A Critical Analysis of the "Right-To-Work" Laws

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A CRITICAL ANALYSIS OF THE "RIGHT-TO-WORK" LAWS

by

Paul Francis Crevoiserat

A Thesis Submitted to the Faculty of the Graduate School of Loyola University in Partial Fulfillment of the Requirements for the Degree of Master of Social and Industrial Relations

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LIFE

Paul Francis Crevoiserat was born in Oklahoma City, Oklahoma, May 22, 1928.

He attended preparatory school in Pennsylvania and was graduated from St. Mary's High School, Wichita, Kansas, May, 1946. After military service he attended and was graduated from St. Louis University, College of Arts and Science, St. Louis, Missouri, August, 1952, with the degree of Bachelor of Science.

After being transferred to Chicago, Illinois, for business purposes, the author began his graduate studied in Industrial Relations in the Institute of Social and Industrial Relations, Loyola University in September, 1953.

The writer has not attempted any previous work for publication.
"Neither collective bargaining nor arbitration, nor all the directives of the most progressive legislation will be able to provide a lasting labor peace unless there is also a constant effort to infuse the principles of spiritual and moral life into the framework of industrial relations."

Pope Pius XII
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CHAPTER I

HISTORICAL DEVELOPMENT OF UNION SECURITY

Basic to all, and nonetheless true in regard to organization, be they social, economic, or political, is recognition. Without recognition any attempt at security would be meaningless. And it is this fundamental objective of unionism, namely, security, which has proven to be the most controversial problem in labor-management relations. It is only, however, in the light of the function and objective of the union movement that this drive for a greater degree of security for itself as an institution and for its members can be understood.

In the early development of our existing economic system known as capitalism, and more basic, the evolution of the merchant-capitalist, as well as the introduction of mechanised industry, the individual worker found his relationship changed from that of a journeyman, who after a period of service hoped to be his own master, to that of an employee exploited by the employer in an effort to "maximise profits and minimise costs." He was completely surrounded by competitive forces such as convict labor, women and child labor, the progression from a handicraft basis to that of machine production, and intolerable working conditions.

These factors left the workingman with only one thought: by concerted activities with his fellow-workers to secure more humane wages, hours, and working conditions. Thus was born the union movement. "The conscious mo-
tive of the average worker is greater security; but it is the commercial con-
trol of the machine which makes insecurity permanent in the life of the wor-
ker. Group control of the common center of gravity—and with it the hope of
more stability, more permanence, more security is the root of the labor move-
ment. It is its object, its aim, and its method."

Further, the labor movement is the "wall of protection which the individ-
ual worker has developed through group organization in the face of a merciless
competitive system that reduces him to a bought hand to be discarded when old
and worn out. Between absolute helplessness and despair on the part of the
worker and such protection and defense as he has there is practically nothing
except the strength of his organization. It is this fact that makes the la-
bor movement the most constant force for social change in the community."2

Though the basic objective mentioned may be applied universally, the phi-
losophy of the trade union movement and the means necessary to achieve this
objective of greater control are fundamentally different between American and
European unionism, and more particularly, the British trade union movement.
As more than one authority has written, the philosophy of the European trade
union movement is essentially based on a class struggle, whereas that of the
American movement is founded on an economic power struggle.

Generally speaking, European trade unions have not had to contend with
the constantly recurring loss and gain in membership. Only the American un-
ionism has been plagued with this condition, and for a reason peculiar to

1Frank Tannenbaum, The Labor Movement (New York, 1921), p. 32.

2Ibid., p. 70.
American democracy. "The overshadowing problem of the American labor movement has always been the problem of staying organized. No other labor movement has ever had to contend with the fragility so characteristic of American labor organizations. In the main, this fragility of the organization has come from the lack of class-cohesiveness in American labor."³

Most authorities are agreed, however, that in regard to British trade unions, the reason for this class-consciousness stems from centuries of experience, in which the wage earner knows his individual welfare is inseparable from that of the union organization. In fact, British unions have "their internal solidarity presented 'on a silver platter,' as it were, by the very organization of the society in which they work. British society with its hierarchy of classes keeps labor together by pressure from the top."⁴

Among the many causes which help to explain the lack of class-consciousness on the part of the American wage-earner are the vast job opportunities waiting to be exploited, the political suffrage early enjoyed by the trade unionist, and the immigrant who meant a competitive menace to the worker and accordingly must be curtailed or controlled. From these factors, the basic philosophy of American labor organization was evolved; "the only acceptable consciousness for American labor as a whole is a job-consciousness, with a limited objective of wage and job control, which not at all hinders American unionism from being the most hard hitting unionism in any country."⁵

⁴Ibid., p. 164.
⁵Ibid., p. 169.
This concept, then, that within a free society the trade union can attain control of the job, and in controlling the job, build a strong effective union, through economic strength is the distinguishing mark between British unions, which collectively have formed a Labor Party in order to further their aims, and the American unions, which have adopted Samuel Gompers political philosophy of supporting a two-party system but "rewarding your friends and punishing your enemies at the polls."6

Manifest in every trade agreement is the principle of job-consciousness. Although the basic form is union security there are others such as practices which restrict admission, seniority, control of apprenticeship system, and continued opposition to any threat of cheap or unskilled labor competition. Of the various forms of union security and the related union structure, the most commonly used and defined are the following:

Closed shop: Under this type of union recognition all employees must be members of the union at the time of hiring and they must remain members in good standing during their period of employment....

Union shop: Workers employed under a union-shop agreement need not be union members when hired, but they must join the union within a specified time, usually 30 to 60 days, and remain members during the period of the contract agreement....

Union shop with preferential hiring: When the union-shop agreement specifies that union members shall be given preference in hiring or that the hiring shall be done through the union, the effect is very much the same as the closed shop agreement....

Modified union shop: In some cases the union shop is modified so that those who were employed before the union shop was established are not required to become union members. This type of union security is sometimes referred to as a modified shop....

6 This phrase attributed to Samuel Gompers, was first uttered at the American Federation of Labor Convention in 1901, and again, in 1919. See Convention Proceedings, 1901, p. 234, and Convention Proceedings, 1919, p. 71.
Maintenance of membership shop: This type of union security requires that all employees who are members of the union a specified time after the agreement is signed and all who later join the union, must remain members in good standing for the duration of the agreement. Following the pattern of the maintenance of membership clauses established by the National War Labor Board, most of the agreements with this type of union security clause provide for an annual 15-day period during which members may withdraw from the union if they do not wish to remain members....

Preferential hiring shop: No union membership is required under this type of clause but union members must be hired if available. When the union cannot supply workers, the employer may hire non-members and they are not required to join the union as a condition of employment....7

Within European trade circles the closed shop has not been stressed as it has in American labor, but the closed shop has been a universal principle since the time of the gilds, which existed approximately from 800 A.D. to 1800 A.D. An excellent description of the closed shop is given by an early English writer: "A master in a larger way of business can scarcely continue in it unless he consent to employ none but unionists, in accordance with their own exclusive law, which is sometimes so rigidly enforced that a master is not permitted to accept the aid of his own nearest relatives in his own handicraft, but...is required to discharge his own nephews or his brother if they have not joined the union."8

Sidney and Beatrice Webb, the renowned authorities on British trade unionism, describe the all-union shop as being the ideal of the trade union movement.

...any student of trade union annals knows that the exclusion of non-unionist is coeval with trade-unionism itself...and it is especially in


the old-fashioned and long-established union that we find the most rigid enforcement of membership. In the best organized industries, whether great or small, the compulsion is so complete that it ceases to be apparent. No man not belonging to the union ever thinks of applying for a situation, or would have a chance of obtaining one. It is, in fact, as impossible for a non-unionist plater or riveter to get work in a Tyneside shipyard, as it is for him to take a house in Newcastle without paying the rates. This silent and unseen, but absolutely complete compulsion, is the ideal of every trade union. It is true that here and there an official of an incompletely organized business may protest to the public, or before a royal commission, that his members have no desire that any workman should join the union except by his own free will. But, however, bona fide may be these expressions by individuals, we invariably see such a union, as soon as it secures the adhesion of a majority of its trade, adopting the principle of compulsory membership, and applying it with ever greater stringency as the strength of the organization increases.9

Perhaps the reason not much stress was laid to the closed shop by the British unionist may be traced to their "higher degree of unionization, the fact that the working classes are more homogenous in character and that opportunities for wage earners to move up in the economic scale are rare make it possible for them to depend far more on the class feeling of the workers to protect gains won by strikes and organizations."10

In America, however, it was impossible to develop a feeling of "class solidarity" due to the large number of immigrants and the vast job opportunities existing. The American wage earner, threatened by those who considered their position as wage earners temporary, and thus, willing to accept lower wages and longer working hours, and also by those newly arrived in this country whose standards of living was lower, saw in the closed shop his only protection of job security.

The American unions early learned that whoever controlled the job also con-

trolled the price paid for labor, as well as the hours and conditions under which labor would work. Thus, the American union movement has concentrated on job-consciousness with a relative disdain for political activity. Indeed "the survival of the American Federation of Labor and the short term existence of political trade union movements which avoided concentration on job-consciousness, like the Knights of Labor and the American Railway Union, justify the premise that in a competitive labor market, a union can survive and become strong only by resolving competition into a virtual monopoly."11

Selig Perlman, the eminent labor historian, describes union security as a working rule which the unions have pressed on the employer.

As a union advances from an ephemeral association to a stable organization, more and more the emphasis is shifted from wages to working rules. Unionists have discovered that on the whole wages are the unstable factor, going up or down, depending on fluctuation of the business cycle and the cost-of-living; but that once they have established their power by making the employer accept their working rules, high wages will ultimately follow.

These working rules crude and one-sided as they are are devised from a long history of labor experience and have as their purpose protection for the worker and his organization. They are designed to protect the standard of living for the group, job security for the worker, equal treatment and promotion through seniority, and the bargaining power of the union, and the safety of the union from the employer's attempt to undermine or destroy it.

The protection of the union against the employer's designs, actual or potential is sought by an insistence on the closed union shop....12

By contrast the railroad brotherhoods, however, have, until recently, never thought it advantageous to have the closed or union shop. Security for the railroad worker comes not from the open shop but from seniority. It is

11 Selig Perlman, A Theory, p. 203.

unimportant that the closed shop was made illegal by the Federal Railway Labor Act of 1926. What is important, however, are the reasons given for ruling the closed shop illegal in the railroad industry.

Three factors, peculiar to the railroad industry, made the closed shop both unnecessary and undesirable. These factors were:

I. Company unions: The companies had used the closed shop to control and preserve company unions, which had prevented the employees—even a majority—to be free in the democratic process of selecting their representatives for collective bargaining.

II. Seniority: This feature of the operating sections of the railroad industry made the strict application of the closed-shop principle impractical. According to the principle of seniority, a member of the firemen's brotherhood, for example, would be advanced to the job of engineer as a matter of course, but especially in time of increased employment; and would be demoted again to the job of fireman in times of recession or during normal curtailment of operation—all while remaining a member of, and retaining his equity in the firemen's brotherhood. If the closed shop principle were in effect, he would be forced to abandon his membership and equity in the firemen's brotherhood and to join the engineer's brotherhood at the time of his "promotion," and would, in times of recession, be forced to abandon his membership and equity in the engineer's brotherhood when he would be bumped back to the job of fireman.

III. Insurance: The brotherhoods sometimes started out as insurance companies—a feature which attracted and held workers in a particular brotherhood. On account of the hazards of the industry, old-line insurance companies refused to insure members of the operation section of the railroad industry. Thus, the brotherhoods perform a dual function—serving the interests of living members and providing for their heirs.13

Just how extensive union security agreements have become can be amply demonstrated through the following data prepared by the Bureau of Labor Statistics, U.S. Department of Labor. In Table I the changes in types of union recognition are indicated. "During the war the major shift was away from sole bargaining

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for members only to maintenance of membership." The figures of 1946 indicate a still further shift from maintenance of membership to union or closed shop agreements.

"In 1946 approximately 4.8 million workers were covered by a closed-union shop agreement with preferential hiring provisions compared with 4.25 million workers in 1945; union shop clauses without provisions for preferential hiring covered 2.6 million workers in 1946 compared with 2.0 million in 1945; maintenance of membership clauses covered 3.6 million in 1946 compared with 3.9 million in 1945."15

It should be noted in reference to Table I that the number of workers covered by collective bargaining agreements regarding union security is not the same thing as union membership, since the representation clause of the National Labor Relations Act, as amended, makes it mandatory for the elected bargaining agent to bargain for all within the respective bargaining unit on equal terms.

