

38. Industrial Relations and Working Conditions



Department of Labor

THE federal government deals with labor today as a third partner in the national economy, along with business and agriculture. Federal authorities have adopted this position only in recent years; certainly until the last few decades working men have not been regarded as a separate political force. Often it was assumed either that workers had the same interests as other Americans, or that their role in life had so little dignity that their interests were unworthy of regard. About a century ago, however, there began to emerge a theory holding that labor is as essential an element in the national economy as either business or agriculture. Coupled with this theory came the recognition that although working men as a group have interests in common with both businessmen and farmers, they also have interests contrary to those of the other two groups.

There have been several important factors in the process whereby labor has attained its present stature in federal politics. One major factor has been the sentiment of humanitarianism, which has stressed the dignity and equality of all men. This sentiment is in part responsible for the fact that it is difficult to draw a logical line between federal labor legislation and federal welfare legislation. For example, old age and survivors insurance as originally designed applied only to manual and clerical workers.

Another factor has been the rise of labor organizations whose leaders can function as spokesmen for the interests of the working group. The force of these organizations, combined with the fact that an increasing number of workers had the power of voting, yielded a band of political figures who campaigned on behalf of the workers, seeking the enactment of laws favoring them. It is noteworthy that although some of these leaders stressed class-consciousness in their appeals, the working group in the main does not feel itself to be a distinct "class"; indeed, American workers are less "class-conscious" than the workers of any other industrial country in the world, often to the dismay of socialists and communists.

Finally, State governments have been incapable of dealing with strife between industries and labor unions that may both cross State lines. Such complications have evoked demands from many other groups that the federal government intercede. Under such conditions, any federal administration wishing to retain popular support has been obliged to acknowledge the power of organized labor. The upshot of these factors is that the federal government carries out two functions with regard to labor: (1) it regulates it, as in the field of industrial relations; and (2) it promotes it, as in the matter of working conditions.

THE ORGANIZATION OF LABOR

Before inspecting federal statutes dealing with labor, one should examine the organization of labor. To a considerable degree these statutes regulate organizations rather than individual workers; for example, the law concerning strikes is almost entirely a law that deals with unions on the one hand and companies on the other hand, as the two parties concerned. Even when the laws treat of subjects that impinge upon individuals instead of upon organizations, such as child-labor restrictions, they may have been enacted at the behest of organizations. Furthermore, employers in industries whose workers belong to labor organizations—and these include almost all the great industries, such as automobiles, aircraft, steel, rubber, electrical machinery, meatpacking, and the like—deal almost always with the organizations, and rarely with the individuals. Labor organizations, then, like some business and agricultural associations, are legally private but in fact governmental in nature, standing between the worker on one hand and both the employer and the federal government on the other. Hence it is necessary to see first of all what labor organizations are, what factors underlie their growth, and what are their relations with the individual workers.

Labor unions today

The array of American labor unions was discussed in the chapter on interest groups. To recapitulate briefly, there were until 1955 three principal groups of American labor unions: (1) the American Federation of Labor (AFL), the largest and oldest of the three groups; (2) the Congress of Industrial Organizations (CIO), which originated in the AFL in 1935; and (3) the independent or unaffiliated unions, most important of which are the railroad brotherhoods. The AFL was based on craft or trade unions, that is, on unions of artisans possessing the same skills and working in different industries. The CIO was based on industrial unions, that is, on unions of semi-skilled and unskilled laborers working in the same type of industry. The United Brotherhood of Carpenters and Joiners of America was a characteristic AFL union; the United Steelworkers of America, a characteristic CIO body. Yet the AFL included the American Federation of Government Employees, which is not a trade or craft union; the CIO contained the Amalgamated Lithographers of America, which is not an industrial union. In 1955 such distinctions lost importance, because the AFL and the CIO merged into a single giant union organization, the AFL-CIO.

