventy-five dollars for a horse and the owner will sell for two hundred dollars. Neither price is right or wrong. If they cannot agree on price, there is no sale. And how would one determine the merits of the controversy? I suppose a fact-finding board would be appointed to examine the horse as to spavins, age, etc. They would hold hearings to find out what horses sell for in the locality. They might determine the needs of the buyer to find out what he could afford to pay. They might decide that the right price would be one hundred and eighty dollars. But why should the owner be bound by these findings?

Or, the government might seize the horse, make a contract with the buyer to sell the horse for one hundred and eighty dollars, and then tell the owner he cannot have his horse back until he agrees to sell at the price established by the government. The principles are the

same, whether the transaction involves horses, houses, shirts, or labor. These techniques of *fact-finding boards* and *government seizure* are simply methods for confiscating property. And if the property is seized under *due process of law*, then the law is a law for legalizing theft.

When wages are increased without the consent of the owner and employer, his profits will be less and the value of his property will be less. The theory that property can be taken from an owner and held as ransom by the government until the owner agrees to pay wages set by a public official or board is so shocking, so tyrannical, that it is hard to realize that it has happened in free America. Of course, until the aroused citizens oust these tyrants, America will not be free.

The people must learn that tyranny covered with the sugar of humanitarianism is still tyranny. All tyrants claim they work for the good of the people.

Senator Vandenberg said: "There can be no right in any group to strike against the government of the United States, anywhere, any time." Why not? Is government so holy, and just and fair that it never pays low wages? If the coal mines are operated by the government, why should the miners not strike? Is it not because such a strikes deprives the people of coal, thus bringing industrial paralysis? And do not precisely the same evil effects follow from a coal strike, if the mines are privately owned and operated? When a coal strike occurs, does the suffering of the people depend in any way on who owns and operates the mines? What the public officials say is: We give you the right to strike against others, but you must not strike against us.

We are told that collective bargaining and strikes are necessary for a prosperous America. If so, why deny these great blessings to industries operated by the government? I do not understand how strikes are good against private owner Peter, but bad against public owner Paul.

Senator O'Daniel said: "Fair and honest collective bargaining between labor and capital is the foundation upon which this nation rose to greatness. It is the only foundation upon which we can remain a great industrial nation and a free people." But collective bargaining is not fair, Senator, because it results in the formation of labor monopolies. Monopolies are not fair. It is competition and economic freedom which is fair. Our nation became great, not because we had monopolies, but because prior to 1933, our national policy was based on the principle of competition. In recent years, when we have stifled competition and favored monopolies, our national growth has been arrested.

Senator Wiley said: "We are agreed that no individual or group has a right to strike against the Government." What about strikes against private employers, Senator? Or is that subject too hot for an expression of opinion?

Senator Knowland said: ". . . our task is to develop legislation which will protect the fundamental rights of labor and collective bargaining; but collective bargaining was never meant to be collective bludgeoning." That is, when we gave the bear the right to live and roam around, we did not expect he would bite or claw.

And Senator, what about the fundamental rights of employers to bargain individually rather than collectively? Why not repeal the Sherman Act so employers in an industry can combine to bargain collectively?

Senator Willis said: "The National Labor Relations Act . . . assured to labor the right to organize and to bargain collectively, rights that are as basic to labor's well-being as freedom is to democracy." You are not quite right, Senator. Workmen always had the right to organize and bargain collectively. The National Labor Relations Act took away from the employers basic rights. It took away from the employer the right to bargain individually. It compelled the employer to submit to the method of bargaining adopted by the workers. It made

the rights of workers superior to the rights of employers. It abolished freedom of contract.

And if the right to bargain collectively and to strike is so basic to labor's well-being, why all this excitement to end the railroad strike, the coal strike, and other strikes. Surely, Senator, you do not want to stop these strikes and thus interfere with the well-being of labor!

Senator Willis said: "We must prevent labor leaders from using their monopolistic powers to disrupt the national economy." It is all right then for labor leaders to have monopolistic powers if they do not go too far. Congress gave monopolistic powers to labor leaders, but they ought to be good boys and use these powers with moderation. Did it ever occur to you, Senator, that Congress should repeal the Wagner Act and take away the monopolistic powers? Did you suggest this obvious solution?

Senator Morse is worried because he feels the proposed labor bills are unconstitutional. This is the best joke of all. Where in the Constitution is there any authority for laws on wages, hours of work, collective bargaining, or any other labor laws? If I felt that even one Senator was in favor of restoring the United States Constitution, I would feel that at last the dawn was breaking.

Senator Morse quotes from the court opinion in the case of Lindsay vs Montana Federation of Labor: "There can be seen running through our legal literature many remarkable statements that an act perfectly lawful when done by one person becomes by some sort of legerdemain criminal when done by two or more persons acting in concert and this upon the theory that the concerted action amounts to a conspiracy. But with this doctrine we do not agree. If an individual is clothed with a right when acting alone, he does not lose such a right merely by acting with others, each of whom is clothed with the same right. If the act done is lawful, the combination of several persons to commit it does not render it unlawful.

In other words, the mere combination of action is not an element which gives character to the act."

The argument that men may do in combination that which each may do as an individual, is answered by Hastings Lyon in "Dictatorship of the Proletariat in the United States." We quote:

"We ought to cut through this tangle of casuistry. The older doctrines of criminal and civil conspiracy applied to strikes were forthright and had the truth in them. As already stated, the importance of leaving the individual free to choose his employment is so great that the law will make no inquiry into his purpose in quitting, whether it be to benefit himself or to damage his employer. Aside from the personal satisfaction of liberty, such freedom is the very principle by which a voluntary economy functions.

"Society has no interest either for the maintenance of individual liberty or for the functioning of the economy in establishing a right to combine for quitting in a mass. On the contrary, action of this kind presents a monopolistic endeavor, an effort to gain advantage at the expense of others, which a free market would not afford. Such combination has the infliction of damage for its immediate purpose, and it can have no other immediate purpose. If we could safely try to sort out the purposes of individuals in quitting we might not hold quitting for the purpose of inflicting damage lawful. We need not inquire into the immediate purpose of a combination to quit; the act of striking proclaims its intent.

"When dealing with combinations for commodity price maintenance the courts have found no difficulty with the legal means for a legal purpose over which they stumble in considering combinations for wage maintenance. Yet the two situations are the same. Each individual owner of a commodity has a right to refuse, for any reason, good or bad, to sell for less than any price he may choose to name. In refusing to sell for less than a given price he pursues the lawful purpose of increasing his gains (or diminishing his losses). If several owners of commodities combine to maintain price they are only agreeing to do that which each as an individual has a right to do; and they are agreeing for the ultimate purpose of gain, which is a lawful endeavor. The restraint of trade situation is on all fours with the combination to maintain or increase wages.

"Nevertheless, the combination to maintain price is an unlawful conspiracy. Though an individual withholding his goods from the market tends to raise the current price which consumers must pay, the damage is not such as to justify interference with his freedom of action. Again we have damnum sine injuria. It is the greater ability

to damage inherent in the combination which causes society to make it unlawful. In order to maintain price the combination must create a market scarcity.

"Put the matter concretely: assume that a combination succeeds in obtaining a monopoly of the manufacture and sale of a product and by limiting the output maintains a monopoly price. Capital and labor which, if competition were open, would have gone into that manufacture, goes somewhere else. It is not lost. Other commodities become relatively cheaper because of their increased production. But these are not the values society would create if left to itself. They do not represent its choices. The monopoly price may be called an authoritarian value, interfering with the value creating processes of the economy, and obnoxious because of this interference.

"Our courts should have had no difficulty in perceiving that they were handling the same thing when dealing with combinations to maintain and raise wages. In making their argument on wage combinations they run quite contrary to their conclusions in the case of tangible commodities. They fail to perceive that they deal with the same value creating, price making, process in both cases. In the case of wages probably the nature of the association of the producer (of labor) with the product (labor) misleads them. They seize on the fallacy of unequal bargaining power to bolster the casuistry of their argument in law. As we say elsewhere in this essay, all the declarations in statutes or in legal opinions that labor is not a commodity, an idea grasped at to conceal the inconsistency of the divergent law of labor combination and restraint of trade, can not change the essential economic character of labor. In economic aspects of labor it is just as much a commodity as a bushel of wheat.

"Development of technology and its organization for production has reduced the number of potential buyers of labor. That consequence, however, is not the purpose of the combination of shareholders in the corporate form, but to make possible the use of a production technology, requiring masses of capital, which society finds to its economic benefit. Undoubtedly such a group employer can by a lockout inflict damage on its employees and utilize such coercion to gain a monopolistic advantage.

"Though the shareholder-employer corporate group had not been organized for such a purpose, was not in its inception a conspiracy to damage the employees, in the case of a lockout it might not unreasonably be charged that the group has converted itself to that purpose. Yet the corporation conducts a single enterprise, and must conduct it as if the shareholders were a single entrepreneur. If it is more profitable to shut down the enterprise than to pay the price at which labor is available, the enterprise ought to shut down. Probably it would

not be feasible to enquire whether the shut down is genuine, so to speak, because it is not profitable to operate at a wage scale obtainable in a free market, or whether it were monopolistic tactics to force a lower wage on a body of employees. We are far from having worked out the implications of the corporate form (or any group form of enterprise) in its restraint of trade and other monopolistic aspects.

"We repeat that of course society should exert every possible coercion to defeat combinations of corporate or individual employers to fix the price of labor.

"The strike is a monopolistic interference with the functioning of the economy, and as such an injury to society. We should return to the doctrines of criminal conspiracy. Prosecuting officers should have, and should exercise, authority to act accordingly. Likewise the strike is a concerted action with intent to damage the employer. Since this action is an interference with the functioning of the economy it ought not to be deemed a lawful means of furthering self interest. The employer should have his civil action in tort correlative with the offence against society. The matter, we repeat, is on all fours with conspiracy in restraint of trade. It is, in fact, the same thing."

The judges and legislators have been tangled in a web of casuistry. They have not had the courage to declare strikes illegal, but they cannot tolerate the social effects when certain strikes occur.

Senator Morse quoted this statement by Chief Justice Taft:

"They (labor organizations) were organized out of the necessities of the situation. A single employee was helpless in dealing with an employer. He was dependent ordinarily on his daily wage for the maintenance of himself and family. If the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and to resist arbitrary and unfair treatment. Union was essential to give laborers an opportunity to deal on equality with their employer. They united to exert influence upon him and to leave him in a body in order by this inconvenience to induce him to make better terms with them. They were withholding their labor of economic value to make him pay what they thought it was worth. The right to combine for such a lawful purpose has in many years not been denied by any court."

But the single employee was not helpless — he could quit and work elsewhere. About ten percent of employees

quit each year and from forty to fifty percent quit, are laid off or discharged.

We exposed the *equality* fallacy in Chapter XIV. The fact that workers *thought* a certain wage was fair, did not make it so. The employer may have had different *thoughts*. And fair prices are not based on the thoughts of an interested party, but are determined by competition and free markets. And the strikers do not *leave in a body*. They hang around on a picket line, and refuse to leave the employer. They leave their machines, but they do not leave the employer, much as he might want them to leave him.

