Imperfect Competition and the Effects of Right to Work Laws on Union Organization and Industrial Growth.

Norman Loose Brown

Louisiana State University and Agricultural & Mechanical College

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A Dissertation

Submitted to the Graduate Faculty of the Louisiana State University and Agricultural and Mechanical College in partial fulfillment of the requirements for the degree of Doctor of Philosophy

in

The Department of Economics

by

Norman Loose Brown
A.B., University of Kansas, 1938
L.L.B., University of Kansas, 1940
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TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACKNOWLEDGMENTS</td>
<td>ii</td>
</tr>
<tr>
<td>LIST OF TABLES</td>
<td>viii</td>
</tr>
<tr>
<td>LIST OF FIGURES</td>
<td>x</td>
</tr>
<tr>
<td>ABSTRACT</td>
<td>xi</td>
</tr>
<tr>
<td>CHAPTER</td>
<td></td>
</tr>
<tr>
<td>I. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>Purposes of Dissertation</td>
<td></td>
</tr>
<tr>
<td>Scope of Study</td>
<td></td>
</tr>
<tr>
<td>Statement of Objective</td>
<td></td>
</tr>
<tr>
<td>Procedure Followed in Conducting Research</td>
<td></td>
</tr>
<tr>
<td>Summary</td>
<td></td>
</tr>
<tr>
<td>II. THE RIGHT-TO-WORK CONTROVERSY</td>
<td>9</td>
</tr>
<tr>
<td>Right-to-Work Laws Prohibit Union Security</td>
<td></td>
</tr>
<tr>
<td>Arrangements</td>
<td></td>
</tr>
<tr>
<td>The Closed Shop</td>
<td></td>
</tr>
<tr>
<td>The Union Shop</td>
<td></td>
</tr>
<tr>
<td>The Union Shop with Preferential Hiring</td>
<td></td>
</tr>
<tr>
<td>The Modified Union Shop</td>
<td></td>
</tr>
<tr>
<td>Maintenance of Membership</td>
<td></td>
</tr>
<tr>
<td>Preferential Hiring</td>
<td></td>
</tr>
<tr>
<td>The Agency Shop</td>
<td></td>
</tr>
<tr>
<td>Union Security under Mercantilistic Philosophy</td>
<td></td>
</tr>
<tr>
<td>Development of Union Security under</td>
<td></td>
</tr>
<tr>
<td>Laissez Faire</td>
<td></td>
</tr>
<tr>
<td>The Period of Opposition</td>
<td></td>
</tr>
<tr>
<td>The Period of Protection</td>
<td></td>
</tr>
<tr>
<td>The Mixed Period</td>
<td></td>
</tr>
<tr>
<td>Summary</td>
<td></td>
</tr>
</tbody>
</table>

iii
CHAPTER III. RIGHT TO WORK CAMPAIGN ARGUMENTS 34

A "Correct" Solution May Not be Found
Conflicting Philosophies and Right-to-Work
Dunlop's Industrial Relations System
Multiple Parties and Right-to-Work
"Pursuit and Escape" by Clark Kerr
Political Process is Necessary
Source of Support for Right-to-Work Laws
  View of R. L. Frederick
  View of Paul Sultan
The Proponents and Opponents Considered
Enforcement Provisions of Right-to-Work
  Laws Considered
Other Social Legislation Considered
  Unemployment Insurance
  Workmen's Compensation
Conclusion Regarding the Purpose of Right-to-
  Work Laws
Major Right-to-Work Arguments Classified
  Benjamin Aaron's Classification
    Re-Classified
  Paul Sultan's "Major Issues" Classified
Subject Area of this Study Identified
Summary

CHAPTER IV. RIGHT TO WORK AND THE "PUZZLEMENT OF SOCIETY" 64

The Puzzlement of Society
  The Dallas L. Jones Study
  Machlup on Public "Union Security" Policy
  The Bilateral Monopoly Model and Wage
      Determination
  Concomitants of Union Wage Policy
The Result which need to be Demonstrated
  The R. L. Frederick Study
  Fred Whitney's Indiana Study
  The Public Affairs Institute Study
  The John William Lowe Study
  The Texas Study by Frederick Meyers
Summary
V. RIGHT TO WORK AND PLANT LOCATION THEORY . . . 86

Some Reasons for Emphasis on Costs
Review of Location Theory
Least-Cost Location Theories
Von Thünen's Theory of Location
Weber's Theory of Location
Hoover's Cost Analysis
Market Oriented Location Theories
The Market from the Demand Point of View
The Size and Shape of the Market Area of a Firm
Lösch's Definition of the Firm's Minimum Size Market Area
The Locational Interdependence Approach
The Profit Maximizing Nondiscriminatory F.O.B. Mill Price of the Spatial Monopolist
The Maximum Sales Radius of the Profit Maximizing Nondiscriminating Spatial Monopolist
The Relation of F.O.B. Mill Prices of Competitors and the Profit Maximizing Location of the Spatial Monopolist
Toward a More Complete Theory of Plant Location
Relative Importance of Different Factors in Location Theory
Conclusions Regarding the "Puzzlement of Society"
Summary

VI. RIGHT-TO-WORK AND PLANT LOCATION PRACTICE . . 118

The Need to Compare Theory with Practice
The Southern Study
The Michigan Industrial Mobility Study
The New York Area Study of John I. Griffin
Summary

VII. THE EFFECTS OF RIGHT TO WORK LAWS ON UNION ORGANIZATION: THE NATIONAL LABOR RELATIONS BOARD STATISTICS . . . . . . . . . . . . . . . . . . . . . . . 135
Do Right-to-Work Laws Really Affect Union Organization?
Unfair Labor Practices Cases
Employees Representation Election Results
Summary

VIII. THE EFFECTS OF RIGHT-TO-WORK LAWS ON UNION ORGANIZATION: THE DIRECT INQUIRY ...... 157

The Need for Direct Inquiry
The Direct Inquiry
Preparation of the Questionnaire
Mailing and Response to the Questionnaire
The Replies of the AFL-CIO
  Question 1
  Question 2
  Question 3
  Question 4
  Question 5
  Question 6
  Question 7
  Question 8
  Question 9
  Question 10
  Question 11
  Question 12
  Question 13
Summary of AFL-CIO Response
The Replies of Chambers of Commerce
The Replies of Firms
Summary

IX. SUMMARY AND CONCLUSIONS. ............... 196

Effects of Right-to-Work Laws on Union Organization, Growth, and Effectiveness
Effects of Right-to-Work Laws on Labor-Management Relations and Industrial Peace
Effects of Right-to-Work Laws on Industrial Growth
Conclusion
## LIST OF TABLES

<table>
<thead>
<tr>
<th>TABLE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. States Adopting Right-to-Work Laws.</td>
<td>30</td>
</tr>
<tr>
<td>II. Enforcement Provisions in Nineteen States' Right-to-Work Laws.</td>
<td>44</td>
</tr>
<tr>
<td>III. Comparison of State Experience Under Unemployment Insurance Laws. Per Cent of Claimants Exhausting Benefit Rights for Total State Programs, 1960.</td>
<td>50</td>
</tr>
<tr>
<td>IV. Comparison of State Experience Under Unemployment Insurance Laws. Average Weekly Payment for Total Unemployment (Calendar Year 1960) Related to Average Weekly Covered Wage (Calendar Year 1959) Including Dependents' Allowances.</td>
<td>52</td>
</tr>
<tr>
<td>V. Comparison of State Experience Under Workmen's Compensation Laws. Ratio of Maximum Weekly Total Temporary Disability Benefits for Worker with Wife and Two Dependents to the Weekly Average Covered Wage as of December, 1961.</td>
<td>55</td>
</tr>
<tr>
<td>VI. Griffin's Location Factors Classified and Rated</td>
<td>130</td>
</tr>
<tr>
<td>VII. Distribution of CA, CB, CC, and CD Cases.</td>
<td>139</td>
</tr>
<tr>
<td>VIII. CA and CB Unfair Labor Practices Cases in 48 States and the District of Columbia by Number and Per Cent, 1949-1961</td>
<td>140</td>
</tr>
<tr>
<td>IX. CA and CB Unfair Labor Practices Cases in Seven Right-to-Work States, 1949-1961</td>
<td>144</td>
</tr>
<tr>
<td>TABLE</td>
<td>PAGE</td>
</tr>
<tr>
<td>-------</td>
<td>------</td>
</tr>
<tr>
<td>X.</td>
<td>149</td>
</tr>
<tr>
<td></td>
<td>NLRB Representation Elections and Results in 48 States and District of Columbia, 1946-1961.</td>
</tr>
<tr>
<td>XI.</td>
<td>152</td>
</tr>
<tr>
<td></td>
<td>Representation Election Results in Seven Right-to-Work States, 1946-1961.</td>
</tr>
</tbody>
</table>
# LIST OF FIGURES

<table>
<thead>
<tr>
<th>FIGURE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Competitive Model of Wages and Employment.</td>
<td>68</td>
</tr>
<tr>
<td>2. Bilateral Monopoly Model of Wages and Employment</td>
<td>70</td>
</tr>
<tr>
<td>3. F.O.B. Mill Price Demand Schedules Faced by a Spatial Monopolist.</td>
<td>105</td>
</tr>
</tbody>
</table>
ABSTRACT

In 1947, the Taft-Hartley Act, officially the Labor Management Relations Act of 1947, was enacted into Federal law. Section 14(b) of the Act permitted states to enact legislation restricting union security arrangements to a greater extent than did the Federal law. This made possible the present right-to-work controversy. Right-to-work laws are state laws prohibiting all forms of union security arrangements.

By January, 1962, there were right-to-work laws in effect in 19 states. Ever since the enactment of right-to-work proposals into law in these states there has been considerable controversy concerning the practical effects of these laws banning union security.

The purpose of this study was to determine the effects of these laws upon union organization, growth, and effectiveness, and whether they promote better labor-management relations and industrial peace or whether they promote strife and disrupt industrial peace. The ultimate goal of this study was to determine whether right-to-work laws have had
any effect upon industrial growth in the states that have adopted them because of their effects on union organization, growth, and effectiveness and because of their effects on labor-management relations and industrial peace.

The study considers first, the history and development of public policy toward union security arrangements as a problem in imperfect competition. This is followed by a discussion and comparison of plant location theories and practices, and an analysis of the proper place and importance of right-to-work laws in the locating decision of an employer.

An inquiry was then conducted into the actual effects of right-to-work laws on unions and industrial peace. This inquiry was made by use of a questionnaire, interviews, and correspondence with state AFL-CIO offices, state Chamber of Commerce organizations, and selected employers in all the right-to-work states.

This study allows the drawing of some definite conclusions regarding the practical effects of right-to-work proposals in states which have adopted them as law.

1. Right-to-work laws impede union organization, growth, and effectiveness. They cause member "drop outs"
when first enacted and make recruiting of new members a con-
tinuous and difficult problem. Unions find it more difficult
to organize new plants in right-to-work states, and even
though they succeed in organizing a plant they are less able,
in general, to negotiate as good contract provisions.

2. Right-to-work laws have an adverse effect on
labor-management relations and industrial peace. Both unions
and employers process more minor grievances as a result of
right-to-work laws. The grievance becomes a device used by
unions for campaigning for the membership of workers and a
device used by employers to harass the union. In situations
where the injunction can be used against certain union
activity forbidden under the statute, some employers abuse
its use to impede union activity generally.

3. As an economic factor in industrial growth, these
effects of right-to-work laws are limited in scope, and where
they have any beneficial effect at all, it is small. Right-
to-work laws have no relevance to market-based location
factors which are the most important of all the economic
location factors to most firms. Labor cost is just one of
many cost-based location factors. Right-to-work laws are one
facet in the total employer-employee relationship and offer
the probability of some reduction in labor cost. Although this is a favorable factor, it is not sufficient to be decisive in very many instances.
CHAPTER I

INTRODUCTION

PURPOSE OF DISSERTATION

The field of investigation for this study in the area of labor-management problems was narrowed to a consideration of the effects of right-to-work laws on industrial growth through their impact on union growth and organization efforts in the states having such laws.

It was the purpose of this study to determine whether or not these laws impede or implement union growth, whether they increase or decrease union organization problems, and whether they promote better labor-management relations and industrial peace or promote strife and disrupt industrial peace. Wherever possible it was intended to relate these effects of this type of legislation to industrial growth.

SCOPE OF STUDY

The geographic scope of this study was limited to those states that had enacted right-to-work laws prior to
January 1, 1962.¹ The only aspect of these laws that was under consideration was the effect that they have had upon industrial growth in these states through their effects on union growth and organizational problems.