Nor do the conditions which prevailed four years after passage of the Wagner Act, differ greatly from the above evidence. "More than half of the seven thousand current union agreements on file with the Bureau of Labor Statistics, U.S. Department of Labor, contain provisions requiring that all employees be members of the union. It is estimated that about three million of the nearly eight million organized workers in the United States are now working under closed or union shop conditions. There are also many union members, who like the railroad workers, work under conditions approximating the closed or union

15 Ibid., p. 766.
shop although this is not formalized by written agreements."^{16}

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- This figure is not comparable with the number listed as eligible for other years since it includes all salaried workers and all government employees. The comparable figure would be 31 million.

- Percentage not strictly comparable year by year, because of slight change in volume of employment during the period.

- No data.

- No membership or hiring requirements are mentioned in these agreements, which have clauses specifying sole bargaining, maintenance of union dues, and bargaining for members only.

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1 Monthly Labor Review (May, 1947), p. 767. This material compiled by Philomena Marquardt Mullady, includes all material published by the Bureau of Labor Statistics prior to 1946.
CHAPTER II

BACKGROUND OF ANTI-UNION SECURITY LEGISLATION

From the depths of the depression until 1945 organized labor had made great strides in total membership, having acquired over twelve million workers under the guaranteed sanction of public policy in the Wagner Act of 1935, as well as with improved methods and attitudes in organizing, not to mention the expansion of industry and the corresponding shortage of labor which accompanied the period of defense, war, and post-war period of reconstruction and reconversion to a peace time economy.

But notwithstanding the effort played by labor in the all-out productive era of war, employer opposition to the principle of trade-unionism continued to exist. Taken collectively even the public became aware that the federal labor policy should be modified or improved. No one, least of all labor, could point to the Wagner Act as a panacea for labor legislation. It must be remembered the Wagner Act was emergency legislation passed in order to alleviate a most oppressive situation in regard to the rights of individuals to form unions of their own choosing, and to place bargaining on a more equitable and just plane.

The summation of the arguments which advocated a change in federal labor policy, as embodied in the Wagner Act, may be stated as:

1) under existing laws organized labor had come into a dominant position in industry; it had too much power and there was need to effect a balance;
2) many of the unions had not developed a necessary sense of responsibility to industry and the public, or to individual employees and union mem-
bers, correlative to their protected rights; and
3) labor organizations should be under the same or equivalent limitations and responsibilities as rested upon employers; the need was for a national labor policy which would "equalize" the laws and insure "equitable" administration of laws. In the name of equalization, also, some would relieve management from at least a part of existing limitations under the federal law or weaken the administration of that law where it was thought to rest too heavily upon employers.¹

Among the various factors which contributed to legislative determination to amend the Wagner Act in 1947 as to provide a more equitable national labor policy were the actions of the unions, employers, and the government. During the years 1941 to 1945 the overall labor record was good, although there were "quickie" strikes and various stoppages, which were, however, disavowed, for the most part, by union officials. Yet it is inevitable that when unions are young and officials are inexperienced, stoppages will occur; not to mention that a great many members had not yet been fully acclimated as "union-men".

Quite frequently strife was occasioned by management's inexperience with collective bargaining, although during the war the major concern was productivity. Consequently, collective bargaining suffered. It must also be remembered that because of governmental intervention and control, neither management nor labor placed much emphasis on bona-fide collective bargaining. Collective bargaining, as it existed, suffered as much from inattention as it did from those participants who were not always possessed of the best judgment nor were fully aware of the nature and possibilities of real collective bargaining.

During the war, wages were another "sore spot" with the wage earner. For the most part wages were frozen. And it helped none for management to attempt to pacify the workers with the idea that though they were worth more, their

hands were tied by Washington bureaucrats, who were reluctant to approve any wage increase.

But perhaps more glaring than all was the failure to recognize the importance of a methodical and mature grievance machinery. Whether this was due to inexperience on both sides is debatable. It does, however, reflect the failure of management to fully accept collective bargaining and to settle their issues among themselves rather than "tossing" the issue to the National War Labor Board for settlement. On the other hand, the unions must be censured for their demonstration of power by striking, boycotting or picketing. "The breakdown of jurisdictional lines, extreme competition for members, and the willingness of a minority of powerful unions to turn from election process to persuasion supported by picketing or boycotting in some cases wrought serious damage to the rights of employees under the Wagner Act and to a sense of justice of employers who were willing to live in accordance with the law."

Not all was serene, either, regarding the internal affairs of unions. Although most unions are democratic and responsible to the rank and file membership, there were other unions who capitalized on the job opportunities during the war by charging exorbitant fees and work permits through closed shop contracts. Many unions were quite lax in presenting any financial reports to their membership, although many more have always done so. Many of the corrupt unions had not held annual conventions, nor election of officers for a period of years.

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2 Ibid., p. 277.

3 See the testimony of Joseph V. Moreschi, Sr., President, International Hodcarriers, Building, and Common Laborers Union of America, Senate Hearings, 1917, p. 1161 et seq.
The union leadership was fully aware of these problems of internal democracy, but due to "individual union autonomy, lack of unity in the labor movement, fears of internal opposition and of giving encouragement to anti-union forces, prevented any proposals from labor itself to deal with the admitted abuses." 1

Finally, the impression uppermost in everybody's mind that unions were too powerful and irresponsible was emphasized even further by the wartime strikes by a few unions, notably the United Mine Workers led by John L. Lewis, and the great strike wave of the post-war reconversion years of 1945-1946. Before discussing, however, these crippling strikes it would be well to see what actions on the part of employers and the government were also a factor in the consideration of proposed legislation.

From the introduction of the Wagner Act, through its legislative passage, and final validation by the Supreme Court, and until sweeping amendments were achieved in 1947 through the Taft-Hartley Act, the National Association of Manufacturers and its affiliated and cooperating organizations were in the vanguard of opposition. 5 The program as carried on by the National Association of Manufacturers may be characterized by this statement in the La Follette Committee Reports: "Its message was directed against 'labor agitators,' against governmental measures to alleviate industrial disputes, against labor unions,

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1 Millis and Brown, p. 280.
and for the advantages of the status quo in industrial relations, of which company-dominated unions were still a part. Anti-union employers and local employers' association executives used the propaganda material...to combat the organizational drive of unions in local industrial areas." 

During the war, the N. A. M. became passive if not altogether silent on the question of amending the Wagner Act, since the need for full and unimpaired production in a time of labor shortage was sufficient explanation to deter the most avid opposition. However, with the passage of the War Labor Disputes Act of 1943, and the over-riding of the Presidential veto, gave clear warning that anti-union feeling was developing in the Congress. But the drive for more restrictive legislation waited on the outcome of the Labor-Management Conference, called by President Truman in November, 1945. It is interesting, here, to note the comment made by Business Week on the tenth anniversary of the Wagner Act.

The fact remains that industry still is not reconciled to what it believes is a one-sided statute against the industry's interests. It seems safe to predict that unless they succeed earlier, more than another decade will go by before employers give up their attempt to amend or repeal the law....

The more impressive the Board's record, the more heated that argument will become, for behind every case that the N. L. R. B. closes in favor of employees is an employer who has had to change his personnel practice.

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For later policies and legislative campaigns by the N. A. M. the reader is directed to, Clark Kerr, "Employer Policies in Industrial Relations, 1945-1947," in, Labor in Post-War America, ed. Colston E. Warne (Brooklyn, 1949), pp. 43-76.

7 Business Week (July 11, 1945), pp. 97-98.
In no small measure the policies and actions of the government as regards industrial relations, during the war, and post-war period, were a factor in bringing about the bitter strikes of the post-war years which culminated in the 1947 legislation.

On January 12, 1942, by Executive Order, the National War Labor Board, a tripartite board of twelve members, representing labor, management, and the public, was created to settle all labor disputes submitted to it by the Secretary of Labor. Historically, the Board, by its early adoption of the principle that no decision would be issued until the strikers returned to work, and operating mainly through regional boards, was able to achieve a fair degree of success in solving labor disputes.

Among the more serious issues which plagued the board was the question of union-security, due to the lack of agreement between industry and labor on the problem. Since the Board was a government agency, it was reluctant to grant a closed or union shop; on the other hand, it felt that since labor had signed a no-strike pledge, it was entitled to a certain degree of security from employer opposition. The board's final solution was the maintenance-of-membership clause, which while workable, nevertheless, proved irreconcilable with the employers. But it did prevent strikes which might have occurred over this issue of union-security. Following the war and with a return to free collective bargaining, unions sought stricter forms of union security.

During the first post-war year the dominant immediate issue was that of

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wages and their relations to prices. Subordinate were the growing issues of power, and the continued resistance to unionism by important segments of industry. Cassation of hostilities brought cancellation of defense contracts, and the favorable earnings situation was threatened by reduced hours, with the resulting loss of over-time premiums, shifts to lower-paid industries, downgrading of personnel, and the withdrawal from the work force of many women. By October, 1945, average weekly earnings in manufacturing industries had decreased to $41.04 from April's high of $47.12, or 12.9 per cent, while the cost-of-living continued to rise. Accordingly, organized labor demanded increases in wages to keep up with the cost-of-living spiral.

The strikes were of a sort to arouse extreme public interest and concern: large strikes in key industries affecting great numbers of employees, and eventually the public. Although on a smaller scale, the strikes of the workers in public utilities, local power, or public transportation systems resulted in a tremendous impact on the public's over-wrought emotions.

Much harm was done through adverse publicity given such strikes as the General Motors workers strike in 1946, the earlier coal miners strike of September and October, 1945, the C. I. O.'s Electrical Worker's strike against General Electric, General Motors, and Westinghouse: the packing-house workers' strike, the nation-wide steel workers' strike which began in January, 1946, the bituminous coal miners' strike in April, 1946 which assumed greater proportion with the nation-wide railroad workers' strike.


11 A more detailed account of these strikes and their settlement may be found in "Post-War Work Stoppages caused by Labor-Management Disputes," Monthly Labor Review 63(1946), pp. 872-892.
During 1947, the strike situation was much improved although there were still strikes which caused inconvenience to substantial groups of the public and kept the flame of public opinion on revised labor legislation alive. Foremost among such strikes were the coal strike and dispute with the government which led eventually to the now-famous court injunction and the finding of Mr. Lewis and the United Mine Workers guilty of contempt of court, a New York City trucking strike, a Pittsburgh light and power strike, and finally, the nationwide telephone strike with its attendant inconveniences on the general public. And lastly, on the political scene, an election had brought to Congress, a majority of Republicans, and what seemed a clear mandate to amend the existing labor legislation.

But the legislation which had its culmination in the Taft-Hartley Act, actually saw its beginning in the state legislation, which following the Wagner Act, and contrary to all expectations, "was chiefly one of increasing efforts to regulate unions, both as to external and internal affairs, while at the same time weakening or omitting certain protective provisions found in the Wagner Act. For it must be remembered that the Wagner Act, designed to give more nearly equal rights to management and to labor by limiting the activities of the former when they transgressed the rights of the latter, left to the common and statute law of the states matters of policing external relations of the unions or regulating their internal affairs, except in so far as the regulation of interstate commerce and the granting of restraining orders by the federal courts were concerned." Yet the regulation of employers' "unfair labor

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12 Millis and Brown, p. 316.
practices" inevitably served as an invitation to those most violently opposed to the principle of unionism, to regulate unions.

In no small measure, the legislation restrictive of union security found first support among the southern states, which had formerly been largely agricultural. Due, however, to the impetus of the wartime all-out production era, many of the southern states began to stress industrialization of their states. Because their natural increase in population resulted in a surplus labor supply, due to a reduction in total agricultural employment, the southern states found many manufacturers willing to relocate there.

This surplus labor supply could, also, mean a lower cost advantage to the industries willing to relocate in the south, since the southern wage earner has always been characterized as being a low-paid income group. Traditionally, also, unionism has never made much progress in the south. Many of the authorities ascribe this to the predominately agricultural nature of the region. Others, however, have tended to establish the reason in the paternalism which has been "part and parcel" of the southern way-of-life since the days of the huge plantations and slavery.