If combinations to destroy free markets and competition are lawful, then we have bad laws. Senators, especially if they seek reelection, are not likely to disclose all of their thoughts in a public debate. But the record failed to reveal any fundamental thinking.

It will be a great day when some Senator demands that the federal government withdraw entirely from the field of labor legislation. Congressional meddling in labor legislation has seriously impaired our ability to produce and distribute goods. It has greatly increased industrial strife, bickering and discord. Events have indicated that federal labor legislation is a proven failure.

Chapter 24

DEMOCRACY IN TRADE UNIONS

IN NOVEMBER, 1943, the American Civil Liberties Union published a pamphlet on "Democracy in Trade Unions." This chapter consists of extracts from this pamphlet:

"Methods of discrimination vary. Fifteen unions exclude Negroes by explicit constitutional provision or by ritual. These include some of the most powerful unions in the country, such as the Machinists, the Railroad Telegraphers, the Railway Mail Association and the Switchmen, the Commercial Telegraphers — all A. F. of L. affiliates; and the four independent railroad brotherhoods. Five A. F. of L. affiliates, mostly in the building trades, have no rules barring Negroes from membership, but locals exclude them by tacit consent. These are the Plumbers and Steamfitters, the Electrical Workers, the Asbestos Workers, the Flint Glass Workers and the Granite Workers. Seven A. F. of L. and two independent unions confine Negroes to Jim Crow 'auxiliaries' where they pay dues but are denied a voice in union affairs and opportunities for advancement in the trade. These include the Boilermakers and Shipbuilders, the Maintenance of Way Employees, the Railway Carmen, the Railway Clerks, the Blacksmiths, the Sheet Metal Workers, the Federation of Rural Letter Carriers, the American Federation of Railroad Workers and the Rural Letter Carriers' Association.

"A few locals of the Machinists have admitted Negroes under wartime pressure, but the clause excluding Negroes from membership remains in the union's ritual and this union continues to head the list of twenty-nine labor organizations clearly discriminating against Negroes.

"Discrimination against Negroes has been especially widespread in the railroad industry. This is so among the independent Railroad Brotherhoods representing the operating crafts: the engineers, firemen, conductors and trainmen; and among the A. F. of L. unions representing the shop crafts, the telegraphers, the clerks and miscel-

laneous workers. Only a few unions, like the Maintenance of Way Employees, which have a large Negro membership do not draw the color line. Membership in the Railroad Brotherhoods is limited to white workers by constitutional provision. As a result a number of all-Negro or predominantly Negro organizations have sprung up, but only a few like the Sleeping Car Porters and Redcap unions have any real strength. But thirteen railroad and six railway shop unions continue to discriminate against Negroes.

"Similarly, high initiation fees are not necessarily proof that the union is closed. Many closed unions have moderate initiation fees while some open unions have fairly high fees. The $50 to $100 fee common in the building trades has a double purpose: to discourage the influx of casual or migrant workers and to increase the local union treasury. Yet, on the admission of union officials, there are fees designed to limit union membership. The New York checkers local of the Longshoremen's union charges a $500 fee in advance; the Motion Picture Operators locals of New York, Chicago and other cities have levied fees ranging from $300 to $1000. Local 644, Photographers of the Motion Picture Industry, affiliated with the International Association of Theatrical Stage Employees, has required $500 on application and $500 on admission. Other locals with initiation fees from $200 to $500 have been the Elevator Constructors, the Cement Masons, the Motion Picture Studio Mechanics, the Bill Posters and Billers of America, and the Carpet and Linoleum Layers — all in New York City; the glaziers in Cincinnati; the Electrical Workers in Perth Amboy and Cleveland; and the Chicago Flat Janitors.

"The right to nominate rival candidates thus exists in unions, but delegates and members do not always avail themselves of this right. In most national unions administration candidates are usually unopposed.

"An examination of 18 unions showed that in most elections the incumbent candidates for president and secretary-treasurer are unopposed. In one union — the Amalgamated Clothing Workers — there have been no rival candidates since the formation of the union in 1914. In the Teamsters Union, Daniel Tobin has been chosen president unanimously at every election since 1907.

"In the Letter Carriers the presidency was frequently contested during the first fifteen years of the union's existence. Since then rival candidates have been named only during four elections. For the office of secretary, rival candidates were nominated on only two occasions since the union was founded in 1890.

"In the United Mine Workers, the offices of president and secretary-treasurer were hotly contested between 1908 and 1926 and the

vote was sometimes close. Since 1928, John L. Lewis has been president and Thomas J. Kennedy, secretary-treasurer, unopposed. Contests for office have been also rare in the Electrical Workers and the Brewery Workers.

"In the ILGWU, election contests have been frequent during the past forty years; but since he became president in 1932 David Dubinsky has been unopposed.

"In the Typographical Union, the Smelter Workers and the Electrical and Radio Workers national offices have been hotly contested.

"Union democracy may be gauged by the turnover among union officials, though long tenure may simply reflect approval by the membership.

"A study of 22 national unions covering the period from 1920 to 1941 reveals that in four the same president was in office; in five, two presidents held office; in eleven, there were three or four presidents; in one (the Electrical Workers) there were five presidents; and in one (The Teachers Union) there were six.

"In some of the 22 unions, tenure of office extended well beyond the 21 year period studies. The president of the Carpenters has held office for 26 years; the presidents of the Teamsters and Printing Pressmen for 34 years each; the president of the Musicians in office before the present incumbent was chief executive for 41 years.

"Tenure among national secretaries shows the same pattern. In the Smelter union there have been six secretaries since 1928. But the same man held this office for 38 years in the Carpenters and 30 years in the Printing Pressmen.

"Serious difficulties can be made for opposition groups seeking to present their views to the members or their delegates. Aside from the use of disciplinary and expulsion powers, the administration can sometimes close all effective means of communication to critics.

"In some unions the main channel of communication is the official journal. If its columns are closed to opposition views, critics have little chance of presenting their case effectively to the membership.

"Control of the policy of union publications is generally delegated to the national executive board which usually appoints the editor. This is so in the ILGWU, the Electrical and Radio Workers, and the Office and Professional Workers. Sometimes the editor is elected at conventions as in the National Maritime Union, Transport Workers and Machinists. But even under these circumstances, the editor is subject to control by the international officers.

"In some unions editing the union journal is attached to the office of the president or the secretary-treasurer. This is so in the Pattern

Makers, the Conductors, the Tobacco Workers, the Meat Cutters, the Bakery Workers, the Railway Clerks and the Letter Carriers.

"Some union constitutions protect the right of members to express opposition views in the official paper. If the editor of the Machinists' Journal rejects any matter submitted by a local union, he must explain his reasons by letter. If the editor of the Tobacco Workers journal, who is also the union president, rejects a communication from members, the members may appeal to the executive board.

"The constitution of the Mine, Mill and Smelter Workers explicitly provides that the union journal shall be open to all officers and members 'for the discussion of social affairs, industrial, economic and political questions or any other questions pertaining to the interest of the working class.' The Molders constitution, on the other hand, is ambiguous; it provides that the union paper shall be open to all shades of thought on political, social and economic questions, 'provided that these are not of a personal or a partisan political character.'

"In practice union papers rarely contain serious criticism of the official family or its policies. The Typographical and a few other unions publish opposition views on important issues; but in most cases criticism is limited to minor matters. On important issues of policy the material in union papers is hardly ever critical. Generally the union paper is regarded as the mouthpiece of the national office; its main purpose is to promote the policies of the national administration.

"As a result of this situation, opposition groups are often compelled to issue printed matter of their own. This involves a great deal of organizational work and expense. It also risks violating union rules and regulations.

"Other national unions, however, are extremely lax. The last financial statement of the Hod Carriers Union covered the 30-year period from 1911 to 1941. It simply gave overall totals of monthly receipts and expenditures for each year. The 1400 delegates at the 1941 convention tried to get a more complete accounting but failed. Unions like the Engineers and Plasterers have more detailed reports but these are hardly more illuminating."

These statements are from the American Civil Liberties Union which is not opposed to the trade unions. In the same pamphlet, we read that the right to strike should not be qualified or restricted; collective bargaining should be protected by federal and state law, the right to picket peacefully should be maintained; and anti-trust laws for prosecuting ordinary trade union activities as restraints of trade should be opposed. Even the

friends of the unions find a lack of democracy. In this matter, it is probable that there are considerable differences among the unions. The report is not a condemnation of all unions.

Chapter 25

SPECIAL PRIVILEGE — THE ENEMY OF FREEDOM

IT HAS been the practice of governments all through the ages to grant special privileges to those groups which have seized control of political power. Any government which grants special privileges to favored groups is a corrupt government.

The preamble to the United States Constitution begins with the statement, "We, the people of the United States"; it does not say we, the farmers, the factory workers, the investors, etc.

In certain periods the nobles and the aristocrats were given special privileges by government. In our own country business interests have frequently asked for and obtained special privileges from government. A special privilege to one group necessitates a penalty on other groups. If we are to have good government no group should receive special privileges.

The text which follows is from the St. Louis Union Trust Company Letter published in February, 1946, and written by Towner Phelan, Vice-President of the St. Louis Union Trust Company:

"*Special Privilege — The Enemy of Freedom*"

"A peculiarity of the American people is their tendency to combine a practical and realistic approach to the affairs of everyday life with an attitude of child-like faith in the powers of government. We are not easily taken in and deceived in the ordinary affairs of life but we have an unshakable faith that any general situation requiring

corrective measures can be cured by passing a law about it. If the law expresses good intentions, we believe that its passage automatically will achieve its objectives.

"In attempting to correct particular evils, we have a tendency to overlook the underlying general principles to which the solution should conform. A typical example is that of prohibition. In that case, good intentions were written into law with complete disregard to the facts of human nature and to the basic principle that sumptuary legislation has no place in a free society. We have followed a similar course in reference to labor legislation. Because of past abuses of which labor was the victim, and in an effort to help labor realize its legitimate objectives, much legislation favorable to labor was enacted without consideration as to whether or not it conforms to the principles of our society. In labor legislation, as in the case of prohibition, we have disregarded underlying principles.

"Much of our labor legislation is based upon the principles of status and special privilege. Labor is recognized by law as a special class and authorized to do many acts that are unlawful for all other citizens. This is a return to the principles of the medieval world. They are essentially reactionary and directly conflict with the fundamental principle on which a free society is based, which is the rule of law — law that applies with equal impartiality to everyone. This principle is a basic requirement of freedom.

"The medieval world was organized along hierarchal lines and a person's status in the social structure determined the laws to which he was subject and the privileges accorded him by his status. There was one law for the Clergy, another law for the Nobles and another law for the serfs. Today in the United States there is one law for labor and another law for other citizens.