It was necessary to develop briefly the historical events and reasons that led to the enactment of these laws in order to determine their basic underlying intent. It was also necessary to review the reasons that both proponents and opponents gave for and against them and to examine the laws themselves and the particular circumstances and events leading to their passage or rejection. In addition it was necessary to compare different theories of industrial location and the assumptions upon which they are based in order to relate the effects of these laws upon union growth and organization to the location of industrial activity.

STATEMENT OF OBJECTIVE

From the time that the Labor Management Relations Act became law in 1947 many statements had been voiced pertaining to right-to-work laws. These included statements by advocates of right-to-work laws such as: "You may well ask:

¹For a complete listing of these states see below, page 30.
'What can I do about stemming the growth of union monopoly power?'

The nationwide application of the principle of right-to-work is virtually the only hope of breaking the hold of the labor bosses on the Nation's jugular vein.

These statements were countered with comments such as:

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.

The proponents were quick to reply that it was only the "bad" union activities that would be hampered, saying:

No, gentlemen, the purpose of Right to Work is not to destroy unions. Such a law protects both union and non-union men. It insures that the employee who wishes to do so may refuse to join a union. It enables these employees who wish to join unions to secure more responsible leadership at the union local level.

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5Kellar, loc. cit.
From this, the proponents come to the following conclusion:

We think that in Nebraska we have the best business climate in the nation. We believe in individual effort, initiative, and freedom of choice. I am convinced that Nebraska has a minimum of labor strife because it adopted a Right To Work amendment to its constitution more than 15 years ago.6

The opponents make this final rejoinder:

In reality, "right to work" laws aid no one—neither workers, business nor the community—other than a very small percentage of low-wage, anti-union employers.7

The parties to the argument disagreed as to the ultimate effect of the right-to-work laws on industrial peace and economic growth, but it was interesting to note that both sides accepted the proposition that right-to-work laws do hamper union growth and organizational efforts.

The purpose and aim of this study was to answer such questions as: In cases where the workers are already organized do right-to-work laws really affect unionization? Do many members drop out? Do free riders increase? Has there been an effect on the nature and frequency of grievances?


Has the union become more militant? Is the union able to negotiate substantially the same contract that it could before? In cases where the workers are not yet organized what has been the effect of right-to-work laws on union organizing efforts? What has happened to the number of collective-bargaining elections held? Has there been a change in the percentage of such elections won by unions? What has happened to the number and disposition of unfair labor practices charges against employers and unions after the passage of right-to-work laws? Has there been a change in the use of the injunction by state courts? It was the further purpose and aim of this study to relate to industrial growth any change in union growth and organization which might be discovered and attributed to right-to-work laws.

PROCEDURE FOLLOWED IN CONDUCTING RESEARCH

A researcher may proceed in many ways to find the factual data with which to develop his study but before he can begin he must have determined his problem. The area of labor-management problems has been of interest to this researcher for several years, so the basic step of determining the area for research was not difficult. The second step, that of narrowing the area to a particular segment, was only
a matter of selecting one from the many problems existing in the larger area.

The union security issue is still one of the major sources of conflict in labor-management relations in this country. The debate over the role of government in this issue complicates it greatly. State right-to-work laws are one facet of that debate. Many Americans seem to know very little about this issue. Both sides accept the proposition that right-to-work laws hinder union growth and organizational efforts; however, they do not agree on the effect that this will have on industrial peace and economic growth.

The question of whether or not the right-to-work laws hinder or impede union growth, increase or decrease union organizational problems, and whether they thus promote better labor-management relations and industrial peace or promote strife and disrupt industrial peace was selected because the answer is a prime mover in the problem of the effect of right-to-work laws on industrial growth.

The research pattern used in developing the factual data for this study had four phases.

1. Careful examination of works previously completed by other writers, researchers, newsmen, and parties at interest. This included extensive use of government documents published pertaining to the subject.
2. The use of a questionnaire.

3. Personal interviews.

4. Correspondence with persons inaccessible for personal interviews due to the limitations of time, distance and personal finances.

The source of material used in this study was largely a matter of discovery and expediency and included works of others, government documents, and persons with whom interviews were held and correspondence exchanged. Before selecting any of this material for use however, an attempt was made to determine whether the opinions and thoughts expressed by these men in the interviews and correspondence and in the books, articles, pamphlets, news releases and periodicals were typical of the average opinion or view held by such men or sources. There are many other sources available that would be of considerable value in the further development of more specific areas related to the subject of this study.

SUMMARY

The basic reason for this study was to determine the effect of right-to-work laws on union growth and organizational efforts. In so doing the intent was to indicate the long-range changes that this type of legislation might have upon industrial growth within the states that have enacted it.
The limitations of the research process for this dissertation were discussed in order to dispel from the reader's mind at once the idea that this work will provide the final and only solution to the problem.

The procedures of literature research, interview and correspondence used in the research process were explained to show the magnitude of the problem area, to indicate how the source materials were developed, to aid others in their judgment of the thoroughness of the research, and to suggest where other research areas might lie.
CHAPTER II

THE RIGHT-TO-WORK CONTROVERSY

RIGHT-TO-WORK LAWS PROHIBIT UNION SECURITY AGREEMENTS

State right-to-work laws deal with "union security" or compulsory union membership. Union security provisions in collective bargaining agreements take several forms. There are:

1. The Closed Shop. The employer agrees to hire only union members.

2. The Union Shop. The employer may hire non-union members, but such workers must join the union within a specified period of time, usually 30 days, and must maintain union membership while employed.

3. The Union Shop with Preferential Hiring. The employer must hire union members if available but may hire non-members if union members are not available. Non-members must join the union within a specified period of time and maintain union membership.

4. The Modified Union Shop. Employees who are not
union members at the time of signing the contract need not join the union, but all workers hired thereafter must join.

5. **Maintenance of Membership.** All employees who are members of the union after a specified period of time after the contract is signed and all who later join the union must remain members in good standing during the life of the contract. Usually a 15-day withdrawal period is provided during which members may withdraw from the union if they choose.

6. **Preferential Hiring.** The employer agrees to hire union members if available, but no one need remain a union member if he does not wish to.

7. **The Agency Shop.** The employees must either join the union, or, if they choose not to, pay to the union the amount of dues paid by union members.¹

State right-to-work laws in general prohibit all forms of union security contract provisions.

**UNION SECURITY UNDER MERCANTILISTIC PHILOSOPHY**

The issue of union security or compulsory union membership has, historically, been of great importance in American

industrial relations. In colonial America, labor's early trade associations were dominated by fraternal and humanitarian ideals, but as early as 1667 evidence of the closed shop and a closed union can be found. For example, Jerome L. Toner cites the Berthold Fernow edition of *The Records of New Amsterdam*, from 1653-1674, VI, 292, to the effect that in 1667 the New York City cartmen demanded and received both a closed shop and a closed union in order to protect their standards from newcomers, and in 1670 the bakers insisted upon and were granted the order that baked bread, rather than corn, be shipped to foreign ports in order to extend employment in the baking trade. The porters of New York City upon complaining to the Mayor's Court that strangers were performing their work were granted the exclusive privilege or license to carry all sorts of corn, salt and timber within the city.

These organizations for a time received governmental support and licenses under the mercantilistic philosophy of the day and this, by including therein labor-management relations, added to the increasingly cumbersome task of regulating by governmental force every phase of economic activity.

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This was a passing phase however. The rise of classical economic philosophy with its belief in *laissez faire*, which was epitomized by Adam Smith's *Wealth of Nations* in 1776, caused increasing suspicion of government support and licensing arrangements and led to belief in the use of the force of competition instead of the force of government as the regulator of all economic activity.

**DEVELOPMENT OF UNION SECURITY UNDER LAISSEZ FAIRE**

Because the worker was on his own, he turned to self-help methods, and the union movement as we know it today emerged. Alfred Kuhn identifies the first unions (that is, continuous associations) as the shoemakers of Philadelphia in 1792, the carpenters of Boston in 1793, the shoemakers of Boston in 1794, the printers of New York in 1794 and the printers of Philadelphia in 1802.³

Paul Sultan points out that throughout the history of organized labor, interest in the union security issue reflects the ever changing power relationship between unions and management. The cyclical economic activity created

periods of unemployment for many workers weakening their organizing ability and the power relationship varied accordingly. Kuhn also calls attention to "rounds" or "waves" of union activity and union security interest which he identifies with the variations in economic activity, not only cyclical, but also in particular regions and in particular industries. The gains seem to come in periods of increasing economic activity and the losses coincide with periods of economic recession.

In this environment it was learned through experience that however attractive and humanitarian the ideal that "the welfare of all depends on the welfare of each" was believed to be, this was not the answer. A case in point is the history of the Knights of Labor, a widely based and diffused organization, which admitted practically every gainfully employed person to membership and attempted to better the lot of all through broad general reforms, legislation, and attacks on monopoly. It was found that this type of organization could not concentrate adequately on the particular needs of any of its component groups.

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5Kuhn, op. cit., pp. 24-25.
Each particular pocket of the labor force found that it could serve its own "bread and butter" interests better if it could isolate itself from the total competitive struggle. In the early days of unionism American production was typified by many small enterprises. Mass production methods and techniques had not yet developed. Automation and job specialization had not yet entered the picture of American industry. In this environment it was found that skill or trade groups in which each member had the same type skill could isolate themselves, pre-empt portions of the job territory, restrict membership, and establish work and pay standards. Thus craft unions were the first to be able to survive and the closed shop and closed union became time-proven ingredients of union security.

In more recent years, with the development of present day mass production industries, it was found feasible for all employees of a particular plant to belong to the same union, regardless of what type of work they did, and in so doing to isolate themselves from the general competitive struggle much as the earlier craft unions had done. The industrial union developed as a result of changing environment, but union security with its closed shop and closed

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6Ibid., pp. 25-35.
THE PERIOD OF OPPOSITION

The history of public policy toward union security may be divided into three parts. The first period runs from roughly 1800 to 1932. This was the period beginning with the origins of the first real American unions and ending with the passage of the Norris LaGuardia Act of 1932. It can properly be called the period of opposition.

In a government dedicated to the principle of *laissez faire*, there was no administrative body whose function was to deal with labor management problems, nor was it to be expected that the legislative branch would enact regulations or establish such an administrative body; consequently the judicial branch, for the most part, was left to deal with the problem. The following footnote from Kuhn is particularly illuminating.

A very substantial portion of English-American law consists of rulings made by judges in particular cases, rather than rules passed by legislatures. Any judicial decision tends to establish a precedent, and in fact normally constitutes the law with respect to the situation it covers until a contrary decision is rendered in a similar case, or a legislative act creates a new

7 Ibid., pp. 35-39.
rule. The body of precedents thus established constitutes the common law, or judge-made law, and judges tend to follow these precedents until there arises some compelling reason to deviate from them. When a new kind of case arises, covered by neither legislation nor closely related precedent, the judge will normally seek guidance in either a parallel relationship from a different field, or in some general principle of law.8

This explains how under *laissez faire* the legal machinery is capable of enforcing—and extending—the law to deal with such problems as may arise.

Because of the new economic philosophy based on the belief in the existence and regulatory power of competition, it was the opinion of the day that wages were set by the market, that unions could only distort proper relationships, and that unions which made competition imperfect reduced the efficiency of competition as the automatic regulatory mechanism; consequently unions were dealt with as an evil by the courts. The common law doctrine of conspiracy was invoked against union action.

The essence of the conspiracy doctrine is that what is legal for one person to do alone becomes an illegal conspiracy if several persons join together for the same purpose. It is not the purpose of the joining together which is

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8Ibid., p. 261.
important, but rather the joining together which is the offense. Thus all conspiracies are illegal though the subject matter of them may be lawful. The application of the doctrine made it easy to convict and fine union members. Although the courts gradually changed toward the end of the period and began to look at the aims and methods of the conspiracy, the doctrine of conspiracy was persistent, recurring as a partial basis of decisions to the close of the period.

Sometime in the 1880's employers began the use of the labor injunction, which they found a more effective method, and the use of the conspiracy doctrine declined. The injunction was more effective because a temporary injunction could be obtained upon an application by the employer without the union being heard. This is what is called an ex parte order. It also had the advantage of being available before the union action took place or "before the fact" whereas the conspiracy doctrine was only available "after the fact." Thus it was able to "put out the fire before it got started." Finally, a violation of the injunction resulted in contempt of court proceedings in which the penalties could be greater than the fines prescribed under the conspiracy doctrine.