The southern states, accordingly, felt that tax concessions, and laws, which would hinder, if not restrict completely, union growth would greatly encourage industries to relocate in the south. "Laws...which do not encourage unions will have an accelerating effect upon economic development even though most businessmen have no idea that by moving to another state they can permanently operate their plants without carrying on collective bargaining."13 But

there are some industries which are seeking a location for a short time from union restriction and demands and which find that "the southern states with their "right-to-work" laws offer many attractions. Certainly the states which follow the federal law in encouraging collective bargaining offer fewer advantages to the new industry seeking to avoid for a time at least the organization of the new plant."

Nor would all manufacturers be so naive as to imagine that unionism could be contained indefinitely. But "the weakness of the trade unions in the area is certainly an accelerating factor in the South's development. The lag in the organizational program after the start of a new industry may give the new employer a chance to develop his plant without the restrictions of union regulations having to do with the operation of the plant. Those early years are most important for a new industry."15

Thus, in the economic development of the south, "the lack of labor legislation and the nature of the legislation which does exist...are accelerating factors.... The legislation in the south regarding trade unions is restrictive rather than protective as it is in the north. ...Protective legislation, excellent though it may be, may become very burdensome to a manufacturer. The laws in the southern states will burden very few employers."16

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11Ibid.
15Ibid., p. 205
16Ibid.
CHAPTER III

LEGAL ASPECTS

As of April 1, 1956, eighteen states have on their statute books "right-to-work" laws which are restrictive of union-security. Of these eighteen states, it is significant that eleven of these states are south-eastern, which has been the low-wage area in the nation. All of these states are largely non-industrial or at the most have only started to industrialize. Also, it is apparent from the following list¹ that eleven of the "right-to-work" laws were passed in 1947, which was the year of the passage of the Taft-Hartley Act.

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<tr>
<th>State</th>
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<td>Alabama</td>
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<td>Arizona</td>
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<td>Virginia</td>
<td>1947</td>
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<tr>
<td>Utah</td>
<td>1955</td>
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¹The reader is referred to the appendix wherein are printed the complete statutes for each state.
It will be recalled that the closed shop which was formerly permitted under certain conditions by the Wagner Act, was outlawed by the National Labor Relations Act, as amended in 1947. The union shop was, however, permitted by the Act under certain conditions as set forth in section 8(a)(3):

Section 8(a) It shall be an unfair labor practice for an employer—
(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this Act, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in section 8(a) of this Act as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 9(a), in the appropriate collective bargaining unit covered by such agreement when made and has at the time the agreement was made or within the preceding twelve months received from the Board a notice of compliance with section 9(f), (g), (h), and (ii) unless following an election held as provided in section 9(e) within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: Provided further, That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership. ... 2

In attempting to bring unionism under some sort of control, Congress had two alternatives as suggested by Senator Taft: "either we should have an open shop or we should have an open union." 3 This would mean that the right to work

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could be protected in two ways; unions may be required to admit all who requested admission or the employer may hire whomever he pleases regardless of union status.

It would seem that Congress did not wish to legislate within the broad field of union internal affairs. Instead, "the closed shop interdict imposed by the Act Taft-Hartley and the complete prohibition of security devices by various state statutes reveal that both Congress and state legislatures selected, although not completely, the latter of Senator Taft's alternatives. To enforce the right to work they decided to restrict union security rather than provide for an open shop." And therein lies the basis for state legislation, section 14(b) of the N. L. R. A., as amended, which reads as follows:

Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial Law.

Basically, the "Right-To-Work" law provides, in three general areas, that (1) the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization; (2) any agreement which requires membership or abstention from membership in a labor union or labor organization is illegal and null and void, and (3) no person shall be required to pay any fees, dues, or assessments to a labor organization as a condition of, or continuation of employment, unless voluntarily agreed to by the individual worker.


Under the guise of "State's Rights" these laws were passed, but a closer examination of what is meant by "State's Rights" reveals that such is not the case with these state regulations against union security. Historically, issues have arisen periodically which have as their basis the division of power exercised between the federal government and the states. "Sometimes the contention has been that the handling of some subject should be left entirely to the States. At other times the "State's Rights" men have urged that the authority of the federal government over a particular subject should be reduced and that of the States increased; or that the existing powers of the States should, at the least, be preserved."6

Indeed, it was the plea for "State's Rights" which precipitated the Civil War, and which, even today, the bitter foes of integration rally around. "But though the issues and the circumstances of its use have varied, "State's Rights" has always meant that some issue of division of governmental authority between the federal government and the States should be resolved in favor of the latter. Always that is, until...labor relations."7

The Constitution of the United States is quite explicit in its division of power between the federal government and the states. To the federal government is conferred the power to deal with certain subjects, such as that contained in Article I, Section 8, of the Constitution which grants to the federal government power to deal with "Commerce...among the several States." Secondly, the Constitution declares in Article VI, that regarding these subjects, "the Laws

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6 The Case Against "Right-To-Work" Laws, C. I. O., publication, pp. 9-10.
7 Ibid., p. 10.
of the United States...shall be the Supreme Law of the Land; and the Judges in
every State shall be bound thereby, anything in the Constitution or Laws of any
State to the Contrary notwithstanding." Finally, the Tenth Amendment to the
Constitution provides that the "Powers not delegated to the United States by
the Constitution...are reserved to the States respectively, or to the people."

Thus, our federal government is a government of delegated powers, but in
those delegated powers, is supreme. Consequently, in the field of labor rela-
tions affecting interstate commerce, the Supreme Court has repeatedly held that
the federal government has pre-empted this area to itself under the Supremacy
Clause of the Constitution. On the other hand, the Supreme Court has indicated
that, although the federal government is Supreme, the State's police power is
not impaired to regulate labor relations if the proper maintenance of public
order is threatened.

Professor Cox of the Harvard Law School argues this question most emphati-
cally. "The Constitutional decisions allocating to Congress power to enact
labor legislation mean (1) that the national government may regulate labor re-
lations, including strikes, boycotts, and picketing, and (2) that it may forbid
the application of state laws, whether statutory or judge-made. Both proposi-
tions are true beyond dispute, but note they are only permissive. The nation-
al government may choose not to exercise its power over labor relations or to
use only part. The allocation of Constitutional power to Congress does not
automatically exclude the operation of state labor laws." States could, in
other words regulate certain phases until Congress passed legislation which

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8Archibald Cox, "Federalism in the Law of Labor Relations" Harvard Law
stated explicitly, or implied, that federal power was supreme.

Though the Supreme Court has attempted to draw the line, sometimes not quite clearly, Congress could resolve this difficulty by supplementing the powers of the states to regulate industrial relations concurrently with the federal government, either by repealing the federal act entirely, or as been done, limit federal jurisdiction to certain areas, and specify what areas states may lawfully control. It was this latter course which Congress deemed appropriate by ceding to the states authority to pass legislation more restrictive than federal legislation, but not more lenient. Thus, the constitutionality of state legislation restricting union security is assured. For the state laws would, otherwise, be encroaching on an area of federal jurisdiction as designated in Section 8(a)(3) of the Taft-Hartley Act.

Nor did these state laws go uncontested. In 1949, the Supreme Court ruled simultaneously on the Constitutional aspects of three state laws; Nebraska, North Carolina, and Arizona. The high tribunal was well aware of the purpose of these laws when it stated that, "under the state policy adopted by these laws, employers must, other considerations being equal, give equal opportunities for remunerative work to union and non-union members without discrimination against either. In order to achieve this objective of equal opportunity for the two groups, employers are forbidden to make contracts which would obligate them to hire or keep none but union members."9

The state laws had been challenged as "violations of the right of freedom of speech, of assembly, and of petition guaranted unions and their members

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by the First Amendment and protected against invasion by the State under the Fourteenth Amendment. It was further contended that the State Laws impaired the obligations of existing contracts in violation of Article I, Section Ten of the United States Constitution and deprived the appellant unions and the employers of equal protection and due process of law guaranteed against State invasion by the Fourteenth Amendment.\textsuperscript{10} The court held:

Against the unions' contention that the closed shop is indispensable to the right of self-organization and the association of workers into unions; and that a closed shop is indispensable to achievement of sufficient union membership to put unions and employers in a full equality... the Constitutional right to workers to assemble, to discuss, and formulate plans for furthering their own self-interest in jobs cannot be construed as a constitutional guarantee that none shall get and hold jobs except those who join in the assembly or will agree to abide by the assembly's plans. For where conduct affects the interest of other individuals and the general public, the legality of the conduct must be measured by whether the conduct conforms to valid law, even though the conduct is engaged in pursuant to plans of an assembly.\textsuperscript{11}

It seems somewhat strange that the Supreme Court could, knowing their previous affirmation of the public policy of "promoting and encouraging collective bargaining" in ruling on the Constitutional aspects of the Wagner Act in the case of National Labor Relations Board v. Jones-Langhlin Steel Corp., state that "because the outlawed contracts are a useful incentive to the growth of union membership, it is contended that these state laws weaken the bargaining power of unions and corresponding strengthen the power of employers. This may be true. But...the state laws also make it impossible for employers to make contracts with company unions. Thus these state laws command equal employment

\textsuperscript{10}Ibid., p. 476.

\textsuperscript{11}Ibid., pp. 477-478.
opportunities for both groups of workers."\textsuperscript{12}

In answer to the unions' contention that "due process of law is denied employers and unions by that part of those state laws that forbids them to make contracts with the employers obligating him to refuse to hire or retain non-union workers,"\textsuperscript{13} the Court said, "...these laws do no more than provide enforcement of the heart of the laws, namely, their command that employers must not discriminate against either union or non-union members. If the States have Constitutional power to ban such discrimination by law they also have power to ban contracts which, if performed, would bring about the prohibited discrimination."\textsuperscript{14}

The Supreme Court in its final summation makes very clear what it deems to be the purpose and intent of Congressional action regarding state regulations of union security.

This Court...has steadily rejected the due process philosophy enunciated in the Adair-Coppage line of cases. In doing so, it has consciously returned closer and closer to the earlier Constitutional principle that States have power to legislate against what are found to be injurious practices in their internal commercial and business affairs, so long as their laws do not run afoul of some specific federal constitutional prohibition, or of some valid federal law.

Just as we have held that the due process clause erects no obstacle to block legislative protection of union members, we now hold that legislative protection can be afforded non-union workers.

This...due process clause is no longer to be so broadly construed that the Congress and State legislatures are put in a strait jacket when they attempt to suppress business and industrial conditions which they

\textsuperscript{12}Ibid., p. 478.

\textsuperscript{13}Ibid.

\textsuperscript{14}Ibid.
regard as offensive to the public welfare.\textsuperscript{15}

The author of this thesis finds it rather difficult to understand by what reasoning the Supreme Court arrived at its verdict. Its statement that "nothing in the language of the laws indicates a purpose to prohibit speech, assembly, or petition,"\textsuperscript{16} would, in the opinion of this writer, indicate a lack of awareness of the social aspects surrounding such laws; certainly, a refusal to view the modern industrial society in the light of reality.

What a far cry from the ideas as expressed in the decision rendered in the J. I. Case Co., v. N. L. R. B., "the practice and philosophy of collective bargaining looks with suspicion on...individual advantage."\textsuperscript{17}

The basic defect results from section 14(b) of the National Labor Relations Act. While it may be conceded that certain aspects of labor relations may be more speedily handled on the state level rather than wait for the slow legal procedure which quite frequently characterizes cases brought before the National Labor Relations Board, union security should not, since it strikes at the very heart of the union movement, be left to the local bias and the interpretation of forty-eight different states. In discussing the closed or union shop, as established by collective bargaining agreements, Professor Cox enumerates two distinct aspects of union security; "in one aspect, such agreements relate to union organization; they are devices for securing recognition as the majority representative and for preserving the union's representation status

\textsuperscript{15}\textit{Ibid.}, p. 480.