"Before discussing the special privileges of labor, we should point out that we use the phrase 'special privilege' to denote inequality under the law. This phrase is often misused as a loose synonym for wealth and frequently is applied to government subsidies. There is a vast difference in principle between financial subsidies, such as the tariff or old age pensions, and inequality under the law. The one confers financial benefits; the other gives to favored groups the privilege of committing acts that are unlawful for all other citizens. The payment of unemployment compensation, or of subsidies to farmers, for example, involves an entirely different principle from laws which authorize particular groups to conspire to destroy a man's business, to interfere with interstate commerce, or to be exempt from suits, when all other citizens are not accorded these privileges. We use 'special privilege' only to denote inequality under the law.

"Labor today is the new privileged class, having many legal privi-

leges and immunities granted to no other class of citizens. These are among the most important special privileges and immunities of organized labor:

1. The Special Privilege of Immunity From Suit. The Civil Code of Missouri, in the section relating to class suits, has a provision forbidding suits against labor unions. Under this section of our laws, the congregation of a church may be sued but a labor union cannot be sued — thus, the activities of a Caesar Petrillo are afforded a legal protection denied to our churches.

2. The Special Privilege of Financial Irresponsibility. Even though a union be granted immunity from suits, a union may be made responsible for carrying out its contracts if it is required to post a bond. The National Labor Relations Board, however, has held that it is an unfair labor practice for an employer to demand that a union post bond to guarantee its carrying out the terms of a collective bargaining contract. In other words, it is the policy of the Federal government to prevent unions from being held responsible for their contracts.

3. The Special Privilege of Violence. Although most acts of violence are violations of State law rather than Federal law, the government of the United States cannot escape moral responsibility for acts of violence which are fostered by the deliberate policy of its administrative agencies. The National Labor Relations Board places a premium upon violence and encourages violence by its policy of requiring employers to reinstate strikers — frequently with back pay — who have been convicted of misdemeanors arising out of a strike. The Board will not reinstate strikers who are convicted of felonies. Thus the Board, in effect, says to the strikers, 'It's all right to 'beat them up' boys, but be careful not to kill them.'

4. The Special Privilege of Exemption From Injunctions. The injunction is a legal remedy used under certain circumstances to prevent the commission of crime or injuries to persons or property. There is no reason why a labor union should not be enjoined from unlawful acts if other citizens or organizations may be enjoined from committing such acts. The principle of equality under the law assumes that the nature of the act, and not the identity of the actor, should determine the appropriate remedy. Under the Norris-La Guardia Anti-Injunction Act, passed in 1932, labor is almost wholly immune from injunctions by the Federal

Herb Green, a second assistant director at Warners' was attacked by strikers as he attempted to cross the picket line in front of the Hollywood studio.

Extra police forces were called out to keep strikers, about 6,000 strong, from the plant area as they staged a demonstration in protest against court injunction prohibiting mass picketing.

courts. This immunity from injunctions is not limited to legitimate labor activities but is broad enough to give union labor the legal right to do many things prohibited to all other citizens. For example, should any organization, other than a labor union, organize a boycott for the purpose of destroying a corporation's business, there isn't the slightest question that a court would issue an injunction to prohibit such a boycott, and that the organizers would be subject to severe penalties. A labor union, however, can organize a boycott for this purpose under the law.

"A large variety of union acts are immune from the injunctive process. No injunction may be issued against picketing, even in cases in which the union does not represent a single employee and the object of picketing is to establish a closed shop. Neither an employer nor a union representing a majority of its employees can obtain an injunction prohibiting a strike whose purpose is to compel the employer to violate the National Labor Relations Act.

5. The Special Privilege of Exemption from the Anti-Trust Laws.

In the Hutcheson case, the Supreme Court of the United States held that the anti-trust laws and the Norris-La Guardia Anti-Injunction Law must be read together in determining the legal privileges of labor, and construed the latter act as greatly broadening the exemption of labor from the effect of the anti-trust laws. In this case, the Supreme Court said:

'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.'

"Here is the very essence of special privilege. Violation of law depends not upon whether the act is 'licit or illicit,' but upon the status of the group that does the act.

"The Hutcheson case arose out of a jurisdictional dispute between the carpenters' and machinists' unions over who should do certain work for the Anheuser-Busch Company. The company was an innocent bystander, but the carpenters' union went on strike and sought to organize a nationwide boycott of Budweiser beer for the avowed purpose of destroying the business of Anheuser-Busch. The United States Supreme Court upheld the union but Justice Roberts, in a dissenting opinion, characterized the decision as 'a usurpation by the

courts of the function of Congress, not only novel but fraught, as well, with the most serious dangers to our constitutional system of division of powers.'

6. The Special Privilege of Racketeering.

As mentioned in our January letter, the Supreme Court of the United States held that labor unions are exempt from the Federal Anti-Racketeering Law. In this case, a teamsters' union collected tribute on all trucks entering New York. According to the opinion of the court, 'the defendants conspired to use and did use violence and threats to obtain from owners of these 'over-the-road' trucks, $9.42 for each large truck and $8.41 for each small truck entering the city.' In some cases, the union members actually drove the trucks they stopped; in others they merely collected tribute.

"The court upheld this practice because the amounts collected were the regular union wages for the job involved. Justice Stone, in his dissenting opinion, stated: 'Such an answer, if valid, would render common law robbery an innocent pastime,' and said that the payments were not 'wages' but 'the purchase price of immunity from assault.'

"Thus, insofar as the Federal law is concerned, racketeering, and extortion, carried out by the use of violence, are legitimate union privileges, providing only that the money extorted is termed 'wages.'

7. The Special Privilege of Coercing Union Members.

In a free society, no one can question the right of a man to join a union or to remain outside of a union. If it is an invasion of individual rights for an employer to discharge a man because he belongs to a union, it is equally an invasion of individual rights for a union to insist that an employer discharge a man because he is not a member of a union. The closed shop and its alter ego, 'union security,' are a denial of the rights of man and give labor unions almost unlimited power of coercing workmen. Where the closed shop exists and an entire trade is unionized, expulsion of a member from the union deprives him of any opportunity to earn a living. This would be bad enough if unions were operated along democratic lines but it is notorious that many unions, if not most, are tight little dictatorships. The use of strong-arm methods to prevent free speech at union meetings and to control union elections, the failure to hold conventions and secrecy regarding union finances, make it difficult for the rank and file to have any voice in union affairs. A notorious example was set forth in the St. Louis Post-Dispatch, January 20, 1946, the substance of which is summarized in the

news headline, 'How Hoodlums Seized Control of Steamfitters,' and the sub-heading, 'Union With $500,000 Taken Over by Ex-Convicts When Agent Went to War.' Many unions publish no financial reports and some hold no conventions for many years. The Hodcarriers' Union held its first convention in thirty years in 1941, and the Tobacco Workers' International Union was required, by a court order, to hold its first convention in thirty-nine years, in 1939.

"Examples of union coercion and victimization of workmen are plentiful. Corwin D. Edwards, of the United States Department of Justice, cited the case of welders being forced to pay admission fees and dues to nine separate A. F. of L. unions and gave an example of one welder who paid $650 in one year to obtain the right to work. Some unions have a monopoly and grow fat selling work permits to non-union members. The hodcarriers' local in Baltimore increased its union treasury from $2,590 to $89,500 in a five-months' period in the winter of 1940 and 1941 by selling work permits. The New York Local of Mr. Petrillo's union collected over $300,000 in dues and fines in one year, with fines going as high as $2,000 each. Union members have been expelled from their unions for the following acts: Petitioning the legislature for reconsideration of the full-crew law; for playing with an Army band; for following his own judgment instead of the union's instructions when serving as a member of a plumbing board; for giving honest testimony when subpoenaed as a witness; for bringing suit for the restoration of misappropriated union funds. Dr. Joseph E. Maddy, Founder and Director of the National Music Camp at Interlochen, Michigan, was expelled recently from the American Federation of Musicians' Unions on the charge of 'teaching music at Interlochen and thereby engaging in acts detrimental to the union.'

"The coercion and victimizing of union members rank high among the most serious consequences that flow from the special legal privileges of organized labor.

8. The Special Privilege of Obtaining Contracts Under Duress.

'Collective Bargaining' has an innocent sound that does not suggest that its meaning, as construed by the National Labor Relations Board, actually amounts to compulsory arbitration in many cases. This arbitration is not by an impartial body but by a Board committed in advance to support labor and to compel management to sign 'agreements' imposed under duress. To quote the Brookings Institution:

'The Board puts itself in the position of passing on

> the desirability of the proposals of both sides. If it passes judgment on the proposals, counter proposals, and concessions, it is thereby by implication saying what are the proper terms of settlement. Thus, as has been shown, the Board has repeatedly held that an employer does not bargain in good faith if he refuses to grant a closed shop when the employees request it. Again, if he makes the positive demand that the union post a bond, or if he asks it to incorporate, this is likewise evidence of the same thing. No statutes either require or prohibit the inclusion of such terms in agreements. If the Board can base the existence of the employer's good faith on his attitude toward any one of these questions, it can at its own discretion use the employer's attitude on other questions as a test of good faith.'

"If the Board holds that a refusal to grant a closed shop demonstrates bad faith, the result is that an employer who doesn't believe in a closed shop and doesn't want a closed shop, is forced to grant a closed shop. In other words, the innocent phrase, 'collective bargaining in good faith,' means accepting the closed shop under duress. As W. H. Spencer observes in 'Collective Bargaining under Section 7-a of the NIRA':

> 'To the extent that the government directly or indirectly takes from the employer the right to say 'no,' it is forcing upon him unilateral compulsory arbitration.'

9. The Special Privilege of Immunity From the Corrupt Practices Act.

Corporations are prohibited, and rightly so, from contributing to political campaign funds under the Hatch Corrupt Practices Act. Demand that the act be amended so as to apply to labor unions arose after the United Mine Workers of America contributed half a million dollars to Mr. Roosevelt's 1936 election campaign. This was followed by John L. Lewis' attack upon Mr. Roosevelt in his 1937 Labor Day radio address in which he said:

> 'It ill behooves one who has supped at labor's table and who has been sheltered in labor's house to curse with equal fervor and fine impartiality both labor and its adversaries when they become locked in deadly embrace.'

"Stripped of oratory, the United Mine Workers put down $500,000 cash on the barrel-head' and weren't satisfied with what they got

"This was the background to the Smith-Connolly Amendment to the Corrupt Practices Act by which Congress sought to prohibit campaign contributions by labor unions. But the attempted prohibition did not prohibit. Prior to the 1944 Presidential Campaign, the Political Action Committee of the C.I.O. was careful to spend its money only on political conventions and primaries and not on 'elections' and the Attorney General of the United States held that it had not violated the law. This fiction, however, would not help in the national election and so the National Citizens P.A.C. was organized, presumably independent of the C.I.O. This committee was used as a sort of holding company for gigantic union expenditures in the 1944 Presidential election campaign, the legality of which has not been questioned by the beneficiaries. Thus, in practical effect, labor organizations remain immune from the Corrupt Practices Act.