The growth of unions and its cause

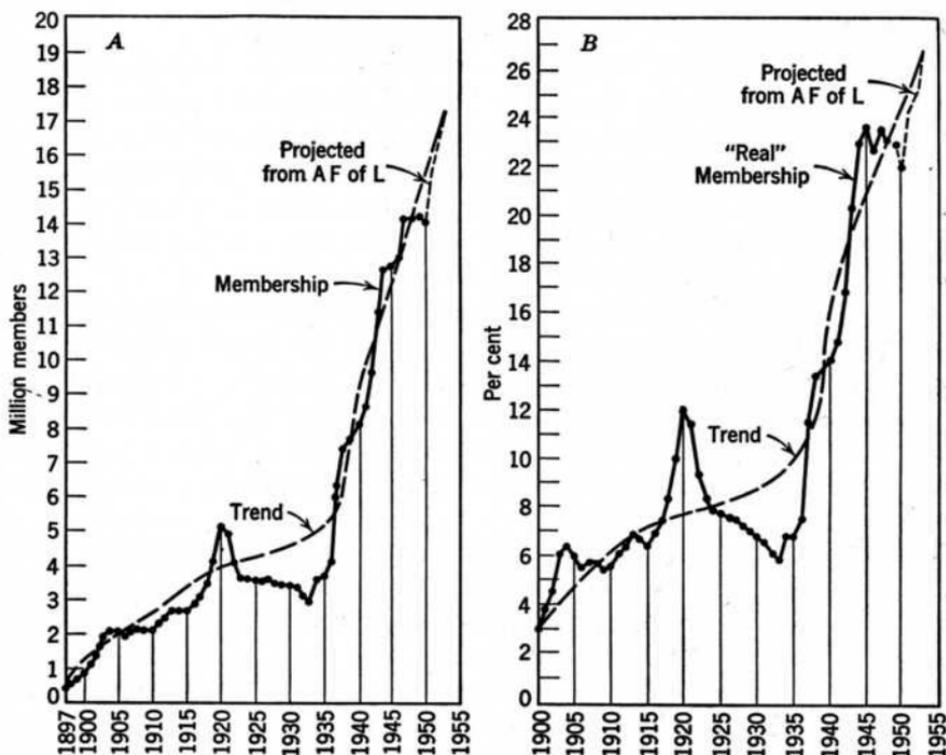
Today there are approximately seventeen million union members. In 1897, the earliest date for which statistics are reliable, there were fewer than one-half million union members. In about six decades, then, union membership has multiplied more than thirty times. This increase is far greater than that of the total population, or than that of workers; in 1897 about three per cent of all employed persons belonged to unions, whereas today the percentage surpasses twenty-five. The rise in membership and in the proportion of workers in unions is shown in the graphs in Figure 89. It is remarkable that even today the ratio of union members to the total working force is barely more than one to four, so that union leaders cannot speak with assurance for the "public" or even for all workers. Yet this growth was extensive, and the causes behind it merit investigation.

There is one leading cause for the establishment of labor unions: the wish of laborers to improve working conditions for themselves. It has been pointed out many times that the nucleus of the AFL, a union of cigar makers, was born of the fear that machinery would replace hand labor. Many unions have since been founded by workers who sought higher wages, shorter hours, safer work methods, and improved surroundings for their work. The overt demands of most workers stop at this point. That union members consistently seek improvements for those not in unions, and even for members of other unions, is apt to be as much of an illusion as the contrary belief that union members have a smaller interest in the "common good" than other segments of the population. On most issues, it is fair to say that union workers share "normal" amounts of egotism and altruism.

A secondary reason for the establishment of unions is the drive of certain individuals to obtain a living by exacting union initiation fees and union dues from workers. In some large cities workers in the so-called "service trades," such as hotel employees, have been coerced into unions by elements who had no wish other than to add these assessments to their own income. A frequent procedure has been that the organizers of such unions have managed to raise the wages of the hitherto non-union employees just enough to cover union charges. Yet a third and more important reason underlying the initial organization of some of the largest and most influential unions in America has been the self-sacrificing devotion of men and women who have thought that a new and better society might spring from an enlightened labor union movement that voiced the social and political aspirations of the mass of ordinary people.

The wealth of unions

The wealth of unions today is great, and it is increasing. The Amalgamated Clothing Workers, for example, which started on borrowed money less than fifty years ago, now holds assets of \$250,000,000. Only among the comparatively uninformed today can unions depict themselves as groups of impoverished workers. The fact is that union workers on the average are better paid than non-union workers. Whether this is a consequence



Irving Bernstein, "The Growth of American Unions," *American Economic Review*, Vol. 44 (1954), pp. 306-7

Figure 89. The Growth of Unions in America. A. Union Membership, 1897-1953. B. Union Membership as a Percentage of the Total Civilian Work Force, 1900-1953.

of the fact that by forming a union, workers receive better pay, or that better-paid workers create unions, would be difficult to prove. In any event, unions have large sources to tap. They derive their immediate wealth from three principal devices: dues; initiation fees; and special assessments. A study made in 1954 disclosed that union income from dues alone then amounted to more than \$400 millions annually. This study asserted that it is impossible to determine the revenue from initiation fees, but indicated that it must be considerable; a few unions require \$250 or more for an entry fee, although most ask only a few dollars. Special assessments ("for the burial of a beloved member") add substantially more. Today there are two more sources of union revenue that are important. First, union welfare funds are invested in remunerative enterprises, as noted in the preceding chapter. Second, a few unions have purchased income-producing businesses, such as real estate and factories.