\textsuperscript{16}\textit{Ibid.}

\textsuperscript{17}321 US 332 (1944), p. 335.
against hostile employers.... In their second aspect, union security contracts raise issues concerning individual freedom in matters other than choice of bargaining representative. In their first aspect, union security contracts are exclusively matters of federal concern. ...since such provisions are found only in collective bargaining agreements, state regulations cannot be supported on the ground that the state is concerned with the substantive terms of employment without regard to the procedure by which they are established.\textsuperscript{18}

If then union security is a "part and parcel" of union organization, then "union activities looking to the execution and enforcement of union security contracts...fall in an area governed by comprehensive federal legislation from which state law should be excluded."\textsuperscript{19}

Another problem raised in legal jurisdiction, and one which has been characterized by Secretary of Labor, James P. Mitchell, as deserving of attention by every workingman, is forty-eight different regulations governing labor organizations and union security, in particular.

One reason for a rule of total federal pre-emption is that superimposing obligations created by State law threatens to interfere with the working-out of a national labor policy.

A second reason...that federal law should pre-empt the entire field it touches is the desirability of avoiding too fine lines of distinction.

Thirdly, to permit the concurrent operation of state labor laws in industries already subject to federal statute would destroy the uniformity and convenience which are part of the justification for federal legislation. It would also open the way to interstate competition in enacting statutes attractive to industry.\textsuperscript{20}

\textsuperscript{18} Cox, p. 1333.
\textsuperscript{19} Ibid., p. 1335.
\textsuperscript{20} Ibid.
The "Right-To-Work" laws raise controversial questions regarding their moral and economic aspects. The more so, perhaps, because the moral questions raised cannot be substantiated with empirical facts, and frequently, are discussed and disputed on an emotional level to which there is no resort to rationality.

But, contrary to this positivist attitude, there are definite guide posts to be followed. It is quite pertinent, therefore, to state clearly the principles underlying the questions raised by the "Right-To-Work" laws.

In considering the "Right-To-Work" laws, their principal contentions and the questions raised can be rephrased into: do workers have the right to organize into associations which have as their purpose the general welfare of the workingman? Assuming that workers do have a right to association, what are the corresponding duties and obligations of the state? And finally, what is the nature of the right to work? Is this an absolute, personal, individual right, or is it merely conditional and dependent upon the common welfare? To what extent must employers recognize and fulfill this right? It would seem appropriate, therefore, to begin with the nature of man and the nature of society.

Man, unlike the brute animal or material things, possesses a certain quality—a dignity which finds its source in his origin, his nature, and his end. This dignity is not conferred by a civil power, nor does it spring from society.
Man, preceding society in time, and because of his inherent nature, has rights which are inviolate, and can never be denied or abridged by society. He has a soul or guiding principle of life. He has an intellect and therefore, is able to reason; he has a will and therefore, is capable of choosing. And it is this immortal, spiritual nature of man, which elevates him to a position of nobility above all brute animals and material objects, and which makes him neither a machine, nor a commodity, but an individual destined for a higher end: existence for all eternity with God.

But man is also by his nature a social being. He cannot live in isolation. He is dependent on society for his material wants and needs. Pope Leo XIII expresses this clearly in his encyclical, _Immortale Dei_, when he says,

Man’s natural instinct moves him to live in civil society. Isolated, he cannot provide himself with the necessary requirements of life, nor procure the means of developing his mental and moral faculties. It is, therefore, divinely ordained that he should lead his life—be it domestic, social, or civil—in contact with his fellow men, where alone his several wants can be adequately supplied. But no society can remain united without someone in command, directing all to strive earnestly for the common good. Hence, every civilized community must have a ruling authority, and this authority, no less than society itself, has its source in nature, and consequently has God for its author. It follows, then, that all public power must proceed from God; for God alone is the true and supreme Lord of the World.¹

Man has, accordingly, formed and promoted mutual, fraternal, and beneficial organizations for the individual and the common welfare. Pope Leo XIII in his famous encyclical concerning the workingman, _Rerum Novarum_, clearly defines the end of civil society and its obligation to honor that inalienable right of man, namely, the right of association.

The end of civil society concerns absolutely all members of this society, since the end of civil society is centered in the common good, in which latter, one and all in due proportion have a right to participate. Wherefore, this society is called public because through it "men share with one another in establishing a commonwealth." On the other hand, societies which are formed, so to speak, within its bosom are considered private and are such because their immediate object is private advantage appertaining to those alone who are thus associated together. "Now a private society is one which is formed to carry out some private business as when two or three enter into association for the purpose of engaging together in trade."

Although private societies exist within the state and are, as it were, so many parts of it, still it is not within the authority of the state universally and per se to forbid them to exist as such. For man is permitted by a right of nature to form private societies; the state, on the other hand, has been instituted to protect and not to destroy natural right, and if it should forbid its citizens to enter into associations, it would clearly do something contradictory to itself, because both the state itself and private associations are begotten of one and the same principle, namely, that men are by nature inclined to associate.2

Thus, man has from his very nature certain inalienable rights which are antecedent to society and which must be protected by the state. And among these rights is the right to form organizations.

Since rights have been discussed it might be pertinent to define exactly what is meant by a right. A right is usually meant "an inviolable moral power which a person has to do something, or to have, acquire, or to dispose of, something."3 Corresponding and concurrent with a right is the obligation and duty to respect that right. Rights, and duties, are inseparable, although they may and do conflict at time.

While there are various kinds of rights, certain rights are more prior on the basis of their origin. Some rights arise directly from nature, and hence,

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3 Cronin, p. 76.
are called natural. Into such a classification would fall the right to life, the right to marriage and a family, and certainly, the right to associations. On the other hand, there are definite rights which have been conferred by law or the state. And lastly, there are those rights conferred by man upon himself and his fellow-man, such as the right to buy or sell or lease. And even within the same sphere, that is, among the rights which arise from the natural law, those rights which are concerned with man's physical nature are of lesser necessity and value than are those which are concerned with his spiritual nature.

Of great importance, too, is the relative necessity of rights as regards their end. Certainly, the rights which are "essential for the basic ends of man's existence are more important than, and have priority over, non-essential rights even of a greater order." \(^1\) Finally, among the hierarchy of rights comes the common good or community rights, which always, providing of course they are on the same plane, have precedence over individual rights. St. Thomas, in the *Summa Theologica*, defines the common good as "the ends of each individual member of a community, just as the good of the whole is the end of each part." \(^5\)

In answering the question whether man has the right to work, it must be stated, man does have a right to a job. The biblical command that man should earn his daily bread by his labor is well known. For most individuals, work is, therefore, a normal means for securing what is necessary for the preservation

\(^{1}\)Ibid., p. 78.

\(^{5}\)S.T., II-II, 59, 9 ad 3, cited in Cronin, p. 99.
of their physical existence. "Since it is the normal means for securing a
living, the law of self-preservation, implanted by God in human nature, jus-
tifies man's ordinary claim for work."6 This right to a job is, of course, an
individual and a personal right. It is not, however, an absolute right. "Man
without skill cannot demand certain type work. He is free, of course, to seek
work anywhere in the country, but on the other hand, no employer is under any
obligation to give John Brown a job simply because he applies for one."7 The
same author concludes, "the right to work, therefore, is not an absolute right.
It can be, and is, actually, limited by the employer and the government in
many ways and nobody speaks of such limitations as coercion or violation of the
workingman's right."8

Another Catholic authority debating the question as to whether the union
has the right to force a man against his wishes to join and support the union,
has this to say: "seeking or taking a job in an industry or business that em-
ployes large numbers of men is an act that places a man in important relations
with others. If those with whom he seeks employment have found it necessary
to unite to obtain a just and living wage, and if the open shop stands for an
effort to deprive them of advantages won, through organization, it is no more
a violation of the liberty of a workingman for a union to insist that he join
it if he wants to work with union men, than it is for Religious Orders to in-

6Cronin, p. 316.
7Benjamin L. Masse, S.J., "Does the Closed Shop Destroy the Right To Work,"
8Ibid., p. 426.
sist on certain requirements and qualifications before a newcomer may enter its ranks."\(^9\)

Father George Lucy, S.J., noted Jesuit authority in the field of labor relations, in defending the conditional nature of work, says:

Fundamental to all their arguments is the error that the right to work is an absolute right and a purely personal one. It is no such thing. The right to work is a conditional right and a social one.

The right to work is honeycombed with conditions. First of all, the worker must be accepted by the employer. No American tradition demands that Joe, the hod carrier, has a right to a carpenter's job. And once Joe is on a job he is well aware of many other restrictions. He must report at a specific time, work so many hours and according to rules and regulations, accept certain deductions from wages for Social Security, etc. No one seems to get excited about these restrictions on Joe's liberty. He is free to reject these conditions and look elsewhere for a more agreeable job. But if he accepts the job, he also accepts the conditions.

The right to work, then, is not an absolute right. It is limited in many ways by the employer and by the government. No one claims that these restrictions are un-American and destructive of a workingman's freedom.

One needn't join the American Legion or any such like organization, but neither does he share in its benefits. The advantages come only after he joins and pays his dues. It is quite different when a non-union man works next to a union member. The former gets the same pay and works under the same conditions which in most instances are the result of unionization. Moreover, the union has the legal duty to represent non-union members in the bargaining unit.

Furthermore, if a majority of workers in a plant agree to do their bargaining collectively the minority should be bound by such a decision. Today we emphasize the principle that "majority rules." Its validity is no more questionable in this instance than it is in any other. It simply becomes one of the conditions which the individual must accept. As we have seen the right to work is not absolute.\(^10\)

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\(^{10}\) C. I. O., Department of Education and Research Publication, What's Behind the Drive for "Right-To-work" Laws, Pamphlet No. 265, p. 8.
Father John Cronin, Assistant Director, Social Action Department, National Catholic Welfare Conference, in discussing the coercive nature of compulsory union-membership, writes, "since the right to work is the right to life itself, may conditions be imposed upon this right?" Yes. Man is more than an individual; he is also a member of society. Such is his nature as God made him. For this reason, the rules necessary for harmonious social living can be binding laws, not merely optional regulations. Thus, as members of civil society, we must obey laws, pay taxes, and fulfill our duties as citizens. As members of the family society, we have rights and duties, whether we be parents or children. Likewise, the common good of industrial society may demand that individuals conform to rules laid down for the good of all.11

Essentially the same thing was recently said in a statement submitted to the Connecticut General Assembly by the Most Reverend Henry J. O'Brien, Archbishop of Hartford. "'Right-To-Work' legislation is not in accord with the sound Christian principles which should inspire economic life. The sponsors of the proposed legislation claim that a fundamental right of the individual is invaded if he must join a union. I do not agree with this viewpoint. It is neither immoral nor unethical to require union membership for the greater common good of the group. In our modern and complex society, every one is subject to prohibitions and restraints, as well as to mandatory rules of conduct based on the common good of the group."12

11These remarks are taken from a printed statement made by Father Cronin, and published under the title, "Right-To-Work" Laws, by the National Catholic Welfare Conference, Social Action Department.

Father William Kelly, experienced arbitrator, lecturer at Catholic University, and an authority on labor legislation, writes, concerning the argument that no worker should be required to be a member of a union to obtain or retain employment, "the proponents who advance this argument seem to me to overlook the justice of the issues involved, they seem to ignore man's social responsibility and in this legislation they put individual claims before that of the majority of employees in a given plant. The proponents overlook the fact that union members have marched on picket lines, have paid dues-money for legal counsel and research experts to help achieve the common good of the group to which the union belongs."\(^1\)

One noted authority on union security makes the following distinction concerning the definition of the right to work.

1. Natural law or the moral and ethical right to work.
2. Juridical right to work.
3. Economic or free enterprise right to work.
4. Political, or the public welfare, common good, social right to work.

Natural right to work: The natural right to work follows from the natural order. God made the earth and the things thereon for the use of man who, after his fall, has the God-given duty to earn his bread in the sweat of his brow. And it is from this God-given duty to work that man gets his right to work, a right that not only means there should and must be a job for every man, but that once he has a job his wage or return from employment and/or employer and state should be sufficient for the reasonable comfort of himself and his family. ...This is the constitutional and Declaration of Independence meaning of the term, "all men are created equal," and that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and pursuit of happiness and by which property cannot be taken away without due process of law. Anyone sincerely interested in the right to work will make this natural right to work a moral obligation or objective.