Conclusion

"The special privileges of labor are sufficient in their scope and aggregate effect to set labor apart as the new privileged class. As between labor and other groups in our society, the principle of equality under the law has been wholly abandoned. There is one law for labor and another law for ordinary citizens.

"The consequences of this are exceedingly far-reaching from the standpoint of our traditional American philosophy, of our governmental institutions and of our economy. Organized labor is a minority group, but today it dominates the country politically. This dominance is the direct result of special legal privileges which have given labor a power out of all proportion to its numbers. Political domination by a minority group, achieved through the use of special privilege, is a threat to democratic institutions and to the maintenance of a free society. We cannot long maintain a government based upon special privilege without suffering first the impairment, and then the loss, of our liberties. If labor is organized in powerful, national cartels that are above the law, it will ultimately force a cartelization of business, and when this happens, the authoritarian state will be here in fact.

"Because labor has been granted special legal privileges and is abusing the power that flows from privilege, is no reason to condemn labor or the labor movement. Human nature differs very little among labor leaders, industrialists, doctors, lawyers, or any other occupational group. In the past, business has abused its power and the remedy was not to destroy business but to control the abuses. We need organized labor in this country as a counter-balance to the power and influence of other groups. But we need even more to control the abuses that result from its excessive power which is derived from special legal privileges that are inconsistent with a free

society. Restrictive legislation involving governmental compulsion should be a last resort in a free society to be adopted only if all other methods fail. The proper principle to apply to labor legislation is not to restrict the rights of labor but to abolish those special privileges which set labor apart as a privileged class with immunity to engage in many activities that are unlawful for all other citizens. We need to return to the traditional American principle of equality under the law — of one law for all citizens.

"We need above all to recognize that the philosophy of those who today call themselves liberals is based upon the reactionary principles of the medieval world — upon the principles of authority, of status and special privilege. We need to return to the principles of traditional liberalism, based upon individualism and the freedom of man.

> 'Freedom of men under government is to have a standing rule to live by, common to everyone of that society, and made by the legislative power vested in it.'—*John Locke.*
>
> 'The only stable state is the one in which all men are equal before the law.' — *Aristotle.*"

Chapter 26

THE ECONOMIC CONSEQUENCES OF THE SPECIAL PRIVILEGES OF LABOR

THE TEXT which follows is from the St. Louis Union Trust Company Letter for April, 1946, written by Vice-President Towner Phelan:

"The Economic Consequences of the Special Privileges of Labor"

"Our February letter pointed out that, in respect to labor at least, we have abandoned our traditional liberal concept of equality under the law. It showed that labor is the new privileged class, privileged under 'class legislation' to commit many acts that are unlawful for all other citizens. It showed that the new privileged status of labor is without moral or philosophic justification in a free society but is based upon the reactionary principles of the medieval world.

"This letter will deal with the economic consequences of the special privileges of labor. It will show that the material progress of society, as a whole, and the welfare of labor alike depend, primarily, upon continuously increased productivity. It will show that labor has used its special privileges to impose multiple restrictions upon production. It will show that collective bargaining has now developed into an instrumentality for converting a competitive economy into a cartelized economy. It will show that labor is using its power and privilege with reckless disregard to the inflationary effect. It will show that labor is its own worst enemy.

"In considering consequences, economic and otherwise, it must be observed that the actual consequences of human action frequently are the direct opposite of the intended objectives. Many such examples can be cited. The objective of prohibition was the promotion of temperance, but the consequences of prohibition were to promote intemperance and to encourage lawlessness. The intended objective of the policy of isolationism which this country adopted after the first World War was to avoid foreign entanglements and thereby to keep

the United States out of any future wars. The actual consequences of this policy, however, were to promote extreme nationalism throughout the world, to foment economic warfare, to force a breakdown of world trade and to set in motion the whole chain of economic consequences that led, with the inevitability of a Greek tragedy, to World War II and our participation therein.

"Many policies intended to benefit labor have had consequences harmful to labor and, conversely, some of the greatest benefits to labor have resulted from the actions of those whom labor has regarded as its enemies. For example, Henry Ford, Sr., has done more to benefit labor than have all the politicians, from Karl Marx to Harry S. Truman, and all the labor leaders from Samuel Gompers to Walter P. Reuther. Mr. Ford's motives and objectives, whatever they were, have nothing to do with the economic consequences of what he did. By the same token, the intended objectives of politicians and labor leaders are beside the point when it comes to appraising the consequences of their actions."

"*Henry Ford and the Welfare of Labor*"

"Our appraisal of Mr. Ford's contribution to the welfare of labor is based upon the assumptions that the economic progress of society and the material well-being of labor are inseparable and can be advanced only by increasing individual productivity. Society can have no more than our people produce. Labor can obtain only a share of total production. Henry Ford, Sr., has contributed far more to increasing human productivity and, therefore, labor's share than has any other man. His first important contribution was to pioneer the development of assembly line, mass-production methods of manufacture. His second contribution was to demonstrate to American business that there is more profit in producing for the mass market at progressively lower prices than in trying to obtain larger unit profits on a smaller volume. His third important contribution was to prove to American business that high wages are compatible with low labor costs. High wages coupled with high productivity per man hour result in low labor costs, low prices and a high standard of living. This is the formula responsible for the great progress of American business and for the enormous increase in living standards that has taken place here. Ford, more than any other individual, sold America on this formula.

"It is our basic assumption that increased productivity is the only highway to economic progress, to higher real wages and to progressive improvement in the material welfare of labor. To cite an example illustrating this point, the Reid Report on the British coal mining industry shows that in the United States there is one haulage worker employed for every fifty tons of coal produced, and in Britain one

haulage worker employed for every five tons of coal produced. It is obvious that as long as this situation prevails it is an economic impossibility to pay the British haulage worker anywhere nearly as much as can be paid to an American haulage worker. Since the American worker produces ten times as much as the British worker any hope of substantial improvement in the condition of the latter depends upon increasing his productivity. In the United States the output per man hour by 1938 had risen to 217% of the 1899 level and the number of man hours of labor required in proportion to production in 1938 was only 46% of that required in 1899. This is the basic cause of the enormous improvement that has taken place since the turn of the century in the material progress of society and in the living standards and income of labor."

"*Capital Investment and Production*"

"This increase in productivity is due almost wholly to large scale capital investment in labor-saving machinery and equipment. As the London Economist observed:

> 'There would be no dispute that the enormously greater productivity of the Britain of 1944 as compared with the Britain of 1744 is due to the great accumulation of productive capital that has occurred in the two hundred years . . . and the poverty of India and China is at least in part to be explained by that fact that man there labours almost totally unaided by the machine.'

"Carl Snyder, one of our leading authorities, stated:

> 'It is obvious that we cannot have any general gain of wealth, comfort and enjoyments for the whole nation save by a definite increase in the product per worker; no other way. But this, we now know, does not usually mean any fabled gain in the 'efficiency' of the workers. There may be a little, but only that. It may be doubted if, on the average, the workers of today are more industrious, skillful, or 'efficient' than those of a century ago. Practically the sole gain in product is through improved machinery, new processes, new inventions and discoveries.'

"Simple and fundamental as is the fact that the progress of labor and of society as a whole depends almost wholly upon increased productivity, the delusion persists that labor can achieve ever higher wages at the expense of profits. This vain delusion is part of the dogma and creed of organized labor and of those who miscall themselves liberals. They believe that the chief potential avenue for improving the lot of labor is to pay higher wages at the expense of

profits. The reason for this belief is clear — any movement that is to influence and sway large masses of people must have an emotional basis. The emotional basis of the labor movement is the carefully cultivated belief that labor is exploited and that other elements of society grow rich on what labor produces. Karl Marx's theory of surplus value is based wholly on this idea of capitalistic exploitation. This has been the main theme of labor propaganda for the last hundred years and now has the force of religious dogma. It has an emotional appeal that can never be matched by cold and bloodless economic analysis.

"The facts, however, show very clearly that the potential field for labor gains at the expense of profits is extremely limited. In 1944, compensation of employees of corporations accounted for 61% of the total value of the 'corporate gross national product,' of which only 9% represented profits. Thus, if corporate net profits were to be wholly confiscated and their total amount distributed to employees as extra compensation, it would amount to a 15% increase. To confiscate profits, however, would kill the goose that lays the golden eggs, halt new investment, and bring to a stop the process that has been almost wholly responsible for the great gains labor has made in the past century.

"Up to this point, our analysis shows that economic progress and the welfare of labor alike depend upon a continuous increase in individual productivity. We shall now consider the economic effect of the special privileges of labor upon productivity, upon economic progress and upon the welfare of the workers.

"Among the special legal privileges of labor is that of practical immunity from the operation of the anti-trust laws. Labor has used this special privilege to impose myriad impediments upon production. It has used it arbitrarily to reduce the individual productivity of the worker and to increase the hours of labor required for each unit of production. Corwin D. Edwards of the United States Department of Justice, summarizes unreasonable labor activities in restraint of trade under five headings:

> 1. Restraints of trade designed to destroy one bonafide union or to transfer work from its jurisdiction to that of another bonafide union. An illustration is the case of A. F. of L. carpenters boycotting plywood produced by C. I. O. workers.
>
> 2. Preventing the introduction of new processes, improved machinery and new materials. An example is the bricklayers' requirement that mortar must be carried in a hod rather than in a wheelbarrow.

3. The erection of private trade barriers to create a monopoly of the local market for local producers and local labor. The Chicago stonecutters, for example, require all stone to be locally cut.

4. The requirement that unnecessary labor be hired. The musicians' union's requirement that standby musicians be hired when music is broadcast by electrical transcription or when school bands perform, and the requirement that unnecessary stagehands be employed by movie houses, are examples.

5. 'Interference with competition among employers by fixing prices, allocating markets, controlling channels of distribution, forcing enterprises out of business regardless of their labor record, or otherwise directly limiting commercial competition.' Examples are the attempt by organized labor and organized distributors to prevent the distribution of plumbing equipment through mail order houses, the prevention of the sale of tile through jobbers and the prevention of the sale of day-old bread for human consumption."

"*Sabotaging Production*"

"Among the various restraints sabotaging production cited by Mr. Edwards, are the following: Hodcarriers ban the use of ready-mixed concrete in Chicago. The sheet metal union in Seattle bars the installation of warm-air furnaces manufactured elsewhere. The electrical union in New York requires switchboards and other electrical equipment manufactured outside New York to be disassembled and then reassembled on the job site. In Houston, Texas, plumbers require that the threads be cut off pipes which they install and new threads cut at the jobs. In Quincy, Massachusetts, granite cutters require the use of brooms, rather than compressed air to remove dust. In many places, painters' unions forbid the use of spray guns. A farm cooperative is unable to sell its graded eggs in Chicago because the egg candlers' unions forbid the sale of eggs not candled there. In St. Louis, the A. F. of L. forced a contractor, working on the Small Arms Plant, to procure sand, gravel and crushed rock from Illinois at a cost of about 51¢ a ton higher than their local Missouri price."