Congress gave the courts an important new basis for the use of the injunction with the Sherman Anti-Trust Act of
1890. The leading case is that of Loewe v. Lawlor in which the Supreme Court of the United States held that the Sherman Act made every contract, combination, or conspiracy in restraint of trade illegal whether business, farmer or labor.9 It is significant that twelve of the first thirteen cases brought under the Sherman Anti-Trust Act were to prevent actions by unions.10 Just how broad the injunctions became is illustrated in the Pullman strike in 1894 in which the court enjoined the union, its officers, and all other persons whomsoever from in any way or manner interfering with the business of the railroads entering Chicago, carrying United States mail, or engaging in interstate commerce; or compelling or inducing, or attempting to compel or induce by threats, intimidation, persuasion, force or violence, any of the employees to refuse or fail to perform any of their duties as employees.11 The substance of the injunction was that no one was allowed to strike or in any way, directly or indirectly, to assist the strike.

11In re Debs, 64 Fed. 724. (1893), p. 726.
The Clayton Act of 1914 is believed by some to be an attempt to restrain judges in their continued application of the Sherman Act because it contained the following provisions.

Section 6: That the labor of a human is not a commodity. Nothing contained in the anti-trust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the anti-trust laws.

Section 20: (The last paragraph) And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peacefully assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered to be violations of any law of the United States.

The Clayton Act failed to restrain judges in their continued application of the Sherman Act to union activity.
In cases defended under the Clayton Act, of which the *Duplex Printing Press Co. v. Deering*\(^1\) is a leading case, the Supreme Court said in effect that the Clayton Act covered only peaceful activity of unions, that since the courts had never prohibited peaceful activities, the Clayton Act had changed nothing, and that the courts would continue under their existing precedents.\(^1\) This then was the effective governmental policy under the social philosophy existing during the period of opposition.

With the coming of the Great Depression, there arose, out of the reality of labor's helplessness and the indignity labor faced in its competitive struggle for subsistence, a shift in public support from employer to employee. The public believed it could no longer endorse unregulated competition in a labor market characterized by mass unemployment. The economic philosophy emphasizing the pervasiveness of monopoly was epitomized by such works as Chamberlin's *The Theory of Monopolistic Competition*.\(^1\)

\(^1\) *Duplex Printing Press Co. v. Deering*, 254 U.S. 443 (1920).

\(^1\) Kuhn, *op. cit.*, p. 267.

The belief grew that the labor market was at least monopsonistic, and that the removal of competition among workers would somehow improve it. The end of the period of opposition was at hand.

THE PERIOD OF PROTECTION

The second period in the history of public policy toward union security runs from 1932 to 1947. It begins with the passage of the Norris-LaGuardia Act, officially the Anti-Injunction Act, and ends with the passage of the Taft-Hartley Act, officially the Labor Management Relations Act of 1947.

The official governmental policy is stated in Section 2 of the Norris-LaGuardia Act.\textsuperscript{15}

Whereas under prevailing conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership associations, the individual worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives

\textsuperscript{15}The Anti-Injunction Act, 47 Stat. 70.
of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self organization or in other connected activities for the purpose of collective bargaining or other mutual aid or protection: Therefore the following . . . are hereby enacted.

The Act contained provisions which limited drastically the conditions under which injunctions could be issued by Federal courts. The law does not actually put the government on the side of unions, but it may be considered pro-labor in that it stops the government's active assistance to employers in their fight against unions.

In this official statement of policy can be clearly seen the recognition that the labor market is monopsonistic, but there is still an endorsement of competition as the norm in the Machlupian sense. "The most effective kind of action government can take against monopoly is to stop intervening against competition."¹⁶

There is a clear departure from this economic philosophy in the National Industrial Recovery Act of 1933 (NIRA) and the Wagner Act of 1935, officially the National Labor

Relations Act, which followed. These laws reflect the abandonment of competition as a norm in the sale of labor service because it is not a reality in the purchase of labor.

The purpose of the National Industrial Recovery Act was to block the downward spiral of wages and prices through codes of fair competition, and it encouraged unionization as a part of the effort to stabilize wages. The Wagner Act contained one central idea that was stated in Section 7-a:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

It also contained six provisions of basic importance to the union security issue:

1. It provided specifically that it was an unfair labor practice for employers to discriminate against employees for organizing, bargaining, or engaging in other forms of protected union activity.

2. It established the majority rule principle under which a union certified as the bargaining agent for a predetermined unit became the exclusive representative of all employees in that unit.

3. Employees were given the right to form, join, or assist labor organizations, and to bargain collectively through representatives of their own choosing, although no mention was made of their right not to join.

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17Kuhn, op. cit., p. 273.
4. It explicitly made the closed shop and other forms of union security legal where negotiated by the representatives of the majority of the employees.

5. It provided a satisfactory mechanism for determining the employees' choice of bargaining representative.

6. A National Labor Relations Board was established to enforce the law.

Thus the Act not only permitted workers to join unions (although not giving positive assistance to the unions or their organization attempts), but it protected that permission against employers' attempts to destroy or nullify it.  

These laws do more than reflect a change in the *laissez faire* attitude of the government toward union security. What is called bargaining power in this context is nothing less than monopoly or monopsony power. The government, having found that inequality in bargaining power existed, undertook to compensate for the limitations on employers' competition for labor, and for the monopsony power which it implies, by measures limiting workers' competition for jobs and creating monopoly power on the part of labor.  

Under an administration sympathetic to labor, the Wagner Act, by preventing employers from stopping workers from joining unions, enabled mass-based unions to grow from  

19*Machlup, op. cit.*, p. 325.
weaklings in need of protection to powerful organizations no longer in need of support to survive. As Sultan puts it:

Society revealed the ambivalence of its values by paying ideological homage to individualism and competition while simultaneously becoming enmeshed in the organization of economic power blocks.\textsuperscript{20}

The period following the Wagner Act was marked by several developments and crises which shifted the power balance between employers and unions and gave impetus to further legislation in the union security field.

Questions of democracy arose. Do unions inject democracy into industry by giving effect to the voice of the individual? Are unions, as power centers, less autocratic than management in dealing with employees? How about the concept called industrial citizenship in which plant government is seen as similar to public government, being a government of laws, not of men? If plant government is to be democratic, does this impose any duty on the worker as an industrial citizen not only to elect his representatives, but to support the process with his ideas and money? Can union democracy thrive when the members can abdicate their citizenship? Can union leadership remain sensitive to the rank and file only when the majority rule prevails? What happens when unsatisfied

\textsuperscript{20}Sultan, \textit{op. cit.}, p. 3.
unsatisfied, disgruntled individuals can make union security a factor in urging support of "irresponsible" union action by threatening to resign their membership?

Problems in the use of power also arose. The period immediately following World War II was marked with an unprecedented high of 14.5 per cent of the labor force being involved in strikes in 1946. The post war inflation problems and the wage-price spirals led to the blaming of unions for price instability. The Wagner Act gave no protection to the employer, the public, or even the employees themselves in a fight between two unions, and although it protected an employee from an employer in choosing a bargaining agent, it gave him no protection from rival unions. It required the employer to bargain, but had no provisions for a union refusing to bargain, nor did it contain any relief for workers caught in the control of a dictatorial union.

Under these circumstances some labor leaders, having developed greater skill in gaining power than in its wise use, created abuses. If a union had the economic power to secure a closed shop and the legal right to close its "private club" to new members, the monopoly implications were self evident. These developments led to the public image of unions disregarding the public welfare and the need
for public regulation and control of union power.

The dynamics of the total social environment entered into the problem. The post-war trend to suburban living, changes in social and political orientation, and the rise of individualism as a new social ethic caused a spatial separation of employee from employee and from union hall. These changes gave the worker additional interests and activities, such as television, evening shopping, do-it-yourself projects, and commuting problems, all of which claimed his time and energy. Thus any tendency the worker may have had to be the "abstract mass in the grip of an abstract force" was reduced. 21

After the return to full employment following the Great Depression, employers were no longer on the defensive. The economic system seemed to be working better. In a period of labor shortage, individual bargaining power was at an all time high. To the general public, employers and industry seemed more trustworthy and unions less necessary. The absence of the problems of unemployment and economic hardship removed much of the cohesive force which made workers insist on the "common rule" and made them more willing to risk it

21 Ibid., pp. 6-11.
alone. The period of protection came to an end.

THE MIXED PERIOD

The current period in the history of public policy toward union security may properly be called the mixed period. Its beginning is marked by the passage of the Taft-Hartley Act, officially, the Labor Management Relations Act of 1947, amending the Wagner Act.

Because abuses did exist under the umbrella protection of union security arrangements, Congress, in enacting a reform measure, had the choice of either opening the shop (this involved the restriction of all forms of union security arrangements) or opening the union (this involved regulating the admission and expulsion policies of the union). Congress in enacting the Taft-Hartley Act attempted to move in each direction. ²²

First, the closed shop was forbidden.

Second, discriminatory hiring halls and preferential hiring treatment to union members were forbidden.

Third, an election was provided for, where union shop provisions were to be negotiated. This provision was

²²Ibid., p. 49.
abolished in 1951 because during the four years it was in effect, 97 per cent of the elections resulted in authorization of the negotiation of union shop agreements.

Fourth, the union could require that the employer discharge an employee under a union shop agreement only on two conditions: (1) failure of the employee to tender the regularly required initiation fee; and (2) failure of the employee to tenders the regularly required dues. In addition, provision was made for deauthorizing an existing union shop agreement.

Finally, section 14(b) of the Act permitted states to enact legislation restricting union security arrangements more than the federal law did. Section 14(b) reads:

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.

This made possible the present right-to-work controversy at the state level.

Since Florida adopted the first right-to-work law more than eighteen years ago, some of the more heated arguments in industrial relations have concerned the right-to-work laws which are now in effect in nineteen states. (See Table I.) Attempts are still being made to pass right-to-work
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<tr>
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<td>November, 1944</td>
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<td>Georgia</td>
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<td>Indiana</td>
<td>June, 1957</td>
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<td>February, 1955</td>
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<tr>
<td>Virginia</td>
<td>January, 1947</td>
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</tbody>
</table>

<sup>a</sup>Inoperative until approved by referendum, 1948.

<sup>b</sup>Act approved February, 1947.

<sup>c</sup>Act approved June, 1947.

<sup>d</sup>Act approved March, 1947.

laws in other states. Vigorous campaigns were conducted in Oklahoma, Wyoming, Maine and Pennsylvania in 1962. Campaigns have also been conducted in states which rejected the right-to-work laws. Examples of states in which the laws failed to pass in 1958 are Ohio, Washington, Colorado, Idaho, and California. New Hampshire and Delaware adopted right-to-work laws in 1947 only to repeal them in 1949, two years later. Louisiana, which originally adopted a general law in 1954, repealed it two years later in 1956 and replaced it with a law covering agricultural workers only.

It is interesting to note that those states which have passed right-to-work laws are largely agricultural, and that campaigns in more industrialized states have not resulted in the passage of the laws. This is not inconsistent with the findings of a survey by the American Institute of Public Opinion, that although only one out of three non-union voters has heard of right-to-work laws, two out of three of these people said they would vote for such legislation when its purpose was explained to them; while on the other hand, 82 per cent of union members were familiar with such legislation, and two out of three of these people said they would vote against it.23

23Institute of Public Opinion Release, August 6, 8, 1957.
SUMMARY

In this chapter right-to-work laws were identified in terms of opposition to union security agreements. An interpretation of the history of public policy toward union security in this country was then given.

The history of public policy toward union security was inserted into this study to indicate the underlying reasons behind the inclusion of Section 14(b) in the Taft-Hartley Act. The theory was developed that, in the final analysis, the study of the right-to-work controversy is a study of the competitive struggle for power between labor and management and that the role of government in that struggle is a serious complicating factor.

It was pointed out that, in the infancy of industrialism, labor-management relations were regulated under mercantilistic philosophy. It was shown that during the period of opposition, the government, although endorsing \textit{laissez faire}, intervened on the side of management; that during the period of protection, the government recognized that the labor market was imperfect and intervened on the side of unions in an attempt to create a balance of power; and that during the mixed period the weight of government was withdrawn somewhat from the union side in an attempt to
correct an over-balance and place employer, employee and
union on a more equitable basis.

Truly the task of finding substitutes for com-
petition as the regulator of economic life has
proven to be enormous indeed. 24

24 Sultan, op. cit., p. 3.
CHAPTER III

RIGHT-TO-WORK CAMPAIGN ARGUMENTS

A "CORRECT" SOLUTION MAY NOT NECESSARILY BE FOUND

Although the right-to-work arguments often generate more heat than light, it should be useful to examine some of the more important arguments, both for and against the laws, to bring order out of chaos. In considering these arguments it is well to bear in mind that a "correct" answer may not be found, and it is important to understand why this is so.