\(^1\)William J. Kelley, O.M.I., "A Moral Study," "Right-To-Work" Laws, (Washington, D.C., 1954), p. 18. This was a pamphlet published by the International Association of Machinist, in which three clergymen, Catholic, Protestant, and Jewish, gave their moral impression of these "Right-To-Work" laws.
Juridical right to work: ... One may assume that the right to work—that is, the so-called property right in the job for those who are applying for a job—means that I have a right to apply for a job and to be free to accept or reject the prospective employer's offer. He, too, is free to make any lawful conditions of employment, and my right to work cannot be injured by any such conditions. He has no obligation to hire me and no third party has the right to unlawfully interfere with my opportunity to apply for the job. Any one or number may lawfully compete for the job that I hope to get, and their action, without malice, is perfectly legal. Hence, from the juridical point of view, the employer is free to make membership in a union a condition of employment without denying to me my right to work.

Economic or free-enterprise right to work: The right to work based upon this claim means that those who are fortunate enough to be accepted by some employer will automatically receive some return based on the inexorable and changeless—though economically just—law of productivity. And when this return does not keep the worker and his family in reasonable comfort the State must make good the deficiency.

Political right to work: The Constitution gives Congress and the legislatures liberal latitude under the Commerce Clause and the police power to provide for the common good. It must give proper balance to the right of all its members and not make the right of one supreme. The individual's natural right has precedence over his economic and juridical right. And among individuals and the group, the common good of the State must be the guiding criterion.14

Proponents of "Right-To-Work" legislation have defended such legislation on the basis of the right to work, the analogy of the "yellow-dog contract," and the compulsive nature of the closed- or union-shop. Yet a search of the U. S. Constitution will uncover no such "right to work." Indeed, amendments to several state constitutions "were necessary in order to make such principle a guarantee."15

It might be noted, also, in the cases tried before the Supreme Court in determining the Constitutionality of such state legislation, that nowhere was there a discussion of the constitutional right to work. The Court's decision

15 Vladeck, p. 491.
was based rather on whether there was a constitutional guarantee protecting union security rather than whether there was a constitutional guarantee of the right to work without compulsory union membership as a condition of employment. 16

Regarding the analogy to the "yellow-dog contract," it has been said that, "the yellow-dog contract provides for employer security against union organization." 17 It is "a unilateral agreement, conditioned upon the acceptance or rejection of employment by the worker required to execute it. The individual worker has no choice but, in a real sense, to designate his employer as his collective bargaining representative." 18 Indeed, it may even be said that the "yellow-dog contracts" were never rules unconstitutional, but required passage of the Norris-La Guardia Act, in order to outlaw them.

As regards the moral aspect, compulsory union membership is not the reverse of the "yellow-dog contract," since the "yellow-dog contracts" in reality prevented the worker from exercising his natural right to association. According to St. Thomas Aquinas, "Law is nothing else than an ordinance of reason for the common good, promulgated by him who has the care of the community." 19 Certainly, the "yellow-dog contract" by denying man's natural right to association, cannot be said to be a just law. Nor can these "yellow-dog contracts"

16 Infra., pp. 27-30.


be defend on the basis of freedom of contract, since freedom of contract necessarily implies an equality of bargaining power. On the other hand, union security provisions are the result of a collective bargaining agreement reached between the employer and the duly authorized representative of the majority of his employees.

Statistical evidence, also, does not bear out the proponents' charge that the individual worker has no desire for union security but is coerced into agreeing to such provisions. The following table indicates quite clearly why the Taft-Humphrey amendments to the National Labor Relations Act of 1947, were passed in 1951.20

Undoubtedly, the proponents of Section 9(a)(3) suspected that the union shop was being imposed upon the rank and file membership by unscrupulous union officials who desired to perpetuate themselves in power. Surprisingly enough, the unions won the votes overwhelmingly in a majority of the elections conducted by the National Labor Relations Board. "Although the union shop was not mandatory when authorized by the employees, employers who normally would not have entered into union shop agreements found themselves capitulating to demands for the union shop upon discovering such strong support for the proposition among their employees. As a consequence, it appears that the union shop

20 Between 1917 and 1951, the National Labor Relations Act required an affirmative vote from a majority of employees in the bargaining unit, in order for the bargaining representative to negotiate for a union shop agreement. But because the vast majority of elections conducted by the N.L.R.B. resulted in an overwhelming victory for union shop agreements, the Taft-Humphrey amendments of 1951 deleted the authorization election as a prerequisite for a valid union shop agreement. The union must, however, comply with certain filing requirements. See sections 9(e)(1), 9(f), and 9(g) of the N.L.R.A.
# TABLE II

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Source: 13th, 14th, 15th, and 16th Annual Report of the National Labor Relations Board for fiscal years ending on June 30, 1945, 1949, 1950, and 1951, respectively.

*UA is a symbol meaning a petition by a labor organization under Section 9(e)(1) for a referendum to authorize it to negotiate for a contract requiring membership in such union as a condition of employment.

movement was accelerated instead of being retarded under the Taft-Hartley Act."21

Against the contention that the compulsive nature of union security will result in undemocratic and discriminatory practices, it must be answered that the union is entitled to a reasonable degree of discipline and control over the employees represented by it for collective bargaining purposes. "Altogether to deny a union the right to exercise any discipline or control over its membership, or those who apply for membership, is to accept the generalization that the action of the union is always wrong and unjustified."22

It would not appear to be unjustified in saying that what most proponents of the "Right-To-Work" laws are fearful of is the increasing prominence and power of the unions. And this power of the union "exists by virtue of two factors, the militancy of the membership and what the union achieves by virtue of its collective bargaining agreements with the employers. The concern of the leadership is to balance the two. Certainly, a strong union may attempt to utilize its strength in areas where controls are justifiable, but by the same token, its basic function, which is dependent upon its strength, exists in the area of bargaining with the employer with regard to the terms and condition of the employment of its members. It is in that area that union security is necessary to preserve the union's strength."23


22 Vladeck, p. 193.

23 Vladeck, p. 495.
It would also appear evident that continued opposition to unionism is also continued opposition to collective bargaining. No amount of legislation will ever effect any real and substantial peace. When the power of one wanes the political strength of the other will be sufficient to pass either more punitive or more protective legislation.
CHAPTER V

VIEWPOINTS

It would seem rather appropriate to cite the various viewpoints of both the proponents and the opponents of "Right-To-Work" legislation, and compulsory unionism. Those organizations which have been the most outspoken critics of unionism, have, also, been the most outspoken campaigners for passage of the various "Right-To-Work" laws. In the forefront of these organizations will be found the National Association of Manufacturers, the United States Chamber of Commerce, the various State Chambers of Commerce, and other cooperating and affiliated organization.

In appearing before the Senate Committee on Labor and Public Welfare of the Eightieth Congress, First Session, in 1947, the N.A.M., through its counsel, made the following remarks: "as applied, the Norris-La Guardia Act, and the Wagner Act had: (1) Deprived workers of their freedom to engage in or work at a chosen trade; (2) Deprived workers of their guaranteed freedom of choice in selecting bargaining agents; (3) Deprived workers of freedom to improve their standing and earnings in accordance with effort and ability; (4) Deprived workers of the right to bargain or contract individually on matters relating to employment; and (5) Deprived workers of freedom to work when they may desire to do so."1

1Raymond S. SMethurst, Counsel, National Association of Manufacturers, testimony of, Senate Hearings, 1947, p. 1802.
The N.A.M., also, has some pretty definite ideas on collective bargaining, as the following illustrates: "Collective bargaining, as compelled by the 'exclusive' representative requirement of the Wagner Act, has effectively destroyed the opportunity of an employee, (1) to bargain individually for employment conditions more favorable than those of the group, (2) to be advanced in accordance with his efforts and ability, and (3) to handle his individual grievances with his employer." 2

As regards the "Right-To-Work" laws, the N.A.M., in an analysis published in March 1955, states:

Much has been and will be said by officers of organized labor about the "right-to-work" laws which have been adopted by seventeen states. Extravagant charges are made that these laws strip employees of their right to organize and take concerted action for purposes of collective bargaining with their employers. They also have been characterized by some clergymen as legally and morally wrong and by a major labor organization as "right-to-wreck" laws.

Charges such as these are, of course, designed to raise doubts in the public mind as to the true nature of the laws and constitutional amendments which the people of seventeen states have insisted on putting in statute books.3

In reply to the contentions of the opponents of "Right-To-Work" laws, the N.A.M. says:

When the fallacies of the union propaganda are exposed and the true facts are disclosed, it is clear that the real motive behind the fight against "right-to-work" laws is the desire of union officials for monopoly control over all employees. In the words of the Senate Committee report on the Taft-Hartley Act, union officers can use and have used compulsory membership devices as a method of depriving employees of their jobs, and in some cases a means of securing a livelihood in their trade or calling, for

2Ibid., pp. 1803-1804.

3National Association of Manufacturers, "Industry's Views: Do We Have the Right to Work?", published in March 1955.
purely capricious reasons. Once such monopoly power is established, an individual employee can escape it only by committing economic suicide. It is this union monopoly control over employees that the state "right-to-work" laws are designed to prevent.4

In 1953, the United States Chamber of Commerce stated, quite tersely, their viewpoint on the right to work in the following words:

This We Believe:

Employees should be free to join or not to join a labor organization. Their right to work should never be dependent upon union membership. A labor union should recruit and hold its members on its merits, not by making membership a condition of employment.

An employee and his family must be protected from threats, violence or other interference in exercising this fundamental American right.

We subscribe to the right of employees to organize and bargain collectively whenever such action is the right of their own free and uncoerced choice. Therefore, in the following... we are concerned only with compulsory unionism, which in any form should be prohibited by law.5

Further, in response to the question, "What is compulsory unionism?", the answer is given; "Compulsory unionism is any form of forced membership in a labor organization—usually characterized by forced allegiance, forced dues-paying, and forced support of union representation in matters relating to job, salary, advancement, etc. The union shop and the closed shop are the two commonest types of compulsory unionism."6

The National Industrial Conference Board published in 1939 the results of a survey conducted among 192 companies regarding the advantages and the disadvantages of union security, as seen by top-ranking executives. The following

4Ibid.
6Ibid., p. 2.
is a summary of their results.

Advantages

1. Eliminates factional strife within the working force by giving a single union exclusive recognition and an assured status.

2. Improves discipline by holding the union responsible for actions of employees, all of whom must be members of the union and, therefore, answerable to the union officers.

3. Puts an end to periodic, short but troublesome interruptions to operation.

4. Ends the frequent demands by the union for concessions from the employer for the sole purpose of holding membership.

5. Tends to standardize wage costs.

6. Brings about a greater feeling of responsibility and interest in their jobs on the part of employees because of a voice in determining working conditions.

Disadvantages

1. Interferes with the employees right to decide the question of membership or nonmembership in the labor union.

2. Makes employment contingent on maintenance of good standing in union, and, consequently, commits the employee to permanent union membership.

3. Tends to create a labor monopoly.

4. Destroys discipline and efficiency by making the union officers seem more powerful than the foremen.

5. Places the union, which has neither investment in, nor responsibility for, the business, in a position where it can checkmate the management's operating policies.

6. Deprives management of the power to determine who shall be selected for employment.

7. Tempts the union officers to become arbitrary and unreasonable, because their status is assured.7

While the above summary of their results is, to a certain extent, still applicable today, it must be said that time and experience has modified several of the viewpoints. Unions, as well as management, desire business to flourish and expand; it is only through a constantly increasing efficiency and productivity that the standard of living for all workers will increase.

Unions have become more mature and responsible. Mutual problems have been attacked mutually by unions and management. Though some management representatives would, undoubtedly, prefer to rid industrial society of unions, by and large, most corporations have come to accept unionism as an integral part of our modern and complex industrial society.

Union security arrangements permissible under the N.L.R.A., as amended, do not deprive management of the right to select prospective applicants for employment. Management may employ whomever it desires. The only condition being that if in a state where union security agreements are permissible, the majority of the workers in a particular bargaining unit desire union security arrangements, and the duly elected bargaining representative and management negotiate such a clause, the new employee must, in order to retain employment, at least tender dues and initiation fees. Whether the new employee ever becomes an active member of the union is not required. Also, under the Taft-Hartley provisions, an employee can be fired, on request of the union, only for refusal to pay dues.

In another article upholding the position taken by the proponents is the following: "In the United States today about sixteen million workers are members of labor unions. Not an inconsiderable number of them have no wish to be. They were forced into union membership against their will as a condition of employment, that is, as a condition of earning a living for themselves and their
This is a customary argument, since it presupposes that the individual's right to work has been seriously impaired by labor unions, who hold a monopoly control over the job market.