"*Featherbedding Wastes Labor*"

" 'Featherbedding' is the term applied in the railroad industry to union rules whose purpose is to make jobs and waste labor. Under union rules a 100-mile run constitutes a full day's work from the wage standpoint. As a result, train crews on fast runs could earn fantastic sums if they were permitted to work normal hours. Union rules limit

mileage and many train crews work only a few days per week. Barron's Financial Weekly, in an article on 'featherbedding' in 1943, gave many examples of the waste of labor, including the following: The Rock Island's Rocket makes the run between Peoria and Chicago in two hours and forty minutes. The engineer receives 3⅕ days' pay for one round trip, plus an additional ⅗ day's pay for turning his train around and must then lay off for nearly two days between trips under union rules. If engineers on the Union Pacific Streamliners were permitted to work six 8-hour days per week for a month, they would earn $2,000 each and then have to lay off for four months under union rules.

"The testimony of L. W. Horning, Vice-President of the New York Central System, a few weeks ago, before wage arbitration boards cited many similar cases. Mr. Horning testified that a certain fireman on the Seaboard Railroad earned $354.82 in October, 1945, for only 88 hours, 25 minutes work.

"These multiple interferences with production are a direct assault upon individual productivity, upon economic progress and upon the welfare of the worker. Their aggregate effect is to decrease the production per worker per hour and to increase the number of hours of labor per unit produced. They add to the cost of everything we buy, increase the cost of living, reduce the national income — and, ironically, they tend to decrease the income of labor. High wages are a consequence of high productivity. Bernard M. Baruch, testifying before the House Banking Committee, stated: 'To make the take-home worthwhile, more things at lower prices must be produced. That is up to labor more than to management. Unless each man produces more than he receives, increases his output, there will be less for him and all the others. Each one will receive more money but have fewer things.'

"The principal reason that there is a demand for subsidized housing today is that the cost of housing has been made so excessive by restraints upon production that a large section of the population is unable to afford decent housing. As Corwin D. Edwards of the United States Department of Justice says:

> 'The building industry is the outstanding illustration of the industrial stagnation which is inevitable where such restraints are prevalent. Restrictive labor practices are among the most conspicuous causes of waste in building; and opposition by organized labor has been the greatest single obstacle confronting those who desire to experiment with better building methods. The handicraft character of the industry is largely responsible for its high costs, and these in turn for its inability to supply houses for low income

groups, its increasing dependence upon public subsidy, and much of the problems of industrial idleness and unemployment which it creates.'

"A pleasing departure from these restrictions upon production is contained in an agreement made between Local No. 3 of the International Brotherhood of Electrical Workers (A. F. of L.) in New York City, and New York contractors, under which the union has agreed to permit and promote:

> 'Use of the most modern technological methods and unrestricted use of high-speed labor-saving tools and devices in order to reduce the cost of low-rental housing and to make new dwellings available as soon as possible for returning veterans.'

"But this agreement is only for the duration of the existing housing crisis and is limited to low-cost rental housing for returning veterans. It merely emphasizes the undesirability of permitting any private group, whether union or business, to exercise monopolistic restraints of trade."

"Free Enterprise or Cartels"

"Serious as are direct union restrictions on production, they are overshadowed, not in their immediate consequences but in their long run implications, by the effect of the special privileges of labor upon the structure of our economy. The great productive power of the United States was achieved under a free competitive economy. Free competition has been chiefly responsible for the continuous advance in individual productivity which is the source of economic progress and of improvement in the living standards and income of labor.

"There are powerful groups, in industry as well as in labor and government, who want to replace competition with a sheltered economy and to sacrifice economic progress for the protection afforded by cartels. The late NRA was a movement of this nature.

"The most serious threat to the competitive structure of our economy lies in the growth of national unions seeking nationwide agreements for the purpose of standardizing wages, working conditions and production methods throughout the country. The only possible way to negotiate industrywide, nationwide wage agreements is for both labor and business to be organized on a national basis. The inevitable result will be that groups representing labor and management will regulate economic activity on a nationwide basis. The stagnation of Britain's industry and its hopeless inferiority to our own in reference to individual productivity per man hour is due in no small part to the fact that it has been cartelized for many years. Local wage agreements between local unions and individual plants offer no threat

to our competitive system but nationwide agreements lead inevitably to the destruction of effective competition in a free economy and to the growth of cartels.

"The United States government, whether consciously or inadvertently, has been the chief instrumentality in the process of cartelization which is taking form under our eyes. While paying lip service to free enterprise, our government's policy, in substance, is to promote cartelization. This purpose was clearly stated by Mr. Lloyd K. Garrison, former Chairman of the National Labor Relations Board, in his testimony before the Senate Committee on Education and Labor: '. . . It is essential to have collective bargaining preferably through industrywide agreement between organized labor and organized management. In no other way will the wage structure of the country be maintained at a proper level. . . .' An economic revolution is slowly taking place under our eyes. If it is carried to its logical conclusion, it can only mean the end of a free competitive system. This consequence is inevitable and unavoidable if collective bargaining is carried on by national unions whose purpose it is to set a uniform pattern and mold for industry throughout the country."

"*Labor and Inflation*"

"We have discussed two important economic consequences of labor's use of special privilege. The first of these is the multiple restrictions which labor imposes upon production, which directly reduce the productivity of labor and retard economic progress. The second consequence is the effect of nationwide collective bargaining in destroying the competitive system and promoting the growth of cartels. The third important economic consequence of labor's special privilege is the inflationary effect of the present reckless and shortsighted policy of labor. Marriner S. Eccles, Chairman of the Federal Reserve Board, states: 'Wage increases can only be justified when they can be met out of increased productivity and profits without increasing prices. Clearly wage increases that result in price increases to the consumer are inflationary . . . ' Bernard M. Baruch, last November, issued an ominous warning on the dangers of inflation. He said: '. . . we must have full production. Without it, we cannot keep any semblance of modern civilized government . . . with full production we can escape inflation . . . labor disputes cannot continue to interfere with production as they do . . . The miracle of American production can save the situation now as it did in the war but it must hurry, hurry, hurry!' He repeated this warning two weeks ago.

"Labor is at present conducting a nationwide campaign to increase wages without regard to productivity and engaging in wide scale strikes to enforce its demands. What are the consequences, first, of

wage increases, and, second, of the strikes? Clearly both are inflationary. Inflation is a shortage of goods relative to purchasing power. When inflation threatens, anything that increases purchasing power or interferes with production is inflationary. The wage program of labor would increase purchasing power without increasing the supply of goods. Strikes stop production. Both wage increases and strikes are highly inflationary under existing conditions. Baruch advocated prohibiting strikes, and extending Government control of prices and wages for one year. Labor is not responsible for the inflationary pressures that result from the war but labor's policy, in the light of these pressures threatens to blow the lid off the inflationary powder keg. Whatever might be said in favor of labor's present program, as applied to normal times, it must be observed that these are not normal times and that this program, under existing conditions, represents an inflationary danger of the first magnitude.

"Our February letter treated the privileges of labor from the moral and philosophic standpoint, and this letter has considered the economic aspects of the question. The special privileges of labor are inconsistent with traditional liberalism. The special privileges of labor violate the principle of equality under the law and, thus, are indefensible on moral and philosophic grounds. The special privileges of labor are a brake upon economic progress and are harmful to the material welfare of every citizen, including members of labor unions who are the supposed beneficiaries of these special privileges."

Chapter 27

STATE VS. FEDERAL LEGISLATION

THE United States Constitution gives Congress no authority to pass general laws on wages, hours of work, collective bargaining or other matters which would come under the heading of labor legislation. Labor legislation by the United States Congress is a usurpation of power which belongs to the states and this usurpation began by the enactment of the National Industrial Recovery Act which became a law on June 16, 1933. Section 7A of this Act declared that every code of fair competition shall contain the following conditions:

"(1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

"(2) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

"(3) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President."

The industrialists were given a story something like this: now that we have done these things for you and given you these codes, what will you do for labor? Naturally a recipient of special privileges cannot consistently deny the giving of special privileges to others.

The attempt was made to bring this National Recovery Act under the Constitution by referring it to the clause which gives Congress power to regulate commerce among the states. Section I stated:

"It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of co-operative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor and otherwise to rehabilitate industry and to conserve natural resources."

The constitutionality of this Act rested on the power of Congress to regulate interstate commerce. However, by unanimous decision in 1934, the United States Supreme Court declared the National Industrial Recovery Act was unconstitutional and void. The Court declared:

"But where the effect of intrastate transactions upon interstate commerce is merely indirect, such transactions remain within the domain of State power. If the commerce clause were construed to reach all enterprises and transactions which could be said to have an indirect effect upon interstate commerce, the Federal authority would embrace practically all the activities of the people and the authority of the State over its domestic concerns would exist only by sufferance of the Federal Government. Indeed, on such a theory, even the development of the State's commercial facilities would be subject to Federal control."

The Court further declared:

"The argument of the Government proves too much. If the Federal Government may determine the wages and hours of employees in the internal commerce of a State because of their relation to cost and prices and their indirect effect upon interstate commerce, it would seem that a similar control might be exerted over other elements of

cost, also affecting prices, such as the number of employees, rents, advertising, methods of doing business, etc. All the processes of production and distribution that enter into cost could likewise be controlled. If the cost of doing an intrastate business is in itself the permitted object of Federal control, the extent of the regulation of cost would be a question of discretion and not of power.

"The Government also makes the point that efforts to enact State legislation establishing high labor standards have been impeded by the belief that unless similar action is taken generally commerce will be diverted from the States adopting such standards, and that this fear of diversion has led to demands for Federal legislation on the subject of wages and hours. The apparent implication is that the Federal authority under the commerce clause should be deemed to extend to the establishment of rules to govern wages and hours in intrastate trade and industry generally throughout the country, thus overriding the authority of the States to deal with domestic problems arising from labor conditions in their internal commerce.

"It is not the province of the Court to consider the economic advantages or disadvantages of such a centralized system. It is sufficient to say that the Federal Constitution does not provide for it. Our growth and development have called for wide use of the commerce power of the Federal Government in its control over the expanded activities of interstate commerce and in protecting that commerce from burdens, interferences, and conspiracies to restrain and monopolize it. But the authority of the Federal Government may not be pushed to such an extreme as to destroy the distinction, which the commerce clause itself establishes, between commerce 'among the several States' and the internal concerns of a State."

However, those who were willing to destroy our Constitution, set up a fascist government and secure for themselves the political support of organized labor, were given only a temporary setback by the Court decision. In 1935, Congress passed the National Labor Relations Act (Wagner Act) which made it illegal for the employer to refuse to bargain collectively with his employees and which took from the employer the right to deal with his employees individually. Here again the authority was supposed to be derived from the power of Congress to regulate commerce among the States. We quote from Section I:

"It is hereby declared to be the policy of the United States to

eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

In the Jones and Laughlin case, the United States Supreme Court in 1937 stated:

"It is a familiar principle that acts which directly burden or obstruct interstate or foreign commerce, or its free flow, are within the reach of the congressional power. Acts having that effect are not rendered immune because they grow out of labor disputes.