CONFLICTING PHILOSOPHIES AND RIGHT-TO-WORK

The arguments involve labor economics, industrial sociology, state and federal politics, and constitutional law. In addition to this, the state campaigns sometimes have taken on the appearance of a holy crusade, and often pure emotionalism transcends both reason and morality.¹

The philosophies of these fields do not necessarily lead to the same conclusion. For example, when we attempt to analyze the arguments advanced for and against right-to-work laws we must consider that we are confronted with two standards by which to judge their merits--those of our political philosophy, and those of our economic philosophy. Policy in the political forum under our system is determined in an entirely different way than prices and wages in the economic forum. By a political democracy, we mean that each person, no matter how important or humble, shall have but one vote, and each one has the egalitarian ideal that he has an equal voice in shaping political policy. In the economic market the voice of the individual is a function of the control he has over society's resources and income, and there is no egalitarian ideal.

If we are going to apply our principles of political democracy to industry to form an industrial democracy, we must reorganize our existing economic organization because industrial democracy in the sense of complete equality of influence and power is not to be found in the framework of orthodox economic theory.²

²Ibid., p. 111.
In this connection, the concept of an industrial relations system as developed by John T. Dunlop should aid in visualizing two of the arenas in which the right-to-work conflicts are waged. Dunlop points out that the economic system can be regarded as a subsystem of the more general total social system. In addition, industrial society, whatever its political form, creates distinctive groups of workers and managers and their organizations are formally arranged in the industrial society outside the family and distinct from the political institutions, although the family and political institutions may in fact be used to shape or control relations between managers and workers at the industrial workplace. Dunlop calls this arrangement an industrial relations system and views it as an analytical subsystem of the total social system. He regards the economic system as another analytical subsystem of the total social system. His industrial relations system is not a subsidiary part of the economic system, but is rather a separate and distinctive subsystem of the society, coexistent with the economic system.  

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with each other and with the total social system is part of the problem of union security.

MULTIPLE PARTIES AND RIGHT-TO-WORK

Another somewhat more frequently recognized part of the problem of union security is the fact that there are at least four parties at interest involved—the individual, management, the union, and society at large. There are many ways in which these parties may find that their interests conflict. The following is an incomplete list of some of the ways the parties might line up on any particular point: (1) management versus union; (2) union versus employee; (3) employee versus management; (4) management versus union and employee; (5) union versus management and employee; (6) employee versus management and union; (7) management, union and employee versus public interest; and (8) the interests of all parties coincide.

“PURSUIT AND ESCAPE” BY CLARK KERR

An informative view of the right-to-work conflict can be gained by inserting it into an amusing little melodrama written by Clark Kerr.

Unionism is engaged in a grand pursuit—a pursuit mainly of the employer. And the employer is always
trying, with more or less success, to escape. Now I do not wish to conjure up a picture of poor Eliza being chased across the ice by bloodhounds. Our Eliza is by no means always poor; nor do the bloodhounds always pursue very aggressively (they are often quite gentle creatures). They may even agree to stay a certain distance behind her, or to care for and protect her if she will be nice to them, or they may arrange for better ice so that both Eliza and they can run faster. However, they may also try to get somebody else to hold Eliza one way or another so that they can catch up with her, which does not, offhand, sound very fair, though it may be quite effective. And, in our little drama Eliza does not always get across the river in time, although she usually does remarkably well and at times turns around and chases the bloodhounds back again [sometimes even trying to get somebody else to hold the bloodhounds one way or another for her]. Beyond that, the bloodhounds sometimes catch somebody else while chasing Eliza. They may even, inadvertently, catch themselves. In the extreme case, they may liquidate Eliza and start chasing each other, and this can turn out to be the bloodiest drama of all.4

The attempt by employers to get the government to hold back the unions was inserted into Kerr's melodrama, and it is this attempt that is the subject of this chapter.

POLITICAL PROCESS IS NECESSARY

If management is to get the government to hold unionism for it by outlawing union security, it will have to

resort to legislation and the political process. The historical brief of public policy set forth in Chapter II was developed to show that in the early mercantilistic times the government entered fully into the labor management relations field, but that under classical philosophy and laissez faire, the government withdrew in general from active regulation. It was shown, however, that management had been successful, through the judicial system, in getting the government to hold back unionism in the period of opposition. It was further shown that in the period of protection, unionism had succeeded in getting legislation passed which not only stopped the courts from holding unionism back, but also put the government on unionism's side in holding back management. This legislation will have to be changed if there is to be any loosening of the government's hold on management or tightening of government's hold on unionism. In the mixed period it was shown, that management succeeded, to some extent, in getting government to take some of the slack out of its hold on unionism. Any further tightening of the government's hold on unionism will require additional legislation, a political process. Right-to-work laws are an example of such legislation.
SOURCE OF SUPPORT FOR RIGHT-TO-WORK LAWS

Because the enactment of the right-to-work legislation is a political process, the support of voters (or their representatives) is necessary. This includes not only those who are sympathetic to management, but also any and all voters (or representatives) who for any reason whatsoever can be persuaded to support the right-to-work movement. A dichotomy of sorts can be identified in the arguments pro and con in the right-to-work debate. By way of illustrating this dichotomy the views of two students of the right-to-work debate are given below.

View of R. L. Frederick

R. L. Frederick in his thesis concludes that the main purpose of the right-to-work laws is the protection of the individual. In discussing the reasons for including section 14(b) in the Taft-Hartley Act, Frederick quotes T. R. Iserman, who, he says, summed up the objective of the Federal law very well before the Semi-Annual Meeting of the Academy of Political Science on April 21, 1954, as follows:

I think what motivated Congress more than anything else in amending the Wagner Act by passing the Taft-Hartley Act and limiting the union shop was the belief that employers and unions have no right, by agreement between themselves, to limit the opportunity of people
to get jobs and hold jobs to those who are members of unions . . . the purpose was to protect the individual working man and not to protect employers.\(^5\)

Frederick follows his discussion of the Federal legislation with a discussion of the state right-to-work laws passed pursuant to the permission granted in the Taft-Hartley Act, Section 14(b). He examines each law, word for word, and quotes excerpts from the policy statements contained in all the right-to-work laws that had been passed at that time, all of which are similar to that statement of policy which in the Texas law is the most brief: "No person shall be denied employment on account of membership or non-membership in a labor union."\(^6\) He concludes:

The primary objective desired through the passage of Right-To-Work laws was, as noted previously, the desire to protect the right to work of both union and non-union members. Two by-product aims of these laws were (1) to improve labor relations and collective bargaining in the state, and (2) to encourage industrial growth in the state.\(^7\)


\(^6\)Statutes of Texas, Art. 5207A, Section 2.

\(^7\)Frederick, op. cit., p. 30.
View of Paul Sultan

The second view emphasizes the management versus union conflict and is voiced by Paul Sultan, who says:

It is sometimes contended that the right-to-work legislation is not actually a contest between unions and management, but one between labor and labor bosses. . . . Although it is true that this is an issue involving union-employee relations, it is certainly much more a contest between unions and management.\(^8\)

THE PROPONENTS AND OPPONENTS CONSIDERED.

A list of some of the major proponents and opponents of the right-to-work laws would seem to support Sultan's opinion. Among the proponents are the National Association of Manufacturers, the United States Chamber of Commerce, and Associated Industries, all of which are supported by industry and business in general. No representative of organized labor is to be found among the proponents. Among the opponents are the AFL-CIO, the United Mine Workers, and other representatives of organized labor. No business organization claiming to represent the interest of industry or business in general is to be found among the opponents. The right-to-work issue certainly is in part a contest between unions and management. In the discussion which

\(^8\)Sultan, op. cit., p. 63.
follows, the relative importance of this part of the contest in the right-to-work controversy is indicated.

ENFORCEMENT PROVISIONS OF RIGHT-TO-WORK LAWS CONSIDERED

An analytical look at the right-to-work statutes will disclose, in addition to their statement of public policy, the following facts. (See Table II.)

In the nineteen states where these laws are now in effect, five are statements of policy only and contain no provision for any kind of enforcement. It must be admitted that common law remedies and injunctive relief might be available to complainants, but the laws themselves merely make union security provisions unenforceable.

Only eight states provide for the recovery of damages to those injured by violaters of the laws. Of these eight, three permitted the injured party to recover reasonable attorney's fees as well as damages. Only six laws contain a provision for injunctive relief against violaters.

Finally, only eleven of these laws contain a criminal provision making it a misdemeanor to violate them. Of these last eleven, three provide no penalties for those found guilty, three provide for fines, and five provide for both
TABLE II
ENFORCEMENT PROVISIONS IN NINETEEN STATES' RIGHT-TO-WORK LAWS

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<td>Yes-fine &amp; jail</td>
</tr>
<tr>
<td>Texas</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td>Yes</td>
<td></td>
<td>Yes</td>
<td></td>
<td>Yes-no penalty</td>
</tr>
<tr>
<td>Virginia</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td>Yes-fine</td>
</tr>
</tbody>
</table>

19  5  8  3  6  11-3 no penalty 3 fine only 5 fine & jail

Source: Texts of State Right-To-Work Laws.
fines and jail sentences. In no case was any administrative or enforcement machinery created that in any way compared to the National Labor Relations Board. The initiative and burden of protecting and enforcing any rights conferred by these laws lies entirely with the "protected" individual.

Not many workmen find it practical to spend the time, money, and effort in initiating and carrying forward the litigation that is required under these circumstances in an attempt to enforce their right to a particular job, from which they may be dismissed at any time for some reason other than non-membership in a union, and in the process alienate both their employer and the union.

There are some employers, however, who have a big enough stake in the result of such litigation that they find it worth while to take the initiative and burden of such an action. It is concluded that, as a practical matter, enforcement of rights created under the right-to-work laws is available only to some business organizations and not to individual workmen. This lends support to the argument that the right-to-work controversy is more of a management versus union issue than a labor versus union bosses issue.
OTHER SOCIAL LEGISLATION CONSIDERED

One of the principle arguments used as a justification for support of right-to-work legislation by the proponents, is that they are concerned with the welfare of the individual and that they favor the adoption of right-to-work laws by the state as social legislation expressing that concern. The opponents, particularly the labor unions, reply that if concern for the individual is really of such concern in a state so as to cause the passage of right-to-work laws as an expression of that concern, then it is reasonable to expect (1) that the state would provide other social legislation in addition to a right-to-work law for the protection and benefit of its working residents, such as unemployment insurance and workmen's compensation, and (2) that this protection would be on a par, at least, with similar protection provided by other states for their residents.

They then present statistics tending to show deficiencies in unemployment insurance and workmen's compensation provisions in right-to-work states as proof of the insincerity of those using the social legislation argument. 9

The position of both sides of this argument depend on

9Union Security, op. cit., p. 132.
a value judgment that the social legislation they have in mind does in fact protect and benefit the individual; however, the validity of this social legislation argument can be examined without going into the merits of social legislation.

Unemployment Insurance

The United States Department of Labor has compiled comparisons of the provisions for unemployment insurance contained in the various states' laws and of the states' experiences thereunder. Of these, the AFL-CIO has used the "comparison of the maximum number of weeks [of unemployment compensation] provided for in case of total unemployment,"\textsuperscript{10} and the "comparison of the maximum weekly benefit payment" [provided by the various states],\textsuperscript{11} to cast doubt upon the allegation that right-to-work laws are an expression of genuine concern for the individual worker.\textsuperscript{12}

The first, the "comparison of the maximum number of weeks" as of November, 1961, shows that the most frequently provided maximum time duration is twenty-six weeks.


\textsuperscript{11}\textit{Ibid.}

\textsuperscript{12}\textit{Union Security, loc. cit.}
Thirty-six states provide for this duration. Of these thirty-six states, six provide for extensions at high levels of unemployment. Only one of the six is a right-to-work state. There are nine states which provide a maximum time in excess of twenty-six weeks and only one of these is a right-to-work state. There are six states which provide less than twenty-six weeks and all of these six are right-to-work states.

The second, the "comparison of the maximum weekly benefit" as of November, 1961, shows that the average maximum weekly benefit payment for the United States was $41.70. Only four of the right-to-work states exceeded that average while fifteen right-to-work states were below it.