In sum, labor unions have tremendous financial resources, so that they can easily afford to lobby in Congress for and against laws. They can also provide numerous social, recreational, and educational benefits for their members. Moreover, they can amass reserves to support their members during periods of strikes. Also they can help to elect friendly politicians, although federal law forbids their making contributions to candidates for federal office.

Relations with workers

Unions have a variety of relations with workers. So far as most union leaders are concerned, all workers should belong to a union. So far as most employers are concerned, no employees should belong to a union, unless the union is one dominated by the employer or on good terms with him. As matters stand today, unions are somewhere between the ideals of the union organizers and those of the employers. In the main, unions possess any one of four relationships with the employee:

Closed Shop: A closed shop is an enterprise in which only union members may be employed. One must be a member of the predominant union of the plant before one can be hired. The closed shop was outlawed by the Labor-Management Relations (Taft-Hartley) Act of 1947; however, it still exists in many businesses, although concealed, since employers may prefer it, for this arrangement enables them to use the union as an employment agency.

Union Shop: A union shop agreement provides that any person given a job must enroll in the union dominating the enterprise. It assures union leadership control over employees once they have been hired; again, as with the closed shop, if employees conflict with union leadership they may be expelled, whereupon the company is required to dismiss them. The union shop today may be instituted only when seventy per cent of the employees of any given establishment vote in its favor. Employers often prefer the union shop, because it tends to discipline workers.

Maintenance of Membership: Under the maintenance of membership arrangement, a worker who joins a union subsequent to being hired must

remain in the union or suffer dismissal. Thanks to this sort of relationship the worker is not compelled to join the union as a condition of employment; however, should he choose to join the union he must comply with its regulations and policies.

Open Shop: In an open shop, no one needs to join a union; any person who joins a union and is thereafter expelled is not forced to suffer discharge from work on that ground. The open shop is the commonest situation for unions; it has already been shown that barely one-fourth of American workers belong to unions. However, the open shop is scarcely to be found in large industries or in industries with well-paid workers.

INDUSTRIAL RELATIONS

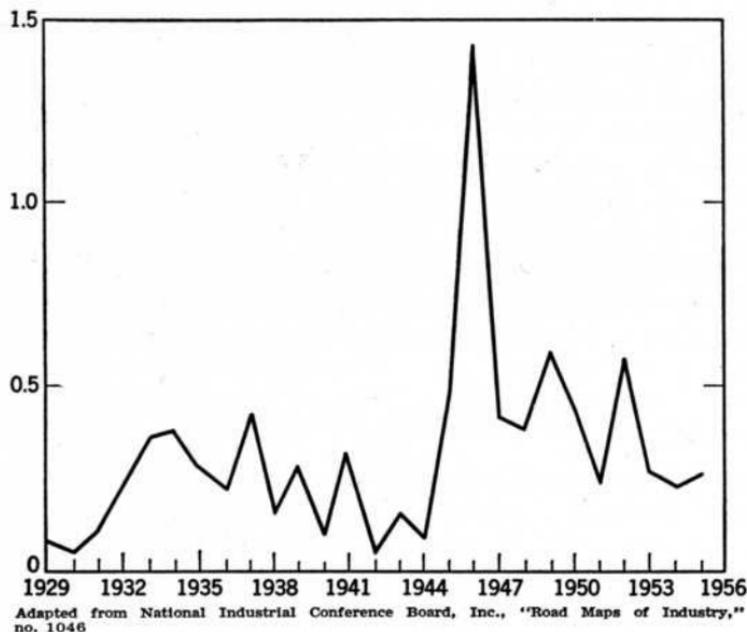
Industrial relations are the relations between employers and employees. Today in industry these relations are conducted almost exclusively through a process termed *collective bargaining*; that is, workers negotiate with employers not individually but as a collective organism, the union.