"It is the effect upon commerce, not the source of the injury, which is the criterion.

"The close and intimate effect which brings the subject within the reach of federal power may be due to activities in relation to productive industry although the industry when separately viewed is local."

In order to come to this conclusion the Supreme Court had to change the meaning of the word "commerce." The Constitution does not give Congress power to regulate things that affect commerce. The Constitution gives Congress the power to regulate commerce among the several states.

What did the word "commerce" mean at the time our Constitution was adopted? Samuel Johnson's dictionary of 1794 defines commerce as exchange of one thing for another, trade, traffic. The same definition was given in Sheridan's dictionary of 1790 and in Walker's dictionary of 1822.

Manufacturing is not commerce. A farmer working on his land is not engaged in commerce. A worker in a factory is not engaged in commerce. When the Supreme Court in 1937, declared that Congress could regulate things which affected commerce among the states, it did violence to the Constitution which gives Congress power

to regulate commerce but does not give Congress power to regulate things which affect commerce. Furthermore, it promulgated a doctrine which would give Congress unlimited power over practically every activity of every citizen, which destroys the rights of the States and which completely demolishes the line fence which separates federal authority and state authority.

In pursuance of its policy to undermine our Constitution, the Supreme Court has made fantastic decisions which illustrate the comical conclusions which flow from a false premise and which point to the moral collapse of a court which was once held in respect.

An Ohio farmer who raised wheat fed to animals on his own farm was judged subject to federal control, because if he had not raised so much wheat, more wheat would probably have been shipped into Ohio from other states, and thus what he did was a burden on interstate commerce.

A man who operated an elevator in a New York apartment house was judged to be subject to federal control because a tenant in the apartment house operated a factory which made goods to be shipped across state lines.

Some future court will probably rule that the barber who cuts the hair of the elevator operator who hoists the factory owner to his apartment will be judged to be a burden on commerce unless he charges more for a haircut!

Such are the monstrous decisions made to support the usurpation of unconstitutional powers by Congress. The United States Supreme Court no longer protects our rights under the Constitution. Our only recourse now is to elect Congressmen who will repeal the unconstitutional laws.

Those in control of the government look on constitutions, treaties and laws as scraps of paper to be violated whenever such action appears to be in the interest of the ruling power. The progress of socialism and communism in the United States requires the destruction of our

United States Constitution, and unless the people decide that our American form of government is worth preserving, it will not be maintained. The United States has been socialized the same as England; the difference being that in this country we have called the change social progress or social reform rather than socialism.

To patriotic Americans the fact that the federal labor laws are in conflict with the United States Constitution is a sufficient reason for the repeal of these laws. But there are other reasons of equal importance why labor laws should be within the jurisdiction of the states rather than the federal government.

State legislation permits of experimentation. If certain states pass laws on wages, hours of work, collective bargaining, etc., the other states can observe the experiment and see how it works. If such laws prove to be harmful, the damage and folly is confined to a limited area. Our states differ greatly in climate, soil, urbanization, racial stock and industrialization. State laws can be made to conform to the conditions which exist in the various states. If a state law is oppressive to employers, industries can move from this state to others with more favorable laws. If state laws are oppressive to labor, some of the workmen will migrate to other states. State laws enable the wholesome principle of competition to operate as between states and thus tend to prevent any one state from enacting oppressive legislation.

Prior to 1933, there were state laws to protect workmen from accidents and occupational hazards and state laws to protect young workers and women workers. None of the states, however, were foolish enough to interfere with freedom of contract and control both employers and employees, in the matter of wage rates, hours of labor, or membership in a labor union.

If the federal government should repeal the federal labor laws, the states would probably be wise enough not to imitate the federal follies and mistakes in this

field. The proper field for state legislation would be to prevent merchants, farmers, landlords, employers or employees, from forming monopolies and combinations in restraint of trade in an attempt to exploit those citizens who did not belong to the monopoly. That is, the state legislation should be negative rather than positive.

Labor legislation is based on the theory that the workman is too dull and stupid to secure a proper price for his labor. But if this is the situation, he is likely to be cheated when he rents a home, when he buys goods at the store, when he buys life insurance, or when he invests his savings. This premise of individual incompetence would lead to the conclusion that the state should protect the citizen in every economic activity. In short, the citizen would become a ward of the state.

If the employers have the power to cheat their employees, then the merchants, the railroads, the insurance companies and the landlords are probably cheating their customers. If the citizens are to be protected by the state, this protection would require the establishment of a totalitarian government and the complete destruction of individual liberty. This is, of course, the philosophy of socialism and communism. Where this philosophy has operated in any nation, it has produced disastrous results.

If the people are too stupid to look after their personal affairs, they must be too stupid to select those who are to rule over them. And what reason have we for thinking that the rulers they select will be any more intelligent and just than the people themselves?

It is true that many people are foolish and are easily cheated and imposed upon. But justice demands that the penalties of folly shall be visited on the foolish and not spread over the entire population. If human folly is to be socialized, then there is little reason why any individual should seek to improve his skill, his industry or his knowledge.

Individualism, which rewards virtue and punishes

vice, is a constant incentive for the individual to improve himself and do what he ought to do.

The theory that the people can seize control of the government and make just laws to protect the people in their economic activities is a fallacy. When the people in France, at the time of the French Revolution, seized control of the government it was only a few years before they were ruled by the dictator, Napoleon. And when the Communists staged the revolution in Russia, it was only a short time until the Russians were under the thumb of the dictator, Stalin.

The United States Constitution gives Congress no power, or but little power, to regulate the economic activities of the citizens. Those who have the itch to change the meaning of the words in the United States Constitution to give Congress more power over our economic activities, may feel that they are promoting the general welfare; they may have good intentions. But if they are successful, the final effect of their activities will be the establishment of a tyranny and the destruction of individual liberty.

Chapter 28

CONCENTRATION OF POWER

SUPPOSE the owners of coal mines formed a union, or a holding company, and suppose the head man of this combination declared that all miners would have their wages determined by him, and not by the constituent firms, and suppose he demanded that the miners accept a cut of twenty percent in wages, and suppose he said he would order the closing of all coal mines until the miners agreed to accept the cut. Suppose the miners would not agree to the cut and that he did close down all the mines. What would happen? The United States Department of Justice would move in, the monopolists would be tried and convicted, and they would be fined and imprisoned, and the monopoly of the mine owners would be dissolved.

But if the unions of the miners form a holding company (the United Mine Workers) and if the head man, John L. Lewis, orders the miners to quit work, the government seems to be powerless. It engages in the hocus-pocus of government seizure, grants the demands, and tells the mine owners they can have their property back when they agree to the terms imposed by the government.

No individual person should have the power to close down all of the coal mines, and if any person or group exercised this power, they should be punished as criminals. But our existing laws, instead of being in opposition to labor monopolies, encourage and protect them. The Wagner Act compels the mine owner to deal with the labor union representative, it prevents him from dealing

with his employees as individuals, and it prevents him from discharging employees who go on strike. The law allows the formation of vast labor monopolies and holding companies such as the United Mine Workers, the Brotherhood of Locomotive Engineers, the American Federation of Labor and the Congress of Industrial Organization. No one man should have the power to compel all locomotive engineers to quit work at the same time, thus stopping all trains.

The problem is not to have laws by which strikes may be settled (a compulsory arbitration law), or laws to impose a cooling off period; the problem is rather to prevent the concentration of economic power by making it a criminal act to organize, belong to, or deal with a labor monopoly. This does not mean that laborers should be forbidden to organize or form associations. They should be forbidden to organize a labor monopoly. Just as firms in a given industry can form trade associations, so workmen should be free to form associations. But these trade associations and labor unions should not be free to establish prices for goods, services, or labor, nor should they be allowed to compel firms or individuals to join the association.

There are various stages in the growth of labor monopolies. The first stage is the labor monopoly in a single factory or establishment; the second stage is the monopoly which embraces all factories or establishments operated by the employer; the third stage is the monopoly which embraces all employees in an industry; and the fourth stage is the monopoly which embraces the employees of several industries.

Mr. Walter Reuther is working to attain the third stage in labor monopoly in the automotive industry. We quote from *The Wall Street Journal* of June 18, 1946:

"Walter P. Reuther, United Automobile Workers president, in the current issue of The United Automobile Worker, declares that the

establishment of an industry-wide wage agreement is the union's 'most important economic objective.'

"Writing in what is entitled the 'president's column' of the union publication, Mr. Reuther says that such a wage agreement should be based on equal pay for equal work, without regard to the geographical location of the plant. . . .

"In advocating an industry-wide wage agreement, Mr. Reuther says, 'Such a wage program will not be won overnight nor through wishful thinking.

" 'It will be achieved through extensive research, hard work in our day-to-day collective bargaining relationships and practical planning.'

"He lists the following steps that must be taken to insure success:

> 1. Establishment of corporation-wide wage agreements in 'multiple-plant' corporation. 'Here we have made some progress.'
>
> 2. Establishment of wage agreement based on equal pay for equal work where different plants do comparable work.
>
> 3. Completion of a 'master' industry-wide agreement not only providing 'equal pay for equal work' but also covering 'other economic issues' such as night-shift premiums, vacation pay, call-in pay and overtime provisions.
>
> "Demands for the equalization of wage rates in their Detroit and smaller city plants are reported by union headquarters to have been made on several companies recently. Included are Chrysler Corp. and Briggs Mfg. Co., which operate plants in Evansville, Ind., where the wage scale is somewhat lower than in Detroit."

In the recent General Motors strike, the labor union strategy was to hurt General Motors by allowing the other companies to operate. Then the attack could be shifted to the other companies, one at a time. But if Mr. Reuther can attain to the third state of monopolization, he will have the power to close down all automobile plants at the same time, just as John L. Lewis can close down nearly all of the coal mines at the same time.

If in State "A" there are many potential workers but few employers, and if in State "B" there were relatively fewer workers and more employers, wages will tend to be lower in "A" than in "B." This disparity will tend to cause industry to move into State "A" and move out of

State "B." This movement will tend to equalize wages in States "A" and "B."

Mr. Reuther would destroy this equalizing process and force wage equality in the two states. The unemployed in State "A" can then remain unemployed or move to the areas where the factories are located. It is more inefficient to compel workers to move and build new homes than to encourage the factories to move where the workers are. Mr. Reuther's industry-wide bargaining would impede the decentralization of industry. When he speaks of equal pay for equal work, he is advocating raising wages in the low wage area to the level of wages in the high wage area. He could get equality by lowering wage rates in the high wage area. But his objective is not equality, but a rise in monetary wages, which may not result in any gain in real wages. In the southern states, the winters are less severe, the cost of living is lower, and monetary wages in the South ought to be lower than in the North. Likewise, it costs less to live in a village than in a big city. His *equal pay for equal work* formula is a fake.

What Mr. Reuther really wants is more power, power to close down the entire automotive industry. The fourth stage in the growth of labor monopolies would be the combination of all workers into one big union, which would take over the government and confiscate all property. Property owners who resisted would be shot or put into concentration camps. Political power would be seized by a dictator, and then the labor unions and their officials would be liquidated. Political action by labor is really a plan for self-destruction.