In the same article, compulsory unionism is branded as being the reverse situation of the "yellow-dog" contracts. "For many years labor union officials condemned the old "yellow-dog" contract and even though it has long been unlawful they frequently advert to it as though its revival were imminent. But today the old "yellow-dog" contract has its union counterpart—compulsory union membership. Under a union shop agreement a worker, as a condition of employment, must make a union "yellow-dog" contract, as some have characterized the agreement to join, support, and give allegiance to the union as a necessary condition of employment."

The same article concludes its case by a special plea to the reader.

Not even Congress can deprive an American of his constitutional rights, as the Court ruled in the recent Santa Fe case. And in so ruling, the way was opened for thousands of workers to free themselves of the infringement on their individual liberties of the union shop. This unconstitutional maneuver of labor bosses deprives working men and women of their fundamental "right to work."

But even more important, make certain that everyone knows the nature of the "union shop" and how it violates the First, Fifth, Ninth, Tenth, and Thirteenth amendments to the Constitution. And let it be known that the precious heritage of freedom cannot be chipped away even by Congress.

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9 Ibid.

In a research report prepared by the Missouri State Chamber of Commerce, the conclusion is given: "...nationwide labor disputes over the union shop in the steel and other industries have intensified the search for means of curbing the excessive powers of unions over individual workers. Right-To-Work laws are well worth considering in this search."¹¹

On the other hand, the opponents are equally verbose in their denunciation of the so-called "right to work" legislation. Father Toner, Dean of Industrial Relations, St. Martin's College, Olympia, Washington, finds the "Right-To-Work" laws are doubly immoral. They are, in his opinion, a violation of commutative justice since, "the non-union employee under a legal collective bargaining contract offends against commutative justice by refusing to tender his proportional share of the expense of the collective bargaining agent—the union—which he legally elected and hired to improve his wages, hours, and conditions of work."¹²

They are, according to Father Toner, a violation of social justice, since, "the non-union employee offends against social justice, the essence of which is to demand from each individual all that is necessary for the common good, by refusing to affirmatively participate in the legal processes of industrial democracy through collective bargaining by which, for good or evil, the wages, hours, and conditions of work for himself, as well as the rest of the employees are determined. Since the non-union employees cannot affirmatively vote in the

¹¹Missouri State Chamber of Commerce, Research Report, No. 17 (September 3, 1952), pp. 1-5.

¹²Jerome L. Toner, O.S.B., speech to Management and Labor at Catholic Seamen's Club, Seattle, Washington, on February 18, 1955, entitled, "The Right-To-Work Laws." This speech was later printed and distributed by the Central Labor Council of Seattle and Vicinity.
industrial democracy, their non-participation may be the means by which substantial harm may come to the firm, public welfare, and common good.\textsuperscript{13}

In a study on the moral aspects of the "Right-To-Work" laws published by the International Association of Machinists, Father William J. Kelley, O.M.I., lecturer at Catholic University, says, after questioning the existence of a constitutional right to work, "'Right-To-Work' laws are immoral according to Catholic Social teaching."\textsuperscript{14} Rabbi Israel Goldstein, President, American Jewish Congress, writes: "I do not think it is in the Jewish tradition 'to recognize' a right to profit from the labor of another, from his time, from his efforts, from his sacrifices...without compensating him for what he has done."\textsuperscript{15} Dr. Walter G. Muelder, Dean of the Boston University, School of Theology, concludes: "It is a most irresponsible social policy to destroy the integrity of labor unions under the guise of the so-called 'right-to-work.' The individual worker has no effective legal right to work under conditions worthy of human dignity where strong unions have been eliminated."\textsuperscript{16}

The American Civil Liberties Union has also opposed "Right-To-Work" laws on the basis of violation of basic civil liberties.

As a non-partisan organization devoted only to maintaining civil liberties, we take no position on the merits of the arguments that labor unions make in their organizing campaigns. Our interest is in keeping open the channels of communication through which both unions and employers may present their opinions. We recognize that the labor history of many of the

\textsuperscript{13}Ibid.
\textsuperscript{15}Ibid.
\textsuperscript{16}Ibid.
states that have 'right-to-work' laws is marked by the refusal to rent meeting halls to unions or to allow circulation of union literature, which are violations of the First Amendment. In view of this history, the ACLU is concerned that 'right-to-work' laws may be interpreted as an invitation to continue the denial of free speech and assembly to labor unions. 17

Secretary of Labor, James P. Mitchell, is categorically opposed to "Right-To-Work" laws, when he states, "I believe that when employers and unions representing a majority of their employees agree on a union shop they should have the right to have one. They call these 'right to work' laws, but that is not what they really are. Actually, these are laws which make it impossible for an employer to bargain collectively with a majority of his employees about the security of their unions...." 18

Representatives of the unions find that the "goal of the 'Right-To-Work' propagandists is simple and direct despite their high-flown language. It is low-wages that they seek, through laws that interfere with collective bargaining and hamper trade union growth." 19

They also find that "although 'Right-To-Work' laws are proposed in the name of economic progress, the aim of their advocates is to halt improvements in the wages and working conditions of working people. Depressed wages, however, depress the entire community. Low wages mean poor living conditions that affect businessmen, farmers, and professionals." 20

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17 Ibid.


20 Ibid.
In conclusion they state "in the guise of promoting economic progress, 'Right-To-Work' advocates are offering up the people of their states as a sacrifice to low wages, non-union working conditions, and generally, poor living standards."  

21 Ibid., p. 8.
CHAPTER VI

SUMMARY AND CONCLUSION

Historically, union security devices and demands are not new. From the very inception of the trade union movement in America, unions have continuously fought and demanded some type of security which would not only strengthen the union movement, but would prove in the long run a stabilizing force. Labor's history is replete with incidents which prove the necessity of union security as a means of preservation against employer hostility. Unionism is first and foremost that "watch-dog" of management. With the demands, unionism has gradually acquired a voice in the decisions and personnel practices of management, at least, in reference to wages, hours, and working conditions. Some have even advanced further to a position of mutual trust and confidence, wherein there is a joint origination of action and joint settlement.

Prior to the enactment of the Wagner Act what little voice and strength the workingman had, was strictly that of his organization. But with the passage of the Wagner Act, the federal government alarmed at the growing dissatisfaction of the workingman, made as public policy the encouragement of the organization of workers into associations whose purpose was to secure more equitable wages, hours, and working conditions for the workingman. The encouragement and promotion of collective bargaining was recognized by the act as being the only adequate remedy for bringing peace to the industrial scene.
The response of the Wagner Act was overwhelming. Workers by the millions joined and swelled the ranks of organized labor, much to the chagrin and deep animosity of management and industry. But collective bargaining, as an institution and a method, was hardly recognized when America entered the second world war. Since the feelings were intensely patriotic, an all-out effort was made to increase productivity to new and undreamed-of heights. Organized labor, also, did its share by agreeing to a no-strike pledge.

Continued opposition of employers made it vitally necessary to petition the government for some form of security which would enable organized labor to, at least, maintain the strength and unity they had acquired from the hostility and aversion which some employers still had to trade unions. To this the government, speaking through the National War Labor Board, agreed by granting the "maintenance-of-membership" type of union security.

With the end of the war, defense production was sharply curtailed; earnings declined, and prices rose. In such a setting, union after union struck, not only for higher wages, but also for more protective and more secure union security arrangements. With the refusal of these demands, the public began to suffer economic discomfort because of several nationwide work-stoppages. Added to this was the continuous campaign carried on by the "die-hard" element of management, aided and abetted by the press, to inflame the public, and to seek a complete revision of our national labor policy.

With this in mind the Congress in 1947, heeding the public hysteria over the "bigness" of organized labor, passed the Taft-Hartley Act, which attempted to equalize the relative powers of labor and management. To a certain extent the law was successful. But it refused to accept social reality and instead
relied heavily on legal procedure to bring about this equality. It, also, returned to the states authority to regulate certain phases of labor relations, in particular, union security.

Eighteen states, mostly southern and non-industrial or just beginning to industrialize, took advantage of this Congressional intent by passing legislation banning all forms of union security. These state laws were tried in the Supreme Court in 1949 and were determined to be, not a denial of the "due process" clause of the Fourteenth Amendment, and therefore, constitutional.

The topic of union security has been a controversial subject for both sides. By and large management has supported the banning of union security, and labor has, quite naturally, opposed such prohibition. Into the debate have jumped outstanding executives, scholars, and moralists. Both sides pose convincing arguments and rely heavily on emotionally-laden contentions.

In the final analysis, however, the preponderance of arguments and logic would seem to favor a repeal of Section 14(b) of the Taft-Hartley Act. From a legal standpoint, the federal government has, through the Supremacy Clause of the United States Constitution, the power to pre-empt the field of labor relations. If the object and intent behind federal legislation is to promote and encourage a uniform national labor policy, then wide-spread state regulations can have adverse results on our national economy.

In the realm of morality, the principle, as advocated by Pope Leo XIII, Pope Pius XI, and our present Pontiff, Pope Pius XII, that the workingman has a need and a right for mutual association, should be the foundation upon which everyday labor-management relations should be built if they are to endure.

Not in all places and at all times can the morality of union security be
attested to for the morality is conditioned by its object and circumstances. There are some employers who are dealing quite adequately and most appropriately with their employees. To insist on unionism, and eventually union security, would be a gross miscarriage of justice. If the unionized workers have no desire for union security due to their circumstance and situation, then to insist that the employer grant them some form of union security would be contrary to all principles of morality.

Economically, however, these laws banning union security, can and do cause great conflict and disorder. The majority of these laws are now on the statute books of the southern states which have traditionally and historically been low wage areas. If the intended purpose of these laws is to lure highly competitive industries to their region with the promise of continued opposition to unionism and continued low wages, then, they must be regarded as being basically and economically unsound. They are unethical because of the cut-throat competition they will provoke. And finally, because of the inequality they condone or encourage and the frustration produced within the trade union movement they must be condemned as being socially and politically unwise.

A final word concerning abuses. Abuses cannot be tolerated by any intelligent person, no more than can violence be condoned. But, as has been said, "A toothache is not cured by chopping off the patient's head," so the abuses of unionism must be attacked directly. There should be no punitive legislation which strikes at the very heart of union existence, if the primary desire is to rid the trade union movement of abuses.
## APPENDICES

### STATE LAWS AND CONSTITUTIONAL AMENDMENTS

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Section 1. It is hereby declared to be the public policy of Alabama that the right of persons to work shall not be denied or abridged on account of membership in any labor union or labor organization.

Section 2. Any agreements or combinations between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy.

Section 3. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment.

Section 4. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

Section 5. No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to any labor union or labor organization.

Section 6. Any person who may be denied employment or be deprived of continuation of his employment in violation of sections three, four, or five or of one or more of such sections, shall be entitled to recover from such employer and from any other person, firm, corporation or association acting in concert with him by appropriate action in the courts of this State such damages as he may have sustained by reason of such denial or deprivation of employment.

Section 7. The provisions of this act shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of an existing contract.

Section 8. The provisions of this act are declared to be severable, and the unconstitutionality or invalidity of any section or provision of this act shall not affect the remainder thereof.

Section 1. The term "labor organization" means any organization of any kind, or any any enoy or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

Section 2. No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the state, or any subdivision thereof or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization.

Section 3. Any Act or any provision in any agreement which is in violation of this Act shall be illegal and void. Any strike or picketing to force or induce any employer to make an agreement in writing or orally in violation of this Act shall be for an illegal purpose.

Section 4. It shall be unlawful for any employee, labor organization, or officer, agent, or member thereof to compel or attempt to compel any person to join any labor organization or to strike against his will or to leave his employment by any threatened or actual interference with his person, immediate family or property.

Section 5. Any combination or conspiracy by two (2) or more persons to cause the discharge of any person or to cause him to be denied employment because he is not a member of a labor organization, by inducing or attempting to induce any other person to refuse to work with such person, shall be illegal.

Section 6. Any person who violates any provision of this Act, or who enters into any agreement containing a provision declared illegal by this Act, or who shall bring about the discharge or the denial of employment of any person because of nonmembership in a labor organization shall be liable to the person injured as the result of such act or provision and may be sued therefor, and in any such action any labor organization, subdivision or local thereof shall be held to be bound by the acts of its duly authorized agents acting within the scope of their authority, and may sue or be sued in its common name.