The weapons of industrial politics

Both employers and employees have certain traditional implements to assist and supplement their strength at collective bargaining. It should be noted from the outset that American employees have customarily used economic, not political, implements. That is, they have not combined to form a political party that might capture the government, so as to enact laws that would improve their bargaining position. What may be termed labor's greatest victory at the polls, the election of 1932, was accomplished with relatively little assistance from labor organizations, if only because they were then very weak. American workers do tend to support individual candidates who favor their position, and oppose candidates hostile to their interests; yet even in this regard, for any one of several causes workers may vote for candidates who are not friendly toward labor, or at least labor *unions*. Instead, American workers rely upon economic implements operating directly upon their employers. Most national labor laws regulate these economic implements of the unions, together with those of the employers.

The Strike: For American workers the standard implement is the strike. The graph in Figure 90 shows how many man-hours have been lost in recent years because of strikes. Note the peak in 1937, coinciding with the struggle of the CIO to create unions in the steel and automobile industries. Note also the peak in 1946, the first full year after the war, when union leaders after ceilings were removed from wages called strikes in a vast number of industries. A strike is no more than a stoppage of work; employees refuse to come to their places of business until employers meet specified conditions.

The principle underlying the strike is that if the employer does not produce goods he loses money. Unfortunately for workers, this principle is not necessarily true, especially today. Many industrialists find it profit-



Adapted from National Industrial Conference Board, Inc., "Road Maps of Industry," no. 1046

Figure 90. Man-Days Lost in Strikes, as a Percentage of Estimated Working Time of All Workers, 1929–1955. Data for 1955 are 9-month totals.

able, because of an excess of merchandise, to cease production until a shortage develops that will enable them to market their goods more easily. Moreover, tax rebates and reductions often act to reduce the real losses of corporations from a strike. On the other hand, workers on strike cease immediately to have their regular income; rarely have they been able to save enough money to provision themselves for a strike lasting weeks or months. They are apt to be disqualified for receiving unemployment insurance. Consequently unions today build up reserves from their dues which they can draw upon and extend as a form of relief to the striking employees; in fact, on occasion another union may dip into its funds to assist the striking union. Hence employees can maintain a strike longer than their own resources would support them.

Jurisdictional Strikes: There is one other significant form of work stoppage, the jurisdictional strike, which is associated with a dispute between two or more unions as to which shall dominate an industry, a factory, or a type of work in an industry or factory. One union seeks by striking to compel an employer to deal with it, rather than with an opposing union. Jurisdictional strikes are more frequent in the period in which union representatives are seeking to install their union in a factory or industry. Jurisdictional strikes have also been outlawed by the Taft-Hartley Act.

Secondary Boycotts: Sometimes when the members of one union are on strike, the leaders of another union whose members have dealings with the same enterprise wish to demonstrate their sympathy with the strike, and perhaps add to the pressure upon the employer. These leaders call for what is termed a "secondary boycott," whereby their members do not go on strike

but refuse to carry on normal business relations with the employer whose workers are striking. As an illustration, let us assume that all electricians at a General Motors Corporation plant are on strike. The leaders of the Teamsters Union desire to express their accord with the strike. They thereupon direct all truck drivers belonging to the Teamsters Union to cease delivering goods to General Motors; these drivers, however, continue to bring materials to other automotive manufacturers. Secondary boycotts likewise have been forbidden by the Taft-Hartley Act.

Picketing: One other important device used by employees is picketing. Picketing may take any one of several forms. Peaceful picketing has been upheld as a right guaranteed by the federal Constitution. Picketing that entails violence against persons or property theoretically is illegal. However, a person or group with influence over the local police can sometimes commit acts of violence against the other party with impunity, or even get police help in violating political and property rights. Thus, peaceful picketing has sometimes been violently disrupted. At other times, public officials, notably in cities such as Detroit and Chicago, where unions are politically strong, have allowed disorderly union tactics.

Employers' Tactics: Employers may resort to numerous devices to counteract the collective efforts of workers. In past years probably the commonest has been the dismissal of employees, either those who sought to organize unions or went on strike. Today federal law prohibits the discharging of any employee on the ground that he has tried to found a union. Too, companies have organized so-called "company unions," which are workers' groups created and dominated by the company. Federal law forbids a company to require any of its employees to join a company union as a condition of employment. Also, some employers have required their workers to agree not to join unions so long as they are employed by the firm in question, signing what is called a "yellow dog contract." Federal law now bans such contracts.