In evaluating the meaning of these comparisons, it must be remembered that they are comparisons of the wording or absolute provisions of the laws and as such do not measure how well each particular state provides for the need of its resident workers. A state's unemployment experience may indicate a need to provide for only a short period of time. If so, failure to provide for a longer time would not be a deficiency. Further, it should be realized that the amount of the maximum weekly benefit payment is related to the state's per capita income and that a low maximum for
weekly benefit payments may not reflect a failure to pro-
vide a substitute income, but rather may simply reflect a
low per capita income. The above two comparisons cannot be
accepted as measures of the sufficiency of the particular
state's unemployment compensation provisions in meeting the
needs of the state's unemployed residents.

For a measurement of how the need is met in each
particular state, the experience of each state under its law
should be compared with the experience of other states.
There are two comparisons compiled by the United States
Department of Labor which do this. They are: "Comparison
of State Experience Under Unemployment Insurance Laws: Per
Cent of Claimants Exhausting Benefit Rights for Total State
Programs,"13 and "Comparison of State Experience Under Unem-
ployment Insurance Laws: Average Weekly Payment for Total
Unemployment Related to Average Weekly Covered Wage Includ-
ing Dependents' Allowances."14

Under the first comparison, which is shown as of 1960
in Table III, the sufficiency of the time duration is tested.

13 Bureau of Employment Security, Exhaustion of Unem-

14 Bureau of Employment Security, Unemployment Insur-
ance: State Laws and Experiences, BES No. U-198, April,
1961.
### TABLE III

**Comparison of State Experience Under Unemployment Insurance Laws. Per Cent of Claimants Exhausting Benefit Rights for Total State Programs, 1960**

<table>
<thead>
<tr>
<th>State</th>
<th>Per Cent Exhausted</th>
<th>State</th>
<th>Per Cent Exhausted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama&lt;sup&gt;a&lt;/sup&gt;</td>
<td>45.5</td>
<td>West Virginia</td>
<td>26.2</td>
</tr>
<tr>
<td>Louisiana</td>
<td>44.7</td>
<td>California</td>
<td>25.9</td>
</tr>
<tr>
<td>Virginia&lt;sup&gt;a&lt;/sup&gt;</td>
<td>43.1</td>
<td>Minnesota</td>
<td>25.6</td>
</tr>
<tr>
<td>Texas&lt;sup&gt;a&lt;/sup&gt;</td>
<td>40.6</td>
<td>Kansas&lt;sup&gt;a&lt;/sup&gt;</td>
<td>25.2</td>
</tr>
<tr>
<td>Florida&lt;sup&gt;a&lt;/sup&gt;</td>
<td>39.6</td>
<td>Rhode Island</td>
<td>24.8</td>
</tr>
<tr>
<td>Georgia&lt;sup&gt;a&lt;/sup&gt;</td>
<td>39.0</td>
<td>Idaho</td>
<td>24.7</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>36.9</td>
<td>Nevada&lt;sup&gt;a&lt;/sup&gt;</td>
<td>24.4</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>36.2</td>
<td>Nebrask&lt;sup&gt;a&lt;/sup&gt;</td>
<td>24.2</td>
</tr>
<tr>
<td>Tennessee&lt;sup&gt;a&lt;/sup&gt;</td>
<td>36.1</td>
<td>Michigan</td>
<td>22.9</td>
</tr>
<tr>
<td>Indiana&lt;sup&gt;a&lt;/sup&gt;</td>
<td>35.8</td>
<td>Massachusetts</td>
<td>22.7</td>
</tr>
<tr>
<td>South Carolina&lt;sup&gt;a&lt;/sup&gt;</td>
<td>35.5</td>
<td>Ohio</td>
<td>22.5</td>
</tr>
<tr>
<td>Connecticut</td>
<td>33.1</td>
<td>Utah&lt;sup&gt;a&lt;/sup&gt;</td>
<td>22.2</td>
</tr>
<tr>
<td>South Dakota&lt;sup&gt;a&lt;/sup&gt;</td>
<td>31.7</td>
<td>Oregon</td>
<td>21.6</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>30.9</td>
<td>New Mexico</td>
<td>21.3</td>
</tr>
<tr>
<td>New Jersey</td>
<td>30.5</td>
<td>Pennsylvania</td>
<td>21.0</td>
</tr>
<tr>
<td>Delaware</td>
<td>30.3</td>
<td>Vermont</td>
<td>20.7</td>
</tr>
<tr>
<td>Kentucky</td>
<td>30.3</td>
<td>Washington</td>
<td>20.4</td>
</tr>
<tr>
<td>Illinois</td>
<td>29.9</td>
<td>Colorado</td>
<td>19.9</td>
</tr>
<tr>
<td>Mississippi&lt;sup&gt;a&lt;/sup&gt;</td>
<td>29.7</td>
<td>Missouri</td>
<td>19.5</td>
</tr>
<tr>
<td>Iowa&lt;sup&gt;a&lt;/sup&gt;</td>
<td>28.6</td>
<td>Arizona&lt;sup&gt;a&lt;/sup&gt;</td>
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<td>Arkansas&lt;sup&gt;a&lt;/sup&gt;</td>
<td>28.4</td>
<td>Maine</td>
<td>18.8</td>
</tr>
<tr>
<td>Montana</td>
<td>27.5</td>
<td>North Carolina&lt;sup&gt;a&lt;/sup&gt;</td>
<td>18.6</td>
</tr>
<tr>
<td>United States</td>
<td>27.3</td>
<td>North Dakota&lt;sup&gt;a&lt;/sup&gt;</td>
<td>17.9</td>
</tr>
<tr>
<td>Wyoming</td>
<td>26.7</td>
<td>New York</td>
<td>17.3</td>
</tr>
<tr>
<td>Maryland</td>
<td>26.4</td>
<td>New Hampshire</td>
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</tr>
<tr>
<td>Alaska</td>
<td>26.3</td>
<td>Hawaii</td>
<td>9.0</td>
</tr>
</tbody>
</table>

<sup>a</sup>Right-to-work states.

If the per cent of claimants exhausting their benefit rights is greater in one state than another it is an indication that the benefits are not as adequate in that state. Table III shows that for the total state unemployment insurance programs, the national average of the percentage of claimants exhausting their rights was 27.3 per cent. In twelve of the right-to-work states the percentage of claimants who exhausted their rights was above the national average while in only seven of the right-to-work states the percentage of claimants who exhausted their rights was below that average. The right-to-work states taken as a whole and using this measure are slightly deficient in comparison to the national average, but not to the extent indicated by the AFL-CIO.

Under the second comparison, which is shown in Table IV, the adequacy of the money payment is tested. If the average weekly benefit payment is a greater percentage of the average weekly covered wage in one state than in another it is an indication that that state is providing a more adequate substitute income than the other for its unemployed residents. Table IV shows that the national average of the percentages of the average weekly wage covered by unemployment insurance is 36 per cent. Nine of the right-to-work states paid relative benefits equal to or in excess of this national average
TABLE IV

COMPARISON OF STATE EXPERIENCE UNDER UNEMPLOYMENT INSURANCE LAWS. AVERAGE WEEKLY PAYMENT FOR TOTAL UNEMPLOYMENT (CALENDAR YEAR 1960) RELATED TO AVERAGE WEEKLY COVERED WAGE (CALENDAR YEAR 1959) INCLUDING DEPENDENTS' ALLOWANCES

<table>
<thead>
<tr>
<th>State</th>
<th>Per Cent</th>
<th>State</th>
<th>Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wyoming</td>
<td>47</td>
<td>United States</td>
<td>36</td>
</tr>
<tr>
<td>Idaho</td>
<td>44</td>
<td>Florida</td>
<td>35</td>
</tr>
<tr>
<td>Hawaii</td>
<td>43</td>
<td>Georgia</td>
<td>35</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>43</td>
<td>Pennsylvania</td>
<td>35</td>
</tr>
<tr>
<td>Colorado</td>
<td>42</td>
<td>Arizona</td>
<td>34</td>
</tr>
<tr>
<td>Ohio</td>
<td>42</td>
<td>Delaware</td>
<td>34</td>
</tr>
<tr>
<td>Kansas</td>
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<td>Illinois</td>
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</tr>
<tr>
<td>Wisconsin</td>
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<td>Michigan</td>
<td>34</td>
</tr>
<tr>
<td>Utah</td>
<td>40</td>
<td>Montana</td>
<td>34</td>
</tr>
<tr>
<td>California</td>
<td>39</td>
<td>New Mexico</td>
<td>34</td>
</tr>
<tr>
<td>Nevada</td>
<td>39</td>
<td>South Carolina</td>
<td>34</td>
</tr>
<tr>
<td>Oregon</td>
<td>39</td>
<td>Washington</td>
<td>34</td>
</tr>
<tr>
<td>South Dakota</td>
<td>39</td>
<td>Minnesota</td>
<td>33</td>
</tr>
<tr>
<td>Connecticut</td>
<td>38</td>
<td>New Jersey</td>
<td>33</td>
</tr>
<tr>
<td>Nebraska</td>
<td>38</td>
<td>Indiana</td>
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</tr>
<tr>
<td>North Dakota</td>
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<td>Missouri</td>
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<tr>
<td>Rhode Island</td>
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<td>Louisiana</td>
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<td>Virginia</td>
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</tr>
<tr>
<td>Maryland</td>
<td>37</td>
<td>Alabama</td>
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<tr>
<td>Mississippi</td>
<td>37</td>
<td>North Carolina</td>
<td>31</td>
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<td>Tennessee</td>
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</tr>
<tr>
<td>Iowa</td>
<td>36</td>
<td>District of Columbia</td>
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</tr>
<tr>
<td>Kentucky</td>
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<td>Maine</td>
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<td>New Hampshire</td>
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<td>Texas</td>
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<td>New York</td>
<td>36</td>
<td>Alaska</td>
<td>27</td>
</tr>
<tr>
<td>Vermont</td>
<td>36</td>
<td>West Virginia</td>
<td>26</td>
</tr>
</tbody>
</table>

aRight-to-work states.

while ten of the right-to-work states fell below. If the right-to-work states are taken as a whole, they seem to meet this need about on a par with the national average, a fact which is not apparent from a comparison of the maximum weekly dollar provisions of the law alone.

**Workmen's Compensation**

The United States Department of Labor has also compiled comparisons of the provisions for workmen's compensation contained in the various states' laws and of the states' experiences thereunder. The AFL-CIO has used one of these comparisons: "The comparison of the maximum weekly benefit amount for temporary total disability [provided by the various states],"\(^{15}\) to demonstrate lack of true concern for the welfare of resident workers in right-to-work states and to cast doubt upon the allegation that right-to-work laws are social legislation expressing that concern.\(^{16}\)

As of December, 1961, this comparison shows that only three of the right-to-work states provide maximum amounts in excess of the national average and that sixteen right-to-work


\(^{16}\)Union Security, loc. cit.
In this case, as well as the case of the unemployment insurance discussion above, the maximum dollar amounts provided reflect per capita income and a low maximum weekly benefit provision may only reflect a low per capita income and not failure to meet a need. This comparison cannot be accepted as a measure of the sufficiency of a particular state's workmen's compensation provisions in meeting the needs of the state's disabled workers.