Section 7. Any person injured or threatened with injury by any act declared illegal by this Act shall notwithstanding any other provision of law to the contrary, be entitled to injunctive relief therefrom.

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Section 8. The work "person" includes a corporation, association, company, firm or labor organization, as well as a natural person.

Section 9. Severability clause.

Section 10. Declared an emergency.
Section 1. No person shall be denied employment because of membership in or affiliation with or resignation from a labor union; nor shall any corporation or individual or association of any kind enter into any contract, written or oral, to exclude from employment members of a labor union or persons who refuse to join a labor union, or because of resignation from a labor union; nor shall any person against his will be compelled to pay dues to any labor organization as a prerequisite to or condition of employment.

Section 2. The General Assembly shall have power to enforce this article by appropriate legislation.

Section 1. Freedom of organized labor to bargain collectively and freedom of unorganized labor to bargain individually is declared to be the public policy of the State under Amendment No. 34 to the Constitution.

Section 2. No person shall be denied employment because of membership in or affiliation with, a labor union; nor shall any person be denied employment because of failure or refusal to join or affiliate with a labor union; nor shall any person, unless he shall voluntarily consent in writing to do so, be compelled to pay dues, or any other monetary consideration to any labor organization as a prerequisite to, or condition of, or continuation of, employment.

Section 3. No person, group of persons, firm, corporation, association, or labor organization shall enter into any contract to exclude from employment, (1) persons who are members of, or affiliated with, a labor union; (2) persons who are not members of, or who fail or refuse to join or affiliate with, a labor union; and (3) persons who, having joined a labor union, have resigned their membership therein or have been discharged, expelled, or excluded therefrom.

Section 4. Any person, group of persons, firm, corporation, association, labor organization, or the representative, or representatives thereof, either for himself or themselves or others, who signs, approves, or enters into a contract contrary to the provisions of this Act shall be guilty of a misdemeanor; and, upon conviction thereof shall be fined in a sum not less than one hundred dollars nor more than five thousand dollars, and each day such unlawful contract is given effect, or in any manner complied with, shall be deemed a separate offense and shall be punishable as such as herein provided.

The power and duty to enforce this Act is hereby conferred upon, and vested in, the Circuit Court of the County in which any person, group of persons, firm, corporation, unincorporated association, labor organization, or representatives thereof, who violates this Act or any part thereof, resides or has a place of business, or may be found and served with process.

Section 5. This Act shall not apply to existing contracts, but shall apply to any renewals or extensions thereof.

Section 6. Separability.

Section 7. Emergency declared.

The right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union, or labor organization; provided that this clause shall not be construed to deny or abridge the right of employees by and through a labor organization or labor union to bargain collectively with their employer.

Section 1. When used in this Act—

(a) The term "employer" includes any person acting in the interest of an employer, directly or indirectly, but shall not include the United States, or any State, or any political subdivision thereof, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting in the capacity of officer or agent or agent of such labor organization.)

(b) The term "employee" shall include any employee, and shall not be limited to the employee of a particular employer.

(c) The term "employment" means employment by an employer as defined in this Act.

(d) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with the employer concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Section 2. No individual shall be required as a condition of employment, or of continuation of employment, to be or remain a member or an affiliate of a labor organization, or to resign from or to refrain from membership in or affiliation with a labor organization.

Section 3. No individual shall be required as a condition of employment, or of continuation of employment, to pay any fee, assessment, or other sum of money whatsoever to a labor organization.

Section 4. Any provision in a contract between an employer and a labor organization which requires as a condition of employment, or of continuance of employment, that any individual be or remain a member or an affiliate of a labor organization, or that any individual pay any fee, assessment, or other sum of money whatsoever, to a labor organization, is hereby declared to be contrary to the public policy of this State, and any such provision in any such contract heretofore or hereafter made shall be absolutely void.

Section 5. It shall be unlawful for any employer to contract with any labor organization, and for any labor organization to contract with any employer, so as to make it a condition of employment of any individual, or of continuance of such employment, that such individual be or remain a member of a

labor organization, or that such individual pay any fee, assessment, or other sum of money whatsoever, to a labor organization.

Section 5. No employer shall deduct from the wages or other earnings of any employee any fee, assessment, or other sum of money whatsoever, to be held for or to be paid over to a labor organization, except on the individual order or request of such employee, revocable to the will of the employee.

Section 7. It shall be unlawful for any employer to contract with any labor organization and for any labor organization to contract with any employer, for the deduction of any fee, assessment, or other sum of money whatsoever, from the wages or other earnings of an employee, to be held for or to be paid over to a labor organization, except upon the condition to be embodied in said contract that such deduction will be made only on the individual order or request of such employee revocable at the will of such employee.

Section 8. The remedy of injunction, in addition to any other available remedy, is hereby given to any individual whose employment is affected, or may be affected, by any contract which is declared in whole or in part to be void by any provisions of this chapter. The application for injunction may be filed in any court of appropriate jurisdiction, and service shall be made upon the parties in the manner now or hereafter provided by law. In any such proceeding the plaintiff shall be entitled to his costs and reasonable attorneys' fees, and shall recover any damages sustained by him. The court shall assess such costs, attorneys' fees, and damages as between parties to said contract under equitable rules and principles.

Section 9. It is hereby declared to be the public policy of the State of Georgia that peace officers who may be called in time of labor strikes to protect lives and property and to preserve the peace should be fair and impartial as between both employers and employees. That to insure an impartial police force in the State of Georgia no person employed by any city or county within the State of Georgia or by the State of Georgia as a policeman shall join or belong to any labor union.
Section 1. It is declared to be the policy of the State of Iowa that no person within its boundaries shall be deprived of the right to work at his chosen occupation for any employer because of membership in, affiliation with, withdrawal or expulsion from, or refusal to join, any labor union, organization, or association, and any contract which contravenes this policy is illegal and void.

Section 2. It shall be unlawful for any person, firm, association, or corporation to refuse or deny employment to any person because of membership in, or affiliation with, or resignation or withdrawal from, a labor union, organization or association, or because of refusal to join or affiliate with a labor union, organization or association.

Section 3. It shall be unlawful for any person, firm, association, corporation or labor organization to enter into any understanding, contract, or agreement, whether written or oral, to exclude from employment members of a labor union, organization or association or persons who do not belong to, or who refuse to join, a labor union, organization or association, or because of resignation or withdrawal therefrom.

Section 4. It shall be unlawful for any person, firm, association, labor organization or corporation, or political subdivision, either directly or indirectly, or in any manner or by any means as a prerequisite to or a condition of employment to require any person to pay dues, charges, fees, contributions, fines, or assessments to any labor union, labor association, or labor organization.

Section 5. It shall be unlawful for any person, firm, association, labor organization or corporation to deduct labor organization dues, charges, fees, contributions, fines, or assessments from an employee's earnings, wages or compensation, unless the employer has first been presented with an individual written order therefor signed by the employee, and by his or her spouse, is married, in the manner set forth in section five hundred and thirty-nine point four, Code 1946, which written order shall be terminable at any time by the employee giving at least thirty days written notice of such termination to the employer.

Section 6. Any person, firm, association, labor organization, or corporation or any director, officer, representative, agent or member thereof, who shall violate any of the provisions of this Act or who shall aid and abet in such violation shall be deemed guilty of a misdemeanor.

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Section 7. Additional to the penal provisions of this Act, any person, firm, corporation, association, or any labor union, labor organization, or any officer, representative, agent or member thereof may be restrained by injunction from doing or continuing to do any of the matters and things prohibited by this Act, and all of the provisions of the law relating to the granting of restraining orders and injunctions, either temporary, or permanent, shall be applicable.

Section 8. The provisions of this Act shall not apply to employers or employees covered by the Federal Railroad Labor Act.
Section 1. It is hereby declared to be the public policy of Louisiana that the right of a person or persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

Section 2. Any express or implied agreement or understanding, or practice between any employer and any labor union or labor organization whereby any person not a member of such union or organization shall be denied the right to work for an employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise is hereby declared to be an illegal combination or conspiracy and against public policy.

Section 3. Any express or implied agreement, understanding, or practice which is designed to cause or require, or has the effect of causing or requiring, any employer, whether or not a party thereto, to violate any provision of this Part is hereby declared an illegal agreement, understanding, or practice and contrary to public policy.

Section 4. Any person, firm, association, corporation, or labor union or organization engaged in lockouts, lay-offs, boycotts, picketing, work stoppages, slowdowns, or other conduct, a purpose or effect of which is to cause, force, persuade or induce any other person, firm, association, corporation, or labor union or organization to violate any provision of this Part shall be guilty of illegal conduct contrary to the public policy as stated in this Part.

Section 5. No persons shall be required by an employer to become or remain a member of a labor union or labor organization as a condition of employment or continuation of employment by such employer.

Section 6. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

Section 7. No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization.

Section 8. Any person who may be denied employment or be deprived of continuation of his employment in violation of this Part, shall be entitled to recover in solido from any person, firm, corporation, association, or labor.
organization so violating this Part, or acting in concert with such violators by appropriate action in the courts of this state, such actual damages as he may have sustained by reason of such denial or deprivation of employment.

Section 9. Any employer, person, firm, association, corporation, labor union or organization injured as a result of any violation or threatened violation of any provision of this Part or threatened with any such violation shall be entitled to injunctive relief in the manner provided by the injunction law of this state applicable to general civil matters...against any and all violators or persons threatening violation.

Section 10. Nothing in this Part shall be construed to deny or abridge the right of employees by and through a labor organization or labor union to bargain collectively with their employer.

Section 11. This Part shall apply to all contracts entered into after July 28, 1954 and to any renewal or extension of any existing contract occurring thereafter.
Section 1. (a) It is hereby declared to be the public policy of Mississippi that the right of a person or persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

(b) Any agreement or combination between an employer and any labor union or labor organization whereby any person not a member of such union or organization shall be denied the right to work for an employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be an illegal combination or conspiracy and against public policy.

(c) No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.

(d) No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

(e) No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization.

(f) Any person who may be denied employment or be deprived of continuation of employment in violation of any paragraph of this section, shall be entitled to recover from such employer and from any other person, firm, corporation, or association acting in concert with him by appropriate action in the courts of this state such actual damages as he may have sustained by reason of such denial or deprivation of employment.

(g) The provisions of this section shall not apply to any lawful contract in force at the time of the passage of this act, but they shall apply to all contracts thereafter entered into and to any renewal or extension of an existing contract thereafter occurring.

(h) The provisions of this section shall not apply to any employer or employee under the jurisdiction of the Federal Railway Labor Act.

Section 2. If any clause, sentence, paragraph or part of this act, or the application thereof to any person or circumstance, shall, for any reason, be adjudged to be invalid, such judgment shall not affect, impair, or invalidate
the remainder of this act, or the application thereof to any other person or circumstances, but such invalidity shall be confined in its operation to the portion of the act directly involved in the controversy in which judgment shall have been rendered or to the portion or circumstances so involved, as the case may be.
Section 1. To make operative the provisions of section thirteen, fourteen, and fifteen of Article Fifteen of the Constitution of Nebraska, no person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labor organization or because of refusal to join or affiliate with a labor organization; nor shall any individual or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment because of membership in or non-membership in a labor organization.

Section 2. The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Section 3. Any individual, corporation, or association that enters into a contract after September 7, 1947, in violation of the provisions of section one, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than one hundred dollars nor more than five hundred dollars.

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It shall be unlawful for any person, firm or corporation to make or enter into any agreement, either oral or in writing, by the terms of which any employee of such person, firm or corporation, or any person about to enter the employ of such person, firm or corporation, as a condition for continuing or obtaining such employment, shall be required not to become or continue a member of any labor organization, or shall be required to become or continue a member of any labor organization. The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Section 1. The right to live includes the right to work. The exercise of the right to work must be protected and maintained free from undue restraints and coercion. It is hereby declared to be the public policy of North Carolina that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization or association.

Section 2. Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuance of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

Section 3. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.

Section 4. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

Section 5. No employer shall require any person as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization.

Section 6. Any person who may be denied employment or be deprived of continuation of his employment in violation of sections three, four, and five, or one or more of such sections, shall be entitled to recover from such employer and from any other person, firm, corporation, or association acting in concert with him by appropriate action in the courts of this State such damages as he may have sustained by reason of such denial or deprivation of employment.