Yet other companies have resorted to the injunction as a means for dealing with their workers. Sometimes upon hearing rumors of an intended strike, company officials will plead in court that a strike will inflict great damages upon them and procure from the court an injunction forbidding the workers to carry out the strike. An injunction, of course, cannot in itself block a strike; however, violation of an injunction exposes the guilty person or persons to the possibility of conviction on the ground of contempt of court. On other occasions, after a strike has begun an employer may secure an injunction directing the employees to heed certain rules of behavior, such as the avoidance of loud and abusive language in the vicinity of the factory. Union leaders have sought many times to have Congress enact a law that would positively guarantee unions against injunctions. On several occasions Congress has passed a law that appeared as though it would give this guarantee. However, each time loopholes have been discovered in the law so that courts could issue injunctions in spite of the legal restraints. Today federal law authorizes the courts to issue an injunction against a union and its leaders, under specific conditions. One other device for

employers is the lockout, whereby employers simply cease operations and close their factories rather than deal with employees' demands.

The government and collective bargaining

Government treatment of workers' organizations today reposes upon two major laws, the Wagner Act of 1935 and the Taft-Hartley Act of 1947. The Taft-Hartley Act is primarily an amendment to the Wagner Act; however, it introduced major changes and a new spirit into relationships between the federal government and labor organizations. Under the terms of these two laws, workers may establish unions of their own choosing. Employers may not interfere with the formation of these groups. In the event more than one such organization springs up in the same business unit, and if these organizations compete for the membership of the same workers, the workers are to conduct an election where by secret ballot they determine which organization is to prevail in their place of work. The organization that wins this election henceforth is the workers' "bargaining agent"; it represents the workers in negotiations with the company.

The National Labor Relations Board: The National Labor Relations Board (NLRB), created by the Wagner Act, supervises such elections and assures that the employers do not intercede in the formation of labor unions. Today this body has five members, who are appointed by the President and confirmed by the Senate, and who serve for overlapping five-year terms. Perhaps the most powerful official attached to the NLRB is the general counsel, a post created by the Taft-Hartley Act. In a rough fashion one may say that the counsel occupies a position analogous to that of a prosecuting attorney, whereas the NLRB performs the role of a court; hitherto the NLRB brought cases as well as tried them, so that it sometimes confused the executive and the judicial functions. On being informed (usually by a union official) that an employer is in some way preventing his workers from establishing a union, the general counsel may hale the offender before the NLRB and charge him with "unfair labor practices." Initially only employers could be charged with such practices; today, however, unions also may be charged, either by employers or by individual workers, with unfair labor practices, such as a refusal to bargain with an employer. Far more cases of charges against employers than against unions have been brought before the NLRB in the last eight years.

It is clear that the organization which secures recognition, or "certification," by the NLRB as the bargaining agent is in an extremely favorable position, for it has great power over the workers. Hence the law makes specific requirements of all organizations seeking certification. Today the most controversial of these requirements is that all officers of the organization provide the NLRB with sworn statements that they are not members of the Communist Party; any organization whose officials cannot take such an oath will be denied all services of the NLRB, which means, for example, that they cannot participate in an election to determine whether or not they shall be certified as a bargaining agent.

This requirement undoubtedly has lessened the influence of the Com-

munist Party over some American labor unions; it has stimulated such unions into purging themselves of officers of dubious loyalty to the union and the country. On the other hand, many union leaders and union members resent being singled out for this sort of oath; they feel that the requirement casts a slur upon their loyalty. Why, they ask, are not businessmen and farmers compelled to take a similar oath; furthermore, why cannot the government locate communists by investigations of individuals?

The Taft-Hartley Act: The Taft-Hartley Act, which is the actual basis of the relations between the federal government and the labor unions today, is one of the most hotly disputed laws ever passed. It was enacted by the Eightieth Congress, the first to be dominated by the Republican Party since 1930. It was vetoed by President Truman but re-passed over his veto. It reflected a great deal of the animosity that commercial, industrial, and financial circles had generated with regard to unions. Yet it also mirrored the intention of some legislators to correct what they sincerely felt was an imbalance of governmental controls in the field of industrial relations. Hence the Act outlawed the closed shop (although this portion of the Act is not strictly enforced); it instituted the oath referred to above; it provided for punishing "unfair labor practices" committed by unions; and it obliged a union to give sixty days' notice of its intention to call a strike.

The Loss of Scope by the NLRB: Since the Republican triumph at the polls in 1952, the relations between organized labor and the federal government have undergone an important if subtle transformation. In essence, the federal government has been abdicating its power over industrial relations, surrendering it to the States. It has executed this abdication by purely administrative techniques. What has occurred has been a steady increase of the requirements fixed by the NLRB for the minimum size of a plant over whose industrial relations it will assume authority. That is to say, the NLRB will not take jurisdiction over a labor dispute in any industry that is less than a certain size, usually determined by its volume of annual business and the geographic range of its activities. The NLRB has been progressively raising the minimum size.