The adequacy of the money payment should be tested by relating the maximum weekly total temporary disability benefits to the weekly average wage. This would then indicate how well the state has provided for a substitute income to the disabled workman. The Department of Labor has compiled such a comparison entitled "Comparison of State Experience Under Workmen's Compensation Laws. Ratio of Maximum Weekly Total Temporary Disability Benefits for Worker with Wife and Two Dependents, to the Weekly Average Covered Wage."\(^{17}\)

In using this comparison which is shown as of December, 1961, in Table V, it should be noted first that the median

\(^{17}\text{Bulletin No. 212, op. cit.}\)
TABLE V

COMPARISON OF STATE EXPERIENCE UNDER WORKMEN'S COMPENSATION LAWS. RATIO OF MAXIMUM WEEKLY TOTAL TEMPORARY DISABILITY BENEFITS FOR WORKER WITH WIFE AND TWO DEPENDENTS TO THE WEEKLY AVERAGE COVERED WAGE AS OF DECEMBER, 1961

<table>
<thead>
<tr>
<th>State</th>
<th>Per Cent</th>
<th>State</th>
<th>Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona(^a)</td>
<td>166.7</td>
<td>Idaho(^b)</td>
<td>50.2</td>
</tr>
<tr>
<td>Hawaii</td>
<td>95.0</td>
<td>Rhode Island</td>
<td>50.2</td>
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<tr>
<td>Massachusetts</td>
<td>77.7</td>
<td>Minnesota</td>
<td>49.6</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>76.0</td>
<td>New York</td>
<td>48.8</td>
</tr>
<tr>
<td>California</td>
<td>66.2</td>
<td>Delaware</td>
<td>48.5</td>
</tr>
<tr>
<td>Alaska</td>
<td>65.8</td>
<td>Montana</td>
<td>48.2</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>63.3</td>
<td>Ohio</td>
<td>48.2</td>
</tr>
<tr>
<td>Wyoming</td>
<td>62.8</td>
<td>Maryland</td>
<td>46.9</td>
</tr>
<tr>
<td>North Dakota(^a)</td>
<td>61.5</td>
<td>Virginia(^a)</td>
<td>45.8</td>
</tr>
<tr>
<td>Washington</td>
<td>58.8</td>
<td>South Dakota(^a)</td>
<td>45.1</td>
</tr>
<tr>
<td>Nevada(^a)</td>
<td>57.7</td>
<td>Tennessee(^a)</td>
<td>44.8</td>
</tr>
<tr>
<td>Oregon</td>
<td>55.3</td>
<td>Kansas(^a)</td>
<td>44.5</td>
</tr>
<tr>
<td>Utah(^a)</td>
<td>55.2</td>
<td>Nebraska(^a)</td>
<td>44.5</td>
</tr>
<tr>
<td>Arkansas(^a)</td>
<td>55.0</td>
<td>Kentucky</td>
<td>44.4</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>54.7</td>
<td>Iowa(^a)</td>
<td>44.3</td>
</tr>
<tr>
<td>Mississippi(^a)</td>
<td>54.0</td>
<td>Colorado</td>
<td>44.2</td>
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<td>United States</td>
<td>54.0</td>
<td>New Mexico</td>
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</tr>
<tr>
<td>Connecticut</td>
<td>53.3</td>
<td>Alabama(^a)</td>
<td>43.4</td>
</tr>
<tr>
<td>Illinois</td>
<td>53.2</td>
<td>Louisiana</td>
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<td>Pennsylvania</td>
<td>52.7</td>
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<td>West Virginia</td>
<td>41.4</td>
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<td>Florida(^a)</td>
<td>51.9</td>
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<td>Maine</td>
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<td>Michigan</td>
<td>41.1</td>
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<td>North Carolina(^a)</td>
<td>50.8</td>
<td>Indiana(^a)</td>
<td>40.1</td>
</tr>
<tr>
<td>Vermont</td>
<td>50.8</td>
<td>New Jersey</td>
<td>36.9</td>
</tr>
</tbody>
</table>

\(^a\)Right-to-work states.

\(^b\)Median.

is a better measure of central tendency than the average. This is because Arizona and Hawaii provide such extreme maximum payments. Table V shows that the median state, Idaho, provides 50.2 per cent. Nine right-to-work states lie above this median state and eleven fall below. The right-to-work states taken as a whole appear to be about on a par with the median state in meeting the needs of their disabled resident workmen, a fact which is not apparent from a comparison of maximum weekly dollar benefit provisions alone.

CONCLUSION REGARDING THE PURPOSE OF RIGHT-TO-WORK LAWS

In searching for evidence concerning the purpose of the right-to-work laws there were considered first, the policy statements contained in the laws themselves, that their purpose was the protection of the individual. These statements were direct evidence supporting Frederick's view.

Second, the proponents and the opponents of the laws were considered. It was found that organized business was on the side of the proponents and organized labor was on the side of the opponents. This was direct evidence in support of Sultan's view, that the right-to-work issue was a
management versus union problem.

Third, the enforcement provisions and machinery contained in the laws were considered. It was found that the enforcement machinery was completely absent and the enforcement provisions so inadequate that an individual, as a practical matter, could not afford to enforce any rights given him by the laws, but that some business organizations would find it worth while to initiate litigation under them. This tended to support Sultan's view.

Fourth, the unemployment insurance laws and workmen's compensation laws of the various states were compared. This comparison disclosed that there was very little difference between right-to-work states and non-right-to-work states in providing substitute income to their unemployed and disabled working residents. The comparisons failed to disclose either an above average concern or a marked disregard for the welfare and rights of the individual.

It is concluded that there is much evidence that the right-to-work issue constitutes a contest between management and unions and that this contest may very well be the prime mover or origin of the right-to-work movement. It is further concluded that although much concern for the welfare and rights of the individual is a factor in the right-to-work
struggle, it is doubtful that it is the originating source.

MAJOR RIGHT-TO-WORK ARGUMENTS CLASSIFIED

In the remainder of this chapter some of the major arguments pro and con in the right-to-work controversy are classified according to the preceding dichotomy. No attempt to reconcile the different arguments is made. Such a classification is useful in identifying what is pertinent to the subject of this study and what is not pertinent.

Benjamin Aaron's Classification Re-Classified

Between December 22, 1951, the date the Steel case was certified by the President to the War Stabilization Board, and March 20, 1952, the date the War Stabilization Board announced its recommendations in that case, Benjamin Aaron, as a public member of that Board, received 1,350 letters from people objecting in principle to the union shop, which was one of the issues involved in the Steel case. He classified these objections as follows.

A. Nature of the Union Shop
1. It is unconstitutional, un-American, undemocratic, fascistic, socialistic, pure slavery, and illegal (violates the anti-trust laws).
2. It is the closed shop under another name.
3. It is necessary only where the employer is trying to cheat his employees.
4. It will result in "the type of labor socialist movement which destroyed the British Empire and enslaved the British worker."
5. It has fostered the growth of union monopolies.
6. It is bad for retail stores which need prompt courteous salespeople.

B. Union Shop and the Individual Employee
1. An employee should not be deprived of his right to work because he either does not want to join a union or is unacceptable to the union.
2. No employee should be compelled to join a union even if the majority votes for the union shop; for if the majority votes against the union shop, his right to join the union is not restricted.
3. The individual employee needs protection from unions more than he needs protection from employers.
   a) He needs protection from the majority in control.
   b) He needs protection from the minority in control.
   c) He is powerless to protest against union policies for fear of losing his job or being blacklisted.
4. No employee should have to pay tribute to the union.
   a) He should be able to hold his job solely on the basis of performance.
   b) He is not required to join the political party which wins an election; he need not own property before sending his children to public tax-supported schools.
5. Most employees do not even want unions; only one-fourth of the labor force is organized.
6. In an open shop the employee is happy and contented; in a union shop he is disgruntled because the other workers loaf and cannot be fired.

C. Union Shop and the Unions.
1. It is basically a device whereby union leaders get control over employees and income from them; it permits unions to extract unreasonable dues and initiation fees from workers.
2. It is a device whereby union leaders seek to control production.
3. It tremendously increases the power of the unions, and this power is used contrary to public welfare. Union demands are the main cause of inflation.
4. It is unnecessary, as shown by the fact that union membership has increased since passage of the Taft-Hartley Act.
5. It relieves union leaders of the responsibility to organize; they should be compelled to "sell" their union to the workers.
6. It is bad because competition among unions is healthy.
7. It is bad because many union leaders are racketeers of the worst sort, with long criminal records; it has led to racketeering in unions.

D. Union Shop and Management
1. It takes away the power of management to operate the mills in the best interest of the most people.
2. It will force the closing of many small businesses; it will straight-jacket business generally and impede effective action.
3. It forces employers to become union business agents.
4. It will give unions power to bankrupt any company at will.
5. It is forcing American capital abroad for the greater return that is possible there.
6. It transfers to unions the employer's right to hire and fire without transferring the corollary responsibility for maintaining productive efficiency.
7. It slows down technological progress.18

All these reasons can be re-classified under our dichotomy under (1) appeals to the individual, and (2)

management versus union issues. Under the management versus union issues we find only Aaron's classification "D." In making this re-classification the original letters were not available, but Aaron's original classification based on their complete contents was accepted as reflecting their intent.

Paul Sultan's "Major Issues" Classified

In Chapter 5 of his Right to Work Laws,19 Paul Sultan discusses eleven "major issues" of the right-to-work controversy.

1. Compulsory unionism deprives labor of its right to work.
2. Compulsory unionism is discriminatory.
3. Compulsory unionism imposes hardship on the nonmember.
4. Compulsory unionism denies labor the freedom of association.
5. Union-security clauses contribute to union monopoly.
6. Compulsory unionism violates civil liberties; the issue of religion.
7. Compulsory unionism denies a person political freedom.
8. Compulsory unionism destroys union democracy.
10. Compulsory unionism compels support of a union's injurious economic policies.
11. Right-to-work laws represent a logical extension of states' rights.

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Of these eleven "major issues" only three (numbers 5, 9, and 10) deal with the management versus union or economic issue. The rest are directed to the individual or the political issue.

SUBJECT AREA OF THIS STUDY IDENTIFIED

The concern of this study lies in the economic area or the management versus union issue. The use of the dichotomy between the popular or political issue and the economic issue, as demonstrated by the reclassification of Aaron's and Sultan's lists of arguments, clarifies what the economic issue is, and what it is not, so that side issues and issues irrelevant to the economic issue may be eliminated from consideration and attention may be focused on the specific problem at hand.

SUMMARY

In this chapter the egalitarian ideal in our political philosophy, wherein each has one vote, was differentiated from our economic philosophy, wherein each one's voice depends on his control over resources and income. Dunlop's "Industrial Relations System" concept was explored wherein the economic system and the industrial relations system are
viewed as co-existing and equal subsystems of the total social system. In addition, four parties at interest in the union security issue were identified—the individual, management, the union, and society at large.

The right-to-work controversy was then inserted into "Pursuit and Escape" by Clark Kerr as a reasonable approximation or model of the conflict.

This model demonstrates that a political process is being used to resolve an economic issue. The idea was then developed that although the stated purpose of the right-to-work laws is protection of the individual (the political issue), the originating source of these laws may be economic, and a dichotomy can be established between the arguments directed to the individual and the arguments involving the economic issue. The use of this dichotomy was then demonstrated by classifying the lists of arguments compiled by Aaron and by Sultan. Finally, the economic area was identified as the subject of this study.
CHAPTER IV

RIGHT-TO-WORK AND THE "PUZZLEMENT OF SOCIETY"

THE PUZZLEMENT OF SOCIETY

In Chapter II the history of public policy regarding union security in the United States was interpreted as a study of the competitive struggle for power between labor and management. Of that struggle Paul Sultan remarked:

The right-to-work controversy reflects the puzzlement of a society facing the reality of power blocs with an economic philosophy that largely denies their existence.1

The fact that this "puzzlement of society" permeates deeply into our economic system is evident in this chapter which begins by examining the economic rationale advanced by the proponents of the legislation.

The Dallas L. Jones Study

In his study, "The Implications Of The Right-To-Work

1Sultan, op. cit., p. 3.
Laws,\textsuperscript{2} Dallas L. Jones identifies and defines several political and personal problems in the union security issue. He names these problems: The legality of union security issues, the closed shop and closed union, the union shop, the democratic and ethical considerations, the status of the union, the protection of membership rights, and why American unions seek security provisions. These problems are outside the scope of this study and can be eliminated from its consideration.

Jones finally comes to the problem which he names "the question of bargaining power." He identifies it as follows:

At this point the employer and especially the small employer, might reply, "All of these arguments supporting the union shop may be true, but am I not allowing the union to increase its bargaining power as compared to my own? By my granting a union shop, the union secures a monopoly of the labor supply that undermines my own power."\textsuperscript{3}

Although Jones barely mentions this issue, it is the problem with which we are concerned in this study.


\textsuperscript{3}\textit{Ibid}., p. 8.
Machlup on Public "Union Security" Policy

Fritz Machlup's explanation of union security as a problem in monopoly is typical. He explains that for the purpose of "equalizing the bargaining power" the government has assisted in the creation of monopoly power of unmeasured magnitude wielded by hundreds of trade unions. He observes that when, in the past, the government created monopolies in the hands of businessmen, economists, almost unanimously, have evaluated the economic effects as bad. He then inquires into the possible results from the creation and exercise of trade union control over the price and supply of labor to the employer.

Machlup's first observation is that there is no way of telling what the unionization of labor will do to the balance or imbalance of bargaining power of the two parties. He says:

What the relative strength of the parties will be in a particular case under any particular condition cannot be determined. The hope that they be exactly or approximately "equal" has absolutely no foundation. 4

Concerning the use of this increased bargaining power, Machlup points out that trade unions can do nothing to make employers more competitive in the purchase of labor or to break up employers' conspiracies. The formation of labor unions and

4Machlup, op. cit., p. 379.
the introduction of collective bargaining will merely induce employers to formalize their cooperative activities in regard to wage determination. The trade union approach to the problem is to set bargaining strength against bargaining strength, monopoly power against monopsony power.