No individual is good enough or wise enough to control other men. But, since some controls are necessary, they should be on a voluntary basis. Those who are controlled should be free to escape. The control by government is compulsory — no escape is possible. Hence the power of government should be strictly limited.

The labor czars have more economic power now than

was ever lodged in the hands of industrialists. No industrialist ever had the power to stop all of the trains or to close up the coal mines. We gave this power to the labor czars through legislation. We must now change the laws and strip the labor czars of power.

Chapter 29

WHAT COLLECTIVE BARGAINING DOES—AND DOES NOT DO

DR. WILLFORD I. KING, noted author and economist, one-time president of the American Statistical Association, has listed some of the things which collective bargaining does and does not do:

"WHAT COLLECTIVE BARGAINING DOES"

"1. It raises the hourly wages of certain kinds of labor, and as a result, increases the prices of certain products, diminishes their sales volume, brings on depressions, lessens employment, and reduces the real earnings of labor as a whole.

2. It reduces job opportunities for young workers with less seniority and increases job security for incompetent workers who have high seniority.

3. Irrespective of their ability and competence, in time of depression it increases the annual earnings of those workers who possess senority sufficiently high to enable them to hold their jobs.

4. It diminishes the freedom of workers to seek the jobs best suited to their abilities and tastes.

5. By standardizing the pay and limiting output in a given occupation, it prevents the most competent workers from utilizing their ability to the full, and from forging ahead of the less competent workers.

6. It takes away the individual rights of workers to work when they please, for whom they please, on what terms they please.

7. It brands with the mark of Cain any worker who prefers to exercise his right as an American citizen not to join a union.

8. It often makes it impossible for the non-union man to make an honest living.

9. It makes continual labor strife essential in order to keep up the membership in the labor unions and enable the leaders to hold their jobs and speak with authority.

10. It makes the profession of trouble making highly lucrative and by making it legal cloaks it with an air of respectability.

11. It eliminates quite thoroughly the possibility of building up between employers and employees any spirit of sympathy, understanding, and confidence.

12. It hampers the cooperation of employers and employees in developing plans for reducing expenses, increasing output, increasing real wages, and increasing profits.

13. Collective bargaining is a process so cumbersome and expensive that it tends to swamp the small concern, and force it either to merge with some stronger organization or to get out of business.

14. It generates labor monopolies so huge and aggressive that employers are impelled to combine in order to combat such powerful opponents.

15. It makes it practically impossible for employers to replace workers who have struck — regardless of how unreasonable the demands of the strikers may be.

16. It decreases the nation's productive total and hence lowers the real income and the scale of living of the typical American family.

17. It spreads the area over which strikes are effective, and thereby increases the extent of injury which they do to the public interest.

18. It substitutes for the authority of the Federal and State Governments the authority of the labor leaders.

19. For labor union members, it places loyalty to the labor leaders above loyalty to the nation.

20. It diverts the attention of management from the efficient production of goods to the settlement of innumerable and petty grievances.

21. It fosters violence, destroys respect for law and order, and makes desultory warfare an accepted labor technique.

22. It makes the workers class conscious, paves the way for the class struggle, the temporary dictatorship of the proletariat, and the early advent of the totalitarian state."

"WHAT COLLECTIVE BARGAINING DOES NOT DO"

"1. It does not increase — instead it diminishes the average real take-home pay, and hence the average scale of living, of members of the working class.

2. It does not tend to settle labor disputes peacefully — instead it increases labor strife and multiplies strikes.

3. It does not tend to promote orderly relations between employers and employees — instead experience shows that, under collective bargaining, outlaw strikes are extremely common.

4. It does not promote law and order — instead it greatly increases the scope of lawlessness and violence."

Chapter 30

A POSITIVE LABOR PROGRAM

THE STRIKES and industrial turmoil in this country have reached such a crescendo that every sane person must realize that something is wrong somewhere. What should we do to get out of the mess we are in? We may discuss the problem from two aspects:

1. What should we do?
2. What can we do?

What we should do is to repeal all federal labor laws on wages, hours of labor, collective bargaining, minimum wages, etc., and abolish all boards, bureaus, and commissions that result from these laws. That throws the problem back to the states where it belongs.

The states should have laws to promote health and safety. No employer should be allowed to operate machinery which is likely to maim, injure, or kill an employee. The employer should be compelled to maintain sanitary conditions. Workmen's compensation laws are probably desirable. Unemployment compensation laws should be repealed. Government relief should be for the destitute, and the temporary loss of a job is no proof of destitution. In fact, many unemployed persons are rich. The real purpose of unemployment compensation is to relieve the labor market of the pressure on wage rates exerted by the unemployed.

Employees should be free to organize and to elect representatives to discuss with the employer such matters

as wages, hours, working conditions, etc. No employer should be compelled to sign a contract with a labor union. Employees should be free to quit and employers should be free to discharge any employee. Picket lines should be illegal, as the alleged purpose of the picket line, to advertise that a strike is in progress, can be accomplished without intimidating those who desire to work. There should be no minimum wage laws. Persons whose labor is not worth much, should nevertheless be free to earn what they can.

The prevention of strikes is a knotty problem. There should be no laws which would recognize strikes as legitimate and lawful, such as legal cooling-off periods, posting of intention to strike, etc. Theft is recognized as an offense against society, rather than an offense against the person whose property is stolen. Hence, it is the function of the public officials to apprehend, try, convict and punish the thief and if possible to restore to the owner the stolen property. A strike should be considered as an offense against society, rather than an offense against the employer. The strike is a conspiracy to inflict damage on the employer to compel him to make better terms with the employees than he would make otherwise.

It is true that the strikers suffer losses; but they strike because they expect their ultimate gains will exceed their losses. The employer has no expectation of gain. If he yields to the demands, he will lose through an increase of operating costs and if he does not yield, he loses through the interruption to his business.

It seems to me that it should be unlawful, in a business transaction, for one of the parties to damage the other party, or threaten to damage him, in order to secure more favorable terms. Would it be lawful for one who sought to buy a house, to tell the owner that unless his terms were met, he would throw a pineapple into the house and smash the windows? Would it be lawful for tenants in an apartment to tell the owner that unless he lowered the

rentals they would deface the walls? If employers were free to discharge strikers and those who instigated strikes; if the public officials maintained order and protected property; and if the public officials arrested, tried, and if convicted, punished persons who ordered or instigated strikes, then there would probably be very few strikes.

We must face up to the issue as to the desirability and legality of strikes. We are told that workmen have a right to withhold their labor until they can get the price at which they are willing to sell it. But does this right exist for a combination of workmen? Would the owners of copper mines have the right to form a combination and say to copper buyers that they will refuse to mine and sell copper until they can get a "decent" price for copper? Would the owners of steel mills have the right to form a combination and refuse to make or sell steel until the buyers of steel will meet their "just" demands? Would the owners of railroads have the right to combine and stop the trains until shippers would agree to a thirty percent increase in freight rates? The owner of a copper mine does have the right to refuse to sell copper unless he can secure the price which he demands. But this does not give to all the owners of copper mines the right to combine and use their monopoly power to force up the price of copper.

The crux of the problem is whether our economic affairs are to be regulated by the principle of competition or by the principle of monopoly. Many people are opposed to competition. They call it unregulated competition, cut-throat competition, the philosophy of dog-eat-dog, the law of the jungle. But what is the alternative? Competition is freedom — freedom to buy, to sell, to hire, to take a job. The alternative to freedom is compulsion. Compulsion means setting up an authority to give commands which others must obey. But an authority cannot operate if there is a rival authority.

Macklin Hall, Jr., as he tried to charge through the picket lines at Warner Bros. He was thoroughly roughed up by the strikers who pounced on him with bare fists.

UNION BOSS
FAIR THINKING AMERICAN WORKMAN
RWH

The compulsory authority must have a monopoly of power. So we see that the alternative to competition is monopoly. The monopolist says: "You deal with me and pay my price or you go without the goods and services."

When Mr. Reuther bargains with General Motors, he does so as a monopolist. He says, I represent all the workers in your plants. We put picket lines around your factories to prevent those who would be glad to accept the wages you offer from entering your plant. It may be true that some of your workers would be glad to accept the wages you offer, but the laws of the United States prohibit you from dealing with them as individuals. You will pay the wages demanded by my monopoly, or your plants will remain idle. But General Motors does not have a monopoly. It cannot say to its employees, you will work in our factories or you will not be allowed to work at all. General Motors must pay the market price for copper, for steel, and for labor. For if it pays less than the market price, it will be short of materials and be short of workmen. But the United Automobile Workers' Union is not willing that its members receive the market price of labor, for workers can secure the market price without any collective action.

The purpose of the labor union monopoly is the same as the purpose of every other monopoly. The monopoly is formed to get a price above the market price. The purpose of a monopoly is exploitation.

We condemn the principle of monopoly because it lowers the output of goods and services, lowers the standard of living, destroys individual liberty, and because most monopolies are maintained by the use of force and violence. The facts are that nearly all persons condemn all monopolies except the one to which they belong. Competition is the principle which brings freedom and abundance.

Listen to the words of Frederic Bastiat, written about a century ago:

"There is not in the whole vocabulary of Political Economy a word which has aroused the fury of modern reformers so much as the word Competition, which, in order to render it the more odious, they never fail to couple with the epithet, anarchical.

"What is the meaning of anarchical competition? I really don't know. What could be substituted for it? I am equally ignorant.

"I hear people, indeed, calling out Organization! Association! What does that mean? Let us come to an understanding, once for all. I desire to know what sort of authority these writers intend to exercise over me, and all other living men; for I acknowledge only one species of authority, that of reason, if indeed they have it on their side. Is it their wish, then, to deprive me of the right of exercising my judgment on what concerns my own subsistence? Is their object to take from me the power of comparing the services which I render with those which I receive? Do they mean that I should act under the influence of restraint, exerted over me by them and not by my own intelligence? If they leave me my liberty, Competition remains. If they deprive me of freedom, I am their slave. Association will be free and voluntary, they say. Be it so. But then each group of associates will, as regards all other groups, be just what individuals now are in relation to each other, and we shall still have Competition. The association will be integral. A good joke truly. What! Anarchical Competition is now desolating society, and we must wait for a remedy, until, by dint of your persuasion, all the nations of the earth — Frenchmen, Englishmen, Chinese, Japanese, Caffres, Hottentots, Laplanders, Cossacks, Patagonians — make up their minds to unite in one of the forms of association which you have devised? Why, this is just to avow that Competition is indestructible; and will you venture to say that a phenomenon which is indestructible, and consequently providential, can be mischievous?