The consequence of this process is that States are acquiring more and more authority over labor disputes. This process is quite unfavorable for labor organizations, since State governments are much more likely than the national government to be controlled, or greatly influenced, by a group of industrialists or wealthy farmers. At the present there is little that union leaders can do to overcome or retard this process, because under the law as it now stands the NLRB and its general counsel have almost unlimited power to determine what cases they shall take cognizance of. The principal hope for union officials thus is to procure the appointment of persons friendly to their interests on the Board.

The maintenance of industrial peace

The federal government has created several offices whose function is to eliminate or mitigate industrial strife. The chief agency is the Federal

Mediation and Conciliation Service. The Service comprises three members, a Director, an Associate Director, and an Assistant Director, who are appointed by the President with the consent of the Senate. The Service operates through eight regional offices located in cities across the country. It supplies mediators in the event of industrial disputes. The Service has no power of enforcement; its officers can do no more than seek to persuade the disputants to reach a compromise on issues. The Service may enter the contest either on its own initiative or at a summons by one of the parties concerned.

Special Railroad Legislation: To assure industrial peace on the railroads there are two federal agencies. A dispute between railroad employers and employees comes first before the National Mediation Board, a three-member body which, like the Federal Mediation Service, has no coercive powers. If the Mediation Board is unable to resolve the problem, it turns it over to the National Railroad Adjustment Board, which consists of thirty-six members functioning in four teams of nine persons each. If the Adjustment Board is also unable to bring about a peaceful solution, the question may now be submitted to an emergency board which the President is authorized to call. Again, such a body has no power of enforcement.

That railroad workers have a different status from that of other workers is a result partly of the fact that since railroads are engaged in interstate commerce they have always been indisputably subject to government regulation, whereas manufacturing industries were not exposed to this sort of government control until the commerce clause of the Constitution was interpreted so as to include manufacturing, in the case in which the Wagner Act was declared to be constitutional. Consequently many of the laws regulating railroad labor, particularly those limiting the hours of labor and providing means for avoiding strikes, were enacted before the laws regulating factory labor. The unusual status of railroad workers is also a consequence of the extreme importance of railroads to the country; indeed when a railroad strike looms, the federal government commonly prepares to seize the roads and operate them itself.

Laws Regarding Strikes: Federal law today holds unions to a high standard of responsibility so far as strikes are concerned. Presumably, as bargaining agent for the employees of a given factory, the union will have a written contract with the management of the factory. Often, for the duration of the contract the union leaders may not call a strike; otherwise they may be sued for breach of contract. In such cases, as the expiration date for the contract approaches, union leaders may decide to call a strike so as to win what they will deem a more advantageous contract. If they reach such a decision, they must give written notification to the managers of their position sixty days before the expiration date of the contract. They must also offer to meet with the managers to negotiate a new contract. Finally, within thirty days of this notification to the managers, the union leaders must inform both the Federal Mediation and Conciliation Service, and whatever mediation and conciliation service there is in the

State concerned, that there is a dispute between union and management. Union leaders may not call a strike until either the contract has expired or sixty days have elapsed since the notification to the managers, whichever date is later.

When it appears that workers in an industry essential to the welfare of the country may strike, such as coal miners, the managers of the enterprise may obtain from any federal court an injunction forbidding the strike for a period of eighty days. The President may now appoint a special fact-finding commission which within sixty days is to suggest to the President how the dispute may be settled. If the dispute continues, the NLRB may conduct an election to see if employees will accept the last offer made by the employers; it can be imagined that such an election may be very damaging to union leaders in the event they, and not the members, want the strike. Finally, whether or not a peaceful solution has been achieved, at the end of eighty days the injunction terminates, whereupon the leaders may call a strike if they wish.

WORKING CONDITIONS

In recent years the federal government has shown great concern over the working conditions of employees in all fields. Originally these subjects were regarded as almost entirely in the province of State legislation. The enactment of laws controlling working conditions is an exercise of police power, which supposedly is reserved to the States. However, owing to Supreme Court decisions in the past two decades the federal government now is authorized to legislate almost at will respecting the working conditions of employees for businesses that are engaged in interstate commerce; the nature of the American economy now is such that there are few large businesses whose concerns do not cross State lines. Hence the federal government has enacted a major statute, the Fair Labor Standards Act of 1938, to regulate the hours of work, minimum wages, and child labor. Through other laws it determines working conditions for particular sorts of employees.