Section 7. The provisions of this article shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of any existing contracts.

NORTH DAKOTA

Section 1. No person shall be deprived of life, liberty or property without due process of law. The right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization, and all contracts in negation or abrogation of such rights are hereby declared to be invalid, void and unenforceable.

Section 1. It is hereby declared to be the public policy of South Carolina that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization.

Section 2. Any agreement or combination between any employer and any labor organization whereby persons not members of such labor organization shall be denied the right to work for such employer, or whereby such membership is made a condition of employment or of continuance of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against public policy, unlawful and an illegal combination or conspiracy.

Section 3. It shall be unlawful for any employer:

(a) To require any employee, as a condition of employment, or of continuance of employment, to be or become or remain a member or affiliate of any labor organization or agency.

(b) To require any employee as a condition of employment or continuance of employment, to abstain or refrain from membership in any labor organization.

(c) To require any employee, as a condition of employment or continuance of employment, to pay any fees, dues, assessments or other charges or sums of money whatsoever to any person or organization.

Section 4. Nothing in this act shall preclude any employer from deducting from the wages of the employees and paying over to any labor organization, or its authorized representative, membership dues in a labor organization; provided, that the employer has received from each employee on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of any applicable collective agreement or assignment, whichever occurs sooner.

Section 5. It shall be unlawful for any labor organization to enter into or seek to effect any agreement, contract or arrangement with any employer declared to be unlawful by section two or section three of this act.

Section 6. The provisions of sections two, three, and four of this act shall not apply to any contract otherwise lawful, in force and effect on the effective date of this act, but they shall apply to all contracts thereafter concluded and to any renewal or extension of existing contracts.

Section 7. It shall be unlawful for any person, acting alone or in concert with one or more persons:

(a) By force, intimidation, violence or threats thereof, or violent or insulting language, directed against the person or property, or any member of the family of any person (1) to interfere, or attempt to interfere with such person in the exercise of his right to work, to pursue or engage in any lawful vocation, or business activity, to enter or leave any place of his employment, or to receive, ship, or deliver materials, goods, or services not prohibited by law, or (2) to compel or attempt to compel any person to join or support, or refrain from joining or supporting any labor organization, or;

(b) To engage in picketing by force or violence or in such manner as to obstruct or interfere with (1) free ingress to, and egress from, any place of employment, or (2) free use of roads, streets, highways, sidewalks, railways or other public ways of travel, transportation or conveyance.

(c) Nothing in this section shall be construed as to prohibit peaceful picketing permissible under the National Labor-Management Relations Act of 1947 and the Constitution of the United States.

Section 8. Any employer, labor organization or other person who shall violate any provision of this act shall be guilty of a misdemeanor, and, upon conviction, thereof in any court of competent jurisdiction, shall be punished by imprisonment for not less than ten nor more than thirty days or by fine of not less than ten nor more than one thousand dollars or by both in the discretion of the court.

Section 9. Any person whose rights are adversely affected by any contract, agreement, assemblage of other act or thing done or threatened to be done and declared to be unlawful or prohibited by this act shall have the right to apply to any court having general equity jurisdiction for appropriate relief. The court, in any such proceedings, may grant and issue such restraining, and other, orders as may be appropriate, including an injunction restraining and enjoining the performance, continuance, maintenance or commission of any such contract, agreement, assemblage, act or thing, and may determine and award, as justice may require, any actual damages, costs, and attorney's fees, which have been sustained or incurred by any party to the action, and in the discretion of the court or jury, punitive damages in addition to actual damages. The provisions of this section are cumulative and are in addition to all other remedies now or hereafter provided by law.

Section 10. Severability.

Section 11. This act shall take effect upon its approval by the Governor.
Section 1. No person shall be deprived of life, liberty, or property without due process of law. The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union, or labor organization.

Section 2. Any agreement relating to employment, whether in writing or oral, which by its stated terms, or by implication, interpretation, or effect thereof, directly or indirectly denies, abridges, interferes with, or in any manner curtails the free exercise of the right to work by any citizen of this State of South Dakota, shall be deemed a violation of this Act.

Section 3. Any request, demand or threat made by any person to any employer, or employee, to persuade or coerce such employer or employee to enter into an agreement violative of the provisions contained in sections one and two of this Act, shall be deemed a violation of this Act, and such person shall be punishable for a misdemeanor as hereinafter provided.

Section 4. Any solicitation or request to join a labor organization made by any person to any employee, accompanied by threats of injury to such employee or members of his family, or damage to property, or loss or impairment of present or future employment of such employee, shall be deemed a violation of this Act, and such person shall be punishable for a misdemeanor as hereinafter provided.

Section 5. Violation of any of the provisions of this Act shall constitute a misdemeanor and upon conviction will be punishable by a fine of not more than three hundred dollars ($300) or imprisonment of not to exceed ninety (90) days, or both, in the discretion of the court.

*South Dakota Laws 1947, Ch. 92, Code of South Dakota, p. 99.*
Section 1. It shall be unlawful for any person, firm, corporation, or association of any kind to deny or attempt to deny employment to any person by reason of such person’s membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor union or employee organization of any kind.

Section 2. It shall be unlawful for any person, firm, corporation, or association of any kind to enter into any contract, combination or agreement, written or oral, providing for exclusion from employment of any person because of membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor union or employee organization of any kind.

Section 3. It shall be unlawful for any person, firm, corporation, or association of any kind to refuse to pay dues, fees, assessments, or other charges to any labor union or employee organization of any kind.

Section 4. The provisions of sections one through five shall not apply to any lawful contract in force on February 21, 1947; but shall apply in all respects to contracts entered into thereafter, and to any renewal or extension of any existing contract.

Section 5. Any person, firm, corporation, or association of any kind violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than one hundred dollars ($100) and not more than five hundred dollars ($500); and in addition thereto by imprisonment in the county jail for a period of less than twelve (12) months, in the discretion of the court. Each day that any person, firm, corporation, or association of any kind remains in violation of any provisions of this Act shall be deemed to be a separate and distinct offense, punishable in accordance with the provisions of this section.

Section 1. The inherent right of a person to work and bargain freely with his employer, individually or collectively, for terms and conditions of his employment shall not be denied or infringed by law, or by any organization of whatever nature.

Section 2. No person shall be denied employment on account of membership or nonmembership in a labor union.

Section 3. Any contract which requires or prescribes that employees or applicants for employment in order to work for an employer shall or shall not be or remain members of a labor union, shall be null and void and against public policy. The provisions of this Section shall not apply to any contract or contracts heretofore executed but shall apply to any renewal or extension of any existing contract and to any new agreement or contract executed after the effective date of this Act.

Section 4. Definitions. By the term "labor union" as used in this Act shall mean every association, group, union, lodge, local, branch or subordinate organization of any union of working men, incorporated or unincorporated, organized and existing for the purpose of protecting themselves and improving their working conditions, wages, or employment relationships in any manner, but shall not include associations or organizations not commonly regarded as labor unions.

Section 5. If any clause, sentence, paragraph or part of this Act or the application thereof to any person or circumstances, shall for any reason be adjudged to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act and the application thereof, but shall be confined in its operation to the portion of the Act directly involved in the controversy in which judgment shall have been rendered and to the person or circumstances involved.

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Section 1. This act shall be known as the Utah Right To Work Law.

Section 2. It is hereby declared to be the public policy of the state of Utah that the right of persons to work, whether in private employment or for the state of Utah, its counties, cities, school districts, or other political subdivisions, shall not be denied or abridged on account of membership or non-membership in any labor union, labor organization or any other type of association; further, that the right to live includes the right to work. The exercise of the right to work must be protected and maintained free from undue restraints and coercion.

Section 3. The term "employer" as used in this act shall include all persons, firms, associations, corporations, the state of Utah, its counties, cities, school districts and other political subdivisions.

Section 4. Any express or implied agreement, understanding or practice between any employer and any labor union, labor organization or any other type of association whereby any person not a member of such union, organization or any other type of association shall be denied the right to work for an employer, or whereby membership or nonmembership in such labor union, labor organization or any other type of association is made a condition of employment or continuation of employment by such employer, or whereby any such union, organization, or any other type of association acquires an employment monopoly in any enterprise or industry is hereby declared to be an illegal combination or conspiracy and against public policy.

Section 5. Any express or implied agreement, understanding or practice which is designed to cause or require, or has the effect of causing or requiring any employer or labor union, labor organization or any other type of association, whether or not a party thereto, to violate any provisions of this act is hereby declared an illegal agreement, understanding, or practice and contrary to public policy.

Section 6. Any person, firm, association, corporation, labor union, labor organization, or any other type of association engaging in lockouts, boycotts, picketing, work stoppages, or other conduct, a purpose of which is to compel or force any other person, firm, association, corporation, labor union, labor organization, or other type of association to violate any provisions of this act shall be guilty of illegal conduct contrary to public policy; provided that nothing contained herein shall be construed to prevent or make illegal the peaceful and orderly solicitation and persuasion by members of a labor union, labor organization, or any other type of association of others to join

a labor union, labor organization, or any other type of association, unaccompa-
nied by any intimidation, use of force, threat of use of force, reprisal, or
threat of reprisal.

Section 7. It shall be unlawful for any employer, person, firm, association,
corporation, employee, labor union, labor organization, or any other type of
association, officers or agents of such, or members thereof, to compel or
force, or to attempt to compel or force, any person to join or to refrain from
joining any labor union, labor organization or any other type of association.

Section 8. No employer shall require any person to become or remain a member
of any labor union, labor organization, or any other type of association as
a condition of employment or continuation of employment.

Section 9. No employer shall require any person to abstain or refrain from
membership in a labor union, labor organization, or any other type of associa-
tion as a condition of employment or continuation of employment.

Section 10. No employer shall require any person to pay any dues, fees, or
other charges of any kind to any labor union, labor organization, or any other
type of association as a condition of employment or continuation of employment.

Section 11. Any employer, person, firm, association, corporation, employee,
labor union, labor organization, or any other type of association injured as
a result of any violation or threatened violation of any provision of this Act
or threatened with any such violation shall be entitled to injunctive relief
against any and all violators or persons threatening violation and also to re-
cover from such violator or violators or person or persons, any and all dam-
ages of any character cognizable at common law resulting from such violations
or threatened violations. Such remedies shall be independent of and in addi-
tion to the penalties and remedies in other provisions of this act.

Section 12. In addition to the penal provisions of this act, any person, firm,
corporation, association, or any labor union, labor organization or any other
type of association, or any officer, representative, agent, or member thereof
may be restrained by injunction from doing or continuing to do any of the mat-
ters and things prohibited by this act.

Section 13. Any person who may be denied employment or be deprived of continu-
ation of his employment in violation of this act shall be entitled to recover
from such employer and from any other person, firm, corporation, or associa-
tion acting in concert with him by appropriate action in the courts of this
state such damages as he may have sustained by reason of such denial or de-
privation of employment.

Section 14. The jurisdiction of any action brought to enforce this act is
hereby conferred upon and vested in the judicial district court of the county in which any person, group of persons, firm, association, corporation, labor union, labor organization or any other type of association, or representatives thereof, who violates this act, or any part thereof resides or has a place of business, or may be found and served with process.

Section 15. The provisions of this act shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respect to contracts entered into thereafter and to any renewal or extension of any existing contract.

Section 16. Nothing in this act shall be construed to deny the right of employees to bargain collectively with their employer by and through labor union, labor organization, or any other type of association.

Section 17. Severability.

Section 18. A violation of this act shall constitute a misdemeanor, and each day such unlawful conduct as herein defined is in effect or continued, it shall be deemed a separate offense and shall be punishable as such, as herein provided.
Section 1. It is hereby declared to be the public policy of Virginia that the right of persons to work shall not be denied or abridged on account of membership or non-membership in labor union or labor organization.

Section 2. Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against public policy and an illegal combination or conspiracy.

Section 3. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.

Section 4. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

Section 5. No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization.

Section 6. Any person who may be denied employment or be deprived of continuation of his employment in violation of sections three, four, or five, or of one or more such sections, shall be entitled to recover from such employer and from any other person, firm, corporation or association, acting in concert with him by appropriate action in the courts of this Commonwealth such damages as he may have sustained by reason of such denial or deprivation of employment.

Section 7. The provisions of this Act shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of any existing contract.

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