"After all, what is Competition? Is it a thing which exists and is self-acting like the cholera? No, Competition is only the absence of constraint. In what concerns my own interest, I desire to choose for myself, not that another should choose for me, or in spite of me — that is all. And if any one pretends to substitute his judgment for mine in what concerns me, I should ask to substitute mine for his in what concerns him. What guarantee have we that things would go on better in this way? It is evident that Competition is Liberty. To take away the liberty of acting is to destroy the possibility, and consequently the power, of choosing, of judging, of comparing; it is to annihilate intelligence, to annihilate thought, to annihilate man.

From whatever quarter they set out, to this point all modern reformers tend — to ameliorate society they begin by annihilating the individual, under the pretext that all evils come from this source — as if all good did not come from it too."

Our state laws should be based on the principle of competition and not on the principle of monopoly. Collective bargaining and the formation of monopolies should be unlawful, whether the purpose be to raise the price of wheat, of steel, or of labor. An employer who signs a collective bargaining agreement or a closed shop agreement should be considered equally guilty with the officers of the labor union who sign the agreement. The fact that the agreement is desired by the employer as well as by the employees, should have no weight, for the offense is against society. When the employer indulges in collusion with the labor union, it is because he expects to pass the extra costs on to consumers. He buys industrial peace by passing the bill to consumers or the general public.

In framing a law against strikes, the rights of workers must be protected. If a number of workers decide to quit the employer and seek work elsewhere, such action should, in most cases, not be illegal. But in cases where the workers by simultaneous quitting would inflict substantial injury either on the public or the employer, it should be necessary for them to give notice of their intention to quit.

Strikes will be eliminated when they are no longer profitable. It would probably be desirable to make it illegal for an employer to grant a wage increase to any employee who had been on strike during a preceding period, say six months. It would probably be easier to prevent the employer from rewarding strikers than it would be to punish workers for striking.

The public have been subjected to such a flood of propaganda in favor of collective bargaining by labor

unions, that the suggestions I have made will seem to many to be harsh and revolutionary.

I believe that my suggestions, if carried into action, would promote liberty, justice and prosperity — especially the prosperity of those who work for wages. In studying the events of the past few years, can we truthfully say that collective bargaining has brought contentment, peace or prosperity? "Wherefore, by their fruits ye shall know them."

We come now to the question, *what can we do?* Obviously, the program I have suggested could not be put into effect this month or next. Nevertheless, it is desirable to set up a program which is the ultimate goal, even if it cannot be attained immediately. Most of us cannot learn out of books, we learn by experience and in the school of hard knocks. Perhaps we must live through many more years of industrial warfare; more workmen must be coerced and intimidated by the labor union bosses; more poverty must come because of the interruption of production by strikes, more suffering must come to the citizens who are deprived of essential goods and services, before the public realizes that collective bargaining is evil.

It required seventeen years for the public to realize that the federal prohibition amendment should be repealed. It required decades of public discussion plus a civil war to get rid of human slavery. We must not be defeatists. We must not say: "Collective bargaining is here to stay, and there is nothing we can do about it." Wherever there is evil, there is always something that we can do about it. The public has been taught that collective bargaining is beneficial. We must learn through discussion, debate, and experience, that it is harmful. It is all a matter of education. When we think straight on the subject, we will get proper legislation.

For some years, perhaps for many years, we will struggle to eliminate the abuses of collective bargaining.

Some day it may dawn on the majority of our citizens that the abuse to be eliminated is collective bargaining itself — that competition is superior to monopoly — and that economic freedom is better than compulsion.

Chapter 31

A WORD TO THE RANK-AND-FILE

I DO NOT expect that the arguments in this book will change the opinions of labor union officials and organizers who get their living from the dues paid by organized workers. Nor will it be easy to change the thinking of loyal union members who have found that the employer no longer can discharge them, who have found that their political power enables them to get special privileges from Congress and that through strikes they have frequently secured wage increases.

However, union members should realize that the labor unions in the end will harm them and that the benefits they seem to get through organization are temporary and illusory, especially for the more skilled workmen.

Political action and the formation of a labor party will be harmful to workers. In the early days of the Russian revolution, the government leaders catered to the labor unions. But those who had political power could not countenance a rival power and in the struggle which ensued, the labor unions lost out. The prosperity of workers is advanced by producing more goods and not by passing laws. The control of industry by labor would mean the control by politicians, who would be less efficient than private owners.

If only a few workers are organized, these few can get high wages and still buy cheap goods made by the unorganized workers. But if all workers are organized, there are none left to produce cheap goods, and the high

wages are dissipated in paying high prices for goods and services.

Since wages and salaries and the incomes of the self employed represent about eighty-five per cent of the cost of goods, it is impossible to increase wage rates without increasing the prices of what we buy. If wage increases are obtained by lowering the returns to investors (rent, interest and dividends), then savers will be unwilling to invest in factories and machines. This will cause the unemployment of those who would otherwise be building additional machines and equipment.

Those who own the present equipment will be sunk and their problem will be to salvage what they can from investments already made. But the threat of labor union demands will tend to prevent expansion and the growth of new enterprises. A considerable part of the wages of the employed will then be taxed away to support the unemployed.

The harmful effects which come to workers by attacks on property owners are clearly stated by Henry C. Simons in his article, "Some Reflections on Syndicalism," from which we quote:

"The situation here is especially alarming when one considers it from the viewpoint of enterprises or investors. In a free-market world, every commitment of capital is made in the face of enormous uncertainties. One may lose heavily or gain vastly, depending on unpredictable (uninsurable) contingencies. For reasonably intelligent investors, however, the gamble, with free markets, is a fairly even one, with chances of gain balancing roughly the risks of loss — relative to a conservative commitment, say, in government bonds. The willingness to take chances, to venture with one's property, especially in new and novel enterprises, of course, is the very basis of our whole economic and political system. It is now gravely jeopardized by developments which tend ominously to diminish the chances of gain relative to the chances of loss.

"Investors now face nearly all the disagreeable uncertainties of investors in a free-market world plus the prospect that labor organizations will appropriate most or all of the earnings which would otherwise accrue if favorable contingencies materialized. Indeed,

every new, long-term commitment of capital is now a matter of giving hostages to organized sellers of complementary services. Enterprisers must face all the old risks of investing in the wrong places — risks of demand changes, of technical obsolescence in plant facilities, and of guessing badly only because too many others guessed the same way. Besides, they must risk being unable to recover the productivity which their assets would have if there were free-market access to complementary factors. The prospect for losses is as good as ever; the prospect of profits is, in the main, profoundly impaired.

"If we are to preserve modern industrial production without totalitarian control, we must solve the problem of private investment. There is now much profoundly foolish talk of economic maturity and of technically deficient outlets for new investment. Such talk is plausible for those who would evade hard problems and unpalatable facts; and it is more than welcome to those who pray for revolution here. It invites defeatism among those who cherish democracy; and it counsels policies which eat away the foundations of democracy in our economic way of life. But the phenomenal deficiency of private investment in recent years requires for explanation no recourse to factually unsupported (and, I believe, grossly false) conjectures about 'real' investment opportunities. I believe that investment opportunities were never so large as now; that our highest thrift would not for generations permit enough investment to lower interest rates substantially, if owners of new capital assets could be assured of free-market access to labor and other complementary factors (mainly indirect labor). But the prospect of such access has diminished everywhere. Every new enterprise and every new investment must now pay heavy tribute to labor (and other monopolies) in acquiring its plant and equipment; and it faces the prospect of increasing extortion in its efforts to utilize facilities after they are constructed. (Labor monopolies are highly concentrated in construction and in capital-goods industries generally; they are also peculiarly characteristic of the more capital-intensive industries.)

"I am not concerned here with corruption and dishonesty among labor leaders, or with their salaries, although much can and should be said on that score. The whole scheme of monopolizing labor markets obviously invites abuses of bribery and extortion, and use of power by leaders for both political and pecuniary advantage to themselves. But, for purposes of argument here, I am willing to ignore personal corruption and private extortion, i.e., I am willing to suppose that unions are always managed scrupulously and faithfully in the interest of the overwhelming majority of their established members. When I say that investors and enterprisers face an alarming prospect of extortion at the hands of organized sellers of labor, I refer merely to

the prospect that bargaining or monopoly powers inherent in organization will be exercised fully, in a manner now recognized and sanctioned as proper and legitimate. There is every prospect that opportunities for collective, collusive, monopolistic action in particular labor markets will increase indefinitely wherever organization is possible. This prospect alone suffices to explain the ominous decline of private investment and the virtual disappearance of venturesome new enterprise.

"In the name of equalizing bargaining power we have sanctioned and promoted the proliferation of militant labor monopolies whose proper, natural function is exploitation of consumers. The ultimate burden of their exactions will not fall mainly upon industrial investors or enterprises; but enterprises, as intermediaries, will bear the impact of new exactions and may expect to see earnings continuously pressed down to such extent that average expectations are utterly discouraging. For industrial investors, the result is much the same as though the state had promoted organized banditry and denied them all protection against it — while offering unusual safeguards to holders of idle funds (deposits) and large new investment outlets in government bonds (not to mention 'tax-exempts').

"Radicals and power-seekers have promoted the organization of innumerable industrial armies, with implicit sanction to employ force, coercion, and violence to the full extent of their power, at least to prevent competing sales of services at rates below their own offers. We are told that violence is essential only in the organizing phase; that it will disappear afterward as organization is achieved and recognized, which, of course, is true. Organizations which have attained power need use little overt violence to maintain it. However, it is only the middle phase of unionism or syndicalism which is nonviolent. There is much violence at the start inevitably; but there is more and worse violence at the end, involving total reconstitution of the political system. Somehow, sometime, the conflict between the special interests of labor monopolies and the common interest must be reconciled. Beyond some point their exactions become insufferable and insupportable; and their power must be broken to protect the general welfare.

"Unionists are much like our communist friends. They are good fighters and like fighting for its own sake. They are extremely effective at undermining the political and economic system which we have but are surprisingly unconcerned and inarticulate about the nature of the world which they would create afterward. In neither case is there much constructive thought. Communists are out to destroy capitalism; unionists are out to destroy competition in labor markets. The former talk a lot about the evils of capitalism but never tell us much

descriptively about the good life. Unionists, on the other hand, have never bothered to draw us a picture of their utopia. In other words, they have taken unions for granted as necessary elements in the good society but have not bothered about the nature of the good society within which unions would be good."

To think is difficult. Most people have neither the capacity nor the inclination to think deeply on any subject. They fall an easy prey to demagogues who deal in slogans and superficial arguments. No group has a monopoly of brains, and among workingmen there are many with superior intellectual power.

I believe the growth of labor monopolies is harmful to those who labor. Those who expose the fallacies advanced by so-called labor leaders are not anti-labor; they are pro-labor. It would be highly desirable if the more intelligent workers could form associations to combat the false arguments of their so-called leaders. The real interests of workingmen lie in the preservation of their liberties and they injure themselves when they surrender their liberties to labor union bosses or to the law makers.

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AUTHORS AND PUBLISHERS WHO HAVE GRANTED PERMISSION TO
QUOTE FROM THEIR PUBLICATIONS

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Detroit Free Press: Cartoon facing page 57.

Ranck, John V.: Cartoon facing page 155.

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