Employment

The starting-point for federal concern about working conditions is the fact of employment. Today the federal government performs a number of tasks associated with the promotion of employment. Restrictions on immigration, for example, are designed in part to assure jobs to American citizens. In the past the government has created programs of public works aimed at making work for the unemployed; even now it is certain that if widespread unemployment should again beset the nation, the government would institute such a program anew. The various government agencies, especially the military services, are encouraged to place their contracts in areas suffering a labor surplus.

Today the federal government does not maintain an employment service to bring workers and jobs together. However, each State has such a

service, and the federal government helps coordinate these services through the Bureau of Employment Security in the Labor Department. Furthermore, the federal government in part finances the operation of these services by granting them some of the money it receives through its unemployment compensation payroll tax.

The policy of the federal government today holds that full employment is essential to the prosperity of the nation; this policy is based on the conviction that if a large number of people are unemployed, their loss of purchasing power will be felt throughout the national economy. In a sense, therefore, national prosperity may be said to commence with full employment. This belief took form in the Employment Act of 1946. This Act provides that each year the President shall make an "economic report" to Congress, describing economic conditions in the country at the moment, predicting future trends, and indicating the plans of the government to cope with future economic difficulties.

The Act also establishes a Council of Economic Advisers in the Executive Office of the President, made up of three members named by the President with the consent of the Senate. The principal duties of the Council are to maintain a continuous scrutiny of American economic developments, to counsel the President regarding these developments, and to assist in the writing of the economic report. Under President Truman the members of the Council assumed a power not initially granted to them, that of bringing pressure upon Congress to enact their recommendations; in other words, the Council became a lobby for the administration, earning resentment for itself in some quarters. Finally, the Act of 1946 created a joint, fourteen-member congressional Committee on the Economic Report, to analyze the suggestions of the President in his report. Although this Act has been in effect for almost ten years, its impact on the economy cannot yet be accurately measured, if only because there has been a state of near-war during almost all of this period, with abnormal economic conditions predominating. The Act itself is a pale imitation of the original bill, which proposed actual government guarantees of employment opportunities should private enterprise falter. The defeat of this key idea, which had been strongly supported by labor leaders, made the final Act little more than a pious wish for full employment and an instrument for bringing expert opinions on the health of the economy to the attention of Congress and the President.

Hours of labor

Workers today in industrial and commercial enterprises covered by federal law have a work week of forty hours. The government does not forbid workers to toil for more than forty hours; however, it does require that employers pay workers at a rate of fifty per cent higher than their ordinary wages, or at the rate of "time-and-a-half," for all hours worked beyond forty in a given week. Some unions have negotiated agreements with employers providing for exceptional premiums for work done on holidays and Sundays, at the rate of "double time." Such arrangements,

however, are private; they are not imposed by federal law. One important purpose of this requirement, which was fixed by the Fair Labor Standards Act, was to penalize employers for keeping their workers long hours, in an effort to encourage management to employ more people for fewer hours so as to distribute income and buying power.

The government has also adopted legislation controlling the hours of work in a few particular areas over which government authority can be readily found in the Constitution. For example, the government has fixed an eight-hour day for its own employees, with a seven-hour day for government clerical workers. In the interests of public safety it has placed a limit on the number of hours that any person directly connected with the operation of trains may work; in addition, through its power to regulate interstate commerce Congress in 1916 established the eight-hour day for all railroad workers. The government also restricts the hours of merchant seamen. Finally, it has fixed a maximum work week in all enterprises that are working under government contracts for \$10,000 or more. All of these statutes were enacted before the Fair Labor Standards Act, since in each instance a constitutional justification was evident; by contrast, the Fair Labor Standards Act was not possible until the Supreme Court had ruled that under the commerce clause the federal government is authorized to regulate most manufacturing.

Minimum wages

The Fair Labor Standards Act provides, with its amendments, that any person whose work may be regulated by Congress must be paid no less than one dollar an hour. This law applies to only a fraction of the total national working force; for example, it does not embrace agricultural laborers. It would be hazardous to assert that this law was enacted chiefly at the urging of labor unions; indeed, unions until recently did not favor national minimum wage legislation. This law, in fact, does not have much influence over workers who are union members, since few if any earn so little money. It is principally for the benefit of workers who are not members of labor unions.

Of course, the federal government determines minimum wages for its own employees. Many years ago it established minimum rates for merchant seamen, and before passage of the Fair Labor Standards Act it set minimum wages to be paid in industry under government contract. As with other aspects of the condition of labor, the question of minimum wages is today viewed as part of the larger problem of national prosperity, that is, as a way of bringing greater purchasing power to consumers.