He concludes as follows:

The official theory of the equalization of bargaining strength serves as a moral and economic basis for the policy of government aid to the creation and increase of union power. The moral basis is firm and solid. The economic basis is shaky, if only because we know from the theory of bilateral monopoly there is no way of telling the point at which the opposing powers are of "equal strength" and just "neutralizing" each other. No attempt is made in theory or in practice to limit the exercise of labor's collective bargaining power to what it would take to offset employer's collusion or restraint of competition.5

The Bilateral Monopoly Model and Wage Determination

At this point it might be well to look briefly at the bilateral monopoly model as it is applied to wage determination. It will be useful to examine how this model is developed from the competitive model in order to see the changes that the introduction of monopoly elements inject and so understand better the opposition to unionism of those who have accepted the bilateral monopoly model as applying to their particular situation.

5Ibid., p. 376.
We begin with the proposition that the money demand for labor has less than infinite elasticity. This is reflected in the downward sloping demand line in Figure 1. This is true because the money demand for labor by an individual firm is a function of both the productivity of labor and the money demand for the firm's product. Increasing the quantity of labor in the production function of the firm is assumed to be subject to the principle of diminishing productivity. Thus, even though a firm sells its product in a perfectly competitive market, its demand for labor, or the marginal revenue product of labor, will be declining.⁶

![FIGURE 1](image)

COMPETITIVE MODEL OF WAGES AND EMPLOYMENT

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The common assumption concerning the supply function of labor is that it too is less than infinitely elastic, that is to say, it is assumed to be an upward sloping supply curve. Among the reasons given for this assumption are that knowledge and mobility in the local labor market are not perfect, employers are not perfect substitutes for one another in the minds of potential employees, and many, if not most, employers are large enough to influence the general level of wages in their own labor markets.\(^7\)

Figure 1 is the usually illustrated case, free from monopoly and monopsony elements, and the determination of wages is a simple matter. The equilibrium wage is \(O_W\) with employment \(O_N\).

One traditional view of union behavior assumes that a trade union monopoly acts in identical fashion to a business monopoly. The union acting as a single seller of labor is large enough to know that the money demand for labor is negatively sloped as in Figure 2. The union is then said to try to equate the marginal demand for labor with its supply schedule at employment \(O_N'\), demanding wage \(O_W'\). This wage rate is above the competitive level \(O_W\) and employment is smaller by \(N_N'\).

\(^7\)Ibid., p. 52.
If the employer is not large enough to realize that the supply schedule to him is upward sloping, he will be a price taker, accept the wage, and equate his demand for labor with the new wage. This is the simple case of labor monopoly. If the employer is large enough, however, to know that his supply schedule of labor is upward sloping he will be tempted to equate his demand for labor with the marginal cost of labor, sometimes called his marginal output, and pay the lowest wage which will call forth the appropriate amount of labor as indicated by the supply curve. Thus, in Figure 2 the monopsonistic employer will want to employ ON' units of labor and pay only the wage OW'.
In this case of bilateral monopoly the actual wage rate is said to be indeterminate because of the market divergence between the wage rates sought by the two parties. It is presumed that a compromise wage rate will be reached by collective bargaining somewhere between OW' and OW". This might perhaps approximate the competitive wage rate OW. In any case the injection of monopolistic elements into the labor market by the labor unions will result in pressure to raise wages. For employers, especially those who have little bargaining power and who presumably are the smaller employers, this means increased direct labor costs.

Concomitants of Union Wage Policy

One difficulty with the above type of analysis is that it approaches the problem in terms of just one goal of unions, higher wages. Possibly even more generally important to the employer economically than higher wages is the development of restrictive practices embodied in agreements, tradition, legislation, or the more frequent interruption of work by disputes. (See the arguments against unionism listed in Chapter III, page 60.)

These concomitants of union wage policy however, can

8Ibid., p. 80.
be classified as cost increasing effects of unionism, because as Hoover in his *Location of Economic Activity* points out:

The effect of restrictions and interruptions is to increase overhead. In effect, to make a greater input of capital, land, and "overhead" labor necessary for a given rate of output.\(^9\)

Thus high union bargaining power may result in high overhead as well as high direct labor costs.

**THE RESULT WHICH NEEDS TO BE DEMONSTRATED**

In an economy subject to labor union bargaining power, the removal of this monopolistic element should relieve the pressure for wage rates above the competitive level. If a firm were possessed of monopsonistic power in the labor market, it might even be able to reduce wages below the competitive level although this possibility is seldom admitted. In addition, union restrictive practices and work interruptions would be reduced. The reason for this is given by the National Right To Work Committee as follows:

It [right to work legislation] changes the character of union leadership by requiring that they spend a much greater part of their time and energy on doing those things which they should be doing, namely keeping the

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membership sold on why they should stay in the union.10

All of this should result in generally decreased costs and increased profits to the firm, supplying an important stimulus to new firms and source of encouragement to existing firms receiving this advantage. Furthermore, if only a few states adopt right-to-work laws, this advantage would be available in only that segment of the economy. These states could then offer the possibility of cost reductions in the hope that some firms in non-right-to-work states might find it to their advantage to migrate to the right-to-work states. The proponents argument can be summarized as follows: If a firm were considering two locations, and everything about each location was just the same except that one was in a right-to-work state and the other was not, would not the firm choose the location in the right-to-work state? The effect would be the same as a subsidy to industry.

It would be normal then to expect to find those who attach so much importance to the passage of right-to-work laws enjoying their benefits once the laws were passed. That is to say, there should be a great reduction in union

10Letter from Reed Larson, Executive Vice-President of the National Right To Work Committee, Washington 6, D. C., November 21, 1962.
security contract provisions and practices under right-to-work conditions. There should also be a migration of firms into right-to-work states based upon the importance of the advantage that they attach to the presence of right-to-work legislation. There have been some studies made that, among other things, investigated these occurrences.

The R. L. Frederick Study

The stated purpose of the study made by R. L. Frederick for his unpublished Master's thesis, "The Effect of Right to Work Laws Upon Industrial Growth," was to determine whether or not industrial growth had been impeded or implemented by such laws.11 He first examined data published by the United States Department of Labor for the total number of production workers in all the right-to-work states. There were thirteen states with sufficient data available for a before and after comparison. In twelve of these thirteen states total employment had increased. Frederick concluded that the data did not necessarily show industrial growth because of the laws, but did lend some measure of credence to statements made on behalf of the laws on the point that the law did not appear on the surface to have any detrimental

11 Frederick, op. cit., p. 1.
Frederick also considered the findings of the National Right To Work Committee survey, released in January, 1956, that total non-farm employment in states with the legislation had increased by half again as much as the gains made by the rest of the country; that the civilian population in right to work states increased more than 30 per cent above the gains made in other states; and that the number of businesses in operation in right to work states increased by more than twice the increase in the rest of the country. He attached particular significance to the fact that the Committee made a statement that no claim was made by them that right-to-work laws were the sole reason for this improvement. He noted further that, in spite of the rather substantial gains claimed in the survey in most areas of comparison, total income payments to individuals in right-to-work states only outgained the rest of the country by one per cent so that it could not be said that individuals of these states profited to any reasonable extent due to the right-to-work laws.¹³

Officials of the State Chamber of Commerce organizations in eighteen right-to-work states were interviewed and

¹²Ibid., p. 41. ¹³Ibid.
of these, two thought that right-to-work laws had no effect upon growth, three thought that right-to-work laws were a major factor aiding growth, and thirteen, a large majority, felt that the presence of a right-to-work law in their state was only one of many favorable factors to be considered by a firm when a new plant location or an expansion of an already existing plant was contemplated.14

Frederick summarized reports which he received from 104 manufacturing company representatives in corporations conducting operations in 41 states. He found that five considered the presence of a right-to-work law a major selection factor, sixteen said that they had no effect upon site selection, and eighty-three said that right-to-work laws were only one of many factors to be considered.15

Industrial consultants, interviewed by Frederick, whose business was aiding in the selection of plant location sites all agreed that a right-to-work law was at best a very minor factor to be considered when aiding a client in the selection of a plant site.16

Frederick finally concluded that the presence of a right-to-work law would be of little importance in attracting

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14Ibid., p. 48. 15Ibid., p. 58. 16Ibid., p. 60.
new industry to a state unless all other factors desired by a particular firm were available in that state.17

Fred Whitney's Indiana Study

Fred Whitney studied the factors that were present in Indiana and contributed to the passage of the right-to-work law in that state. Although his article was written just one year after the passage of the law which was too soon to observe much of the experience in that state under the law, he notes:

Up to the present, the most startling development under the Indiana right-to-work law has been the action of both employers and unions in negotiating and extending agreements containing union shop clauses prior to the date upon which the law became effective.18

Whitney explains that the right-to-work bill was enacted March 1, 1957, but did not become effective until June 25, 1957. During this period of time some Indiana employers and unions extended contracts containing union shop provisions. A considerable number of these and other labor agreements were extended at this time in spite of the fact that they were not to expire until after the effective date of the

17Ibid., p. 62.

law's operation. His concluding remark is pertinent to our problem: "The most significant feature of these wage contract extensions is that the employer had no obligation whatsoever to extend the agreements."19

The Public Affairs Institute Study

John G. Shott undertook the task of making a study for the Public Affairs Institute investigating forces which were at work in the pioneer state, Florida, which brought the right-to-work issue to public attention for the first time.20 In considerable detail, in Chapter IV of his study, he went into the attempts of the Florida attorney general to enforce the law after it was passed. He came to the conclusion that the attorney general failed in his efforts to obtain compliance by voluntary means and then tried to abolish the closed shop in the state by bringing in a privately organized and financed open shop organization from Arkansas to establish a state organization in Florida to police and enforce the open shop. This failed also.

In his final chapter in which he evaluated the Florida

19Ibid., p. 516.

right-to-work amendment, Shott found that two results of Florida's prohibition of union security were indicated. First, there was non-compliance by employers and unions in the skilled trades where the employers traditionally have obtained workers through unions. Second, there was a serious hindrance to organizational work in the unskilled trades. He concluded that the net result to the individual worker seemed to be that the amendment had in some cases reduced and in other cases eliminated the advantages to be derived from collective bargaining.

The John William Lowe Study

In his unpublished Doctor's dissertation entitled "Union Security in Florida Industries Under the Right To Work Amendment," John William Lowe undertook to examine closely union security practices under the Florida right-to-work law. As a result of his study he found that out of 81 firms he interviewed that had contracts with unions 36 acknowledged a preference for 100 per cent union membership among their employees, and admitted close relations with unions in their hiring practices. He established that union security

arrangements did exist and that business firms were willing to admit arrangements which were not compatible with the state law. He found that there was a definite relationship between the period of time that a plant had been organized, and both 100 per cent union membership of the plant's employees, and the practices and attitudes which encouraged 100 per cent union membership of the plant's employees. In other words, he found that there was one group of employers who not only did not advocate right-to-work laws, but instead preferred union security arrangements.

Lowe also received critical comments on unionism, mostly from non-union employers, and these were in sharp contrast to many of the case studies he had made of those firms that had long experience with contractual relationships with unions and on the whole reported preferences for the union shop. He stated that many of these employers were strongly anti-union to the extent that some unions, faced by these employers, may have decided to forego pressure for union security. That is to say, he found that there was another group of employers who not only supported right-to-work laws but insisted on their observance by the unions.

\[22\text{Ibid., p. 127.}\]  \[23\text{Ibid., p. 128.}\]
Lowe's final conclusions are pertinent because they concern the problem that is the subject of this study. He found that there was only a small number of cases against unions which had been brought to court in Florida in spite of the fact that a review of the Florida cases showed that if an employer actually desired to fight unionism he had the strong support of the state and federal courts. If this were Lowe's only finding, it would have to be discounted because of the possibility that court action is such an expensive alternative that many firms would not have enough at stake to utilize it; but in addition to this finding Lowe reported that the man who was the attorney general in Florida at that time (1957) had been in office for eight years without being requested to examine or construe any specific union security agreement, an alternative not involving great expense. He concluded that these findings plus the frankness with which most firms discussed their violation or evasion of the right-to-work amendment was a strong indication that no aggressive enforcement of the law was expected or desired.\(^{24}\)

Lowe's conclusion suggests the existence of a sizeable third group of employers. A group which supports the right-
to-work proposals before the fact, but evades them after the fact. Frederick Meyers, in his study, discovered the existence of a similar group of employers in Texas.