Child labor

The Fair Labor Standards Act provides that goods produced by industrial, commercial, mining, or transportation enterprises that employ children younger than sixteen years of age, or "hazardous" industries employing children younger than eighteen, may not be handled in interstate commerce. This law to a considerable degree has abolished child

labor, at least in factories; however, it has not greatly curtailed the employment of children as farm laborers. The purpose of this part of the law was not only to keep children out of factories for the welfare of the children, but also to open more positions for adults. After all, employers paid children lower wages than they paid adults; there have been many cases in which the father of a household was unable to secure work, but was supported by his toiling children. This portion of the Act is enforced by the Bureau of Labor Standards in the Department of Labor; for example, one task of the Bureau is to declare precisely which industries are "hazardous."

Discrimination in employment

Some of the most controversial activities of the federal government in recent years have been its efforts to limit discrimination by employers against members of national, religious, and racial minorities. To date the federal government has not erected a permanent agency to investigate and prevent discrimination against such minority groups. During World War II President Roosevelt created a Fair Employment Practices Commission (FEPC) to work against this type of discrimination, which might hamper production needed for carrying on the war. However, authority for the FEPC disappeared with the end of the war and the emergency powers that Congress had given the President. Subsequent attempts to revive the FEPC as a permanent body were always thwarted by southern congressmen. Afterwards a few State governments established such commissions, and their constitutionality was upheld by the federal courts.

It is important to note that employers are not alone in the practice of discrimination against workers, on the ground of race, religion, or national origin. Government agencies and some labor unions, too, have been known to close their doors against certain minorities. The Report of the President's Committee on Civil Rights in 1947 revealed that of all the complaints received by the wartime FEPC in one year, sixty-nine per cent were against business firms, twenty-five per cent against government offices, and six per cent against labor unions. The courts tend to look severely upon such union practices. In this respect labor unions are akin to political parties; that is, although at one time they might portray themselves as private organizations with full power to determine qualifications for membership, today they play so important a part in political and economic affairs that they are obliged to accept the status of quasi-public institutions. Furthermore, wherever a closed or union shop exists, a man's livelihood might be destroyed by discrimination of some sort.

THE DEPARTMENT OF LABOR

The Department of Labor administers most of the activities of the federal government that concern labor. It is the smallest of all the civilian executive Departments, containing only 5,256 employees on Janu-

ary 1, 1956. The principal officer of the Department is the Secretary; immediately beneath him are an Under Secretary and four Assistant Secretaries. The duties of the Department are carried out by several important line bureaus. The Bureau of Apprenticeship supervises industrial programs for the training of skilled workers. The Bureau of Employees' Compensation administers federal workmen's compensation laws (it must be borne in mind that most compensation arrangements are at the State rather than at the federal level). The Bureau of Employment Security manages the federal side of unemployment insurance and employment services. The Bureau of Labor Standards cooperates with State authorities in improving the conditions of health and safety in industry. The Bureau of Labor Statistics has the highly publicized task today of periodically drafting an index of the cost of living; many wage scales are attached to this index, so that a rise or fall in the index may bring a corresponding rise or fall in wages. The Bureau of Veterans' Reemployment Rights assures veterans the employment rights and privileges guaranteed them by federal law. The Wage and Hour and Public Contract Divisions administer the bulk of federal laws regulating hours, wages, and child labor. Finally, the Women's Bureau works with the States to improve labor conditions for women.

QUESTIONS AND PROBLEMS

1. Explain the rise of the labor unions as major factors in American politics (additional facts may be obtained from the chapter on interest groups).
2. Define briefly the following terms: closed shop; union shop; maintenance of membership; open shop; collective bargaining; company unions; "yellow dog contracts"; lockout.
3. What policy does the national government have with respect to the closed shop? with respect to collective bargaining?
4. List all the provisions of the Taft-Hartley Act that are cited in this chapter.
5. With the aid of the *Encyclopedia Britannica Yearbook* or a similar work of the last five years, prepare a report of the history of a major strike, with especial attention to the role that the federal government played in the proceedings.
6. Reviewing related portions of Chapters 18, 28, 31, and 32, comment on the general importance and limits of the tactics of the NLRB in reducing its own jurisdiction.
7. What are the general provisions of the Fair Labor Standards Act of 1938? of the Employment Act of 1946?
8. Given the provisions of the Constitution guaranteeing rights to all American citizens, how do you explain the fact that preventing discrimination in employment requires special legislation?