The Texas Study by Frederick Meyers

In his study *Right To Work In Practice*²⁵ Frederick Meyers examined the Texas experience under the right-to-work laws during the eleven years following 1947. In one part of his study he discusses the attitudes which he found toward the law. He summarizes this section as follows:

Everyone in Texas labor relations knows that the "Right To Work" law is systematically violated in the traditionally closed shop industries. Certainly the employers are aware of a situation in which they participate. And yet, there is feeling, even strong feeling, that the law is a good thing. The realities of labor relations may dictate a closed shop practice, but the symbolic force of "Right To Work" remains powerful.²⁶

Meyers interviewed a substantial number of union contractors and officials of contractors' associations. He found that although the attitudes of all these varied widely, there was general agreement on the principle of the statute, despite its general non-observance. It was generally regarded as a statement of moral principle that one contractor


²⁶Ibid., p. 18.
said was the Magna Carta of worker and employer rights. Meyers noted, however, that this same man as well as all others interviewed declared that the construction industry could not operate if it observed the law. Based on his overall observation of labor relations in Texas, he concluded that the right-to-work statute in Texas, taken by itself apart from the whole body of state labor legislation, has had a minimal direct effect. He said in his conclusion: "It remains my feeling that 'right to work' proposals are of much less importance than either side of the controversy has been willing to admit."27

In explaining why the right-to-work proposals were supported so strongly by those interested in getting the laws passed, only to be ignored so generally once those laws were passed, Meyers concluded that the issue was a symbolic one. That what was at stake was the political power and public support of management and of unionism. He suggests that the right-to-work proposals have become a convenient symbol for this purpose, perhaps because, in effect, they do mean so little. He concludes:

The issue raised by both the partisans and the opponents of right-to-work are serious ones because

27Ibid., p. 45.
they involve the question of how we are to achieve freedom in a complex industrial society. And yet, as this study indicates, the claims of either side as to what will happen if this law is enacted have little to do with actual practice. This does not mean that we are freed of our obligation to consider the issues. It does mean that we must confront them on a more relevant level, so that we may free them from the passions and exaggerations of right-to-work debate.28

Right-to-work legislation is more than a symbol. The disparity between anticipation and practice is an outgrowth of what was called the "puzzlement of society" earlier in this chapter and may be understood if confronted on the more relevant level Meyers suggests.

SUMMARY

In this chapter it was pointed out that the right-to-work issue merely reflects a deeply permeating puzzlement of society. The economic issue, as the proponents see it, was identified as the problem of equalizing the bargaining power of management and labor—basically the theory of bilateral monopoly.

The theory of bilateral monopoly was then discussed for the purpose of showing (1) that the theory is indeterminate, and (2) even though indeterminate, the removal of union

28 Ibid., p. 46.
bargaining power from the labor market should reduce pressures for high wages and overhead costs attributable to unions. This should enable some firms to reduce production costs. It was believed that this would encourage old firms, stimulate new ones, and induce the migration of firms from non-right-to-work states into right-to-work states.

Finally, some studies on the effects of right-to-work laws were considered. These studies indicated that the right-to-work propositions were advocated with great enthusiasm, but that the great advantages anticipated in theory did not materialize. Once the laws were passed many employers who supported them only gave them lip service.

This "puzzlement of society" is confronted on a more relevant level in Chapter V.
CHAPTER V

RIGHT-TO-WORK AND PLANT LOCATION THEORY

SOME REASONS FOR THE EMPHASIS ON COSTS

Certainly, wage theory utilizing the marginal productivity principle is far from perfect. No theory of wages can be perfect which is limited in view to a relatively simple relationship between two primary variables. It is not that the marginal principal is invalid, but the use of it is occasionally improper.¹ At this point it is pertinent to point out that the anticipations of benefits to accrue from right-to-work legislation emphasize costs of production and that demand for the product is not even mentioned.

In his book The Wage Price Issue, William G. Bowen gave several reasons why the cost variable was given a relatively more active role as compared to the demand variable in the price setting process of the firm.² Some of the same

¹Cartter, op. cit., p. 74.


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reasons are responsible for the assignment of the relatively more active role to the cost variable by the proponents in the right-to-work controversy.

In the first place it seems plausible to expect the existence of uncertainty to result in the assignment of a relatively more important role to cost than to demand. This is primarily because the variables that determine the costs of a firm are more under the control of the firm and can be better estimated than the variables that affect demand. For example, it is hard for the firm to predict such important determinants of the demand for its product as the trend in the incomes of customers and the buying opportunities that other firms will make available to these customers. On the other hand, the cost accountant is able to make an estimate of costs which, while far from perfect or exact, is generally more reliable than the available estimates of demand for the product of the firm.

A second reason why costs are particularly significant under conditions of uncertainty is that changes in costs are usually more permanent than changes in demand. After all, the demand for a product depends on a great many factors, most of which are beyond the control or knowledge of the individual firm. The firm can seldom be sure that a sudden increase in
orders will continue or that a trickle of orders will not turn into a flood. On the other hand, the firm cannot expect to suddenly find very often that the wage increase it just negotiated has suddenly been annulled.

A third reason costs are given an active role has to do with timing. An increase in costs reduces profits more certainly and more immediately than a decrease in the rate of product turnover or demand which occurs more slowly, often so slowly that it is not noticed, and is not only always hard to predict but often impossible to explain.

In addition to the above reasons suggested by Bowen, there is another reason why costs are given an active role and demand is ignored by the right-to-work proponents. It accounts for the fact that the right-to-work issue has remained so intractable. Locational theory and practice have undergone a transition from the purely competitive approach of the nineteenth and early twentieth century theorists to the monopolistically competitive locational framework of today. It focuses attention upon data that make the plant site a means of control over economic areas rather than simply the basis of productive operations. Whereas the purely competitive approach was defensive in nature, the vastly greater present day emphasis on monopolistic advantages offered by
different sites makes aggressive use of location factors that formerly were overlooked. Those who advocate right-to-work laws for economic reasons have not made this transition. They are still facing the reality of power blocs with an economic philosophy that largely denies their existence. They are using what amounts to a part of production theory as their rationale for advocating right-to-work legislation.

REVIEW OF LOCATION THEORY

In order to relegate right-to-work legislation to its proper position and importance as a factor in industrial growth it is necessary to have a comprehensive understanding of what is involved in location theory. For this reason a minimum step in outlining location theory is undertaken in this section by reviewing briefly the work of Melvin L. Greenhut who in Part One of his book Plant Location in Theory and in Practice,\(^3\) has given a rather thorough review of location theory.

Greenhut divides location theories into two basic types or classes. The first type is of the classical or neo-classical type in which, because of the acceptance of Say's Law and

\[^3\text{Melvin L. Greenhut, Plant Location in Theory and in Practice (Chapel Hill: University of North Carolina Press, 1956).}\]
possibly because of the reasons suggested by Bowen mentioned above, demand is assumed as given. That is, the characteristics of the market are those of perfect competition. These theories which deal with the cost side of production only, Greenhut calls "Least-Cost Location Theories." Typical of this class are the works of Johann Heinrich von Thünen,\(^4\) Alfred Weber,\(^5\) and Edgar Hoover.\(^6\)

The second type of location theory emphasizes the market area of the firm and sketches the interdependence of plant locations. It stresses the influence of monopolistic gains at certain sites. Some of those who have contributed to this approach are Harold Hotelling,\(^7\) H. W. Singer,\(^8\) August Lösch,\(^9\)

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\(^4\)Johann Heinrich von Thünen, Der Isolierte Staat in Beziehung auf Landwirtschaft und Nationalökonomie, Hamburg, 1826.


\(^6\)Hoover, loc. cit.


\(^9\)August Lösch, Die Räumliche Ordnung der Wirtschaft, Zweite Auflage, Verlag von Gustav Fischer, Jena, 1944.
F. A. Fetter,¹⁰ and Edgar Hoover.¹¹ Greenhut himself attempts to integrate the leading theories of plant location. The evolution of location theory can best be illustrated by a brief review of Greenhut's work.

Least-Cost Location Theories

The following three headings are outlines of least-cost location theories. In each it will be noted that the market is assumed to be competitive and given.

Von Thünen's theory of location.—Von Thünen postulates a land surface homogeneous in all respects save distance from the consuming center or city. The city dwellers supply the outlying districts with their manufactures in exchange for agricultural produce, food and raw materials. Farm produce is sold in each outlying region at the city price less the difference in transport costs from that region to the city market. As the distance from the city increases, transport costs increase. There is a distance or radius from the city where the cost of producing any product plus the cost of its transport to the city just equals the price paid


¹¹Hoover, loc. cit.
in the city. This is the extensive limit for its production. At this limit no rent can be paid. Beyond it the product cannot be produced. At locations progressively nearer the city, transportation costs become less and land rent can be paid equal to the reduction of the transport charges. Now some products cost more to transport than others; hence, their extensive limit of production will be nearer the city than the more cheaply transported products, and the amount of rent that they can pay at production sites progressively nearer the city will increase at a faster rate than the rent the relatively more cheaply transported product can pay. Thus von Thünen's theory gives us a scheme of concentric circles around a central town, the market, which while not fully applicable to all industrial locations, is nevertheless useful.

As the distance from the city increases and transport costs increase, land rent, the intensity of land cultivation, and the density of population decrease. In the distance, cultivation ceases entirely. Although von Thünen is primarily interested in the type of farm produce that is most advantageously cultivated on a given plot of land, Greenhut converts his theory into an analysis of site selection for manufacturing plants by merely changing the occupation of the
producers from cultivating the land to manufacturing. It is important to note that von Thünen assumes an infinitely elastic demand for the commodities at the market. In effect, he substitutes transportation cost for land cost and vice versa until he obtains the least-cost combination and thus the best plant site.

Weber's theory of location.---Weber assumes a heterogeneous land surface with uneven deposits of fuel and raw materials and several consuming centers. This is procedurally the opposite of von Thünen. Weber's theory is based upon three general factors of location: transportation costs, labor costs, and agglomerating forces. The transportation and labor costs are regarded as general regional factors; the agglomerating force is a general local factor.

In regard to the transportation cost factor, he concludes that plants may be material oriented or they may be market oriented. Materials that lose weight in processing call the plant to their deposits, but if weight is added in the processing, a location nearer the market is favored. If cost of transfer is the only significant factor, the site with the lowest transportation cost will be selected.

In considering his second factor, labor, Weber did not make the special von Thünen assumptions of equal real wages
and productivity everywhere; consequently, the labor factor exerts a locational pull in his scheme. This force may even be the dominant one and cause the movement of industry from a point of least transfer cost to a site of greater transfer cost. This will occur whenever the savings in labor costs are larger than the additional transfer costs. These two locational factors account for location within a region.

Weber's third general factor is the agglomerating or deglomerating force. This may cause concentration or dispersion within a region. Proximity or auxiliary industries, better marketing outlets, or economies of size are agglomerating forces and tend to localize an industry. Higher rent is a deglomeraging factor and tends to disperse an industry. Weber found a rather close relationship between the labor factor and the agglomerating factors. That is, generally when labor is a vital part of the value added to a product, a positive force of agglomeration exists. In effect, Weber divided industries into two main categories, those oriented to transportation and those oriented to labor. His theory of location involves substitution between transport costs and non-transport cost factors. Demand considerations are excluded from his theory which holds by definition that location factors give advantages in cost. There is a footnote to this
section in which Greenhut says: "Obviously, the theory of location, applicable to present day capitalistic economy, cannot adhere to the formula: Profit advantage equals cost advantage."\textsuperscript{12} It is necessary to explore location theory further.

\textbf{Hoover's cost analysis.}--Hoover, in his book, \textit{The Location of Economic Activity},\textsuperscript{13} despite references to demand, has written largely within the framework of cost analysis. Hoover's theory does not fit perfectly into the von Thünen-Weber type system because his approach suggests demand determinants as well as cost factors. Hoover separates the cost factors of location into two groups: transportation factors and production factors.

The costs of procuring raw materials and the costs of distributing the finished products are considered transportation costs. The agglomerating factors and institutional cost factors are treated as partial determinants of production costs. His main contribution here is his thorough-going analysis of the characteristics of these factors.

Hoover shows that freight cost theory should recognize such characteristics as heavy terminal costs, length of haul,}\textsuperscript{12}\textsuperscript{Greenhut, \textit{op. cit.}, p. 17. \textsuperscript{13}\textsuperscript{Hoover, \textit{loc. cit.}
carload lot and less-than-carload lot shipments, shipments requiring special handling, and the particular advantages of specialized types of water, rail, and trucking facilities.

He views freight absorption the same way. The firm that absorbs freight costs gains by locating close and loses by locating at a distance from those it deals with.

None of these freight considerations change the basic theory. All they do is define the specific shape of the transportation cost function and add alternate transport cost function possibilities for each new avenue of transport considered.

Hoover's analysis of the agglomerating and deglomerating forces is also more penetrating than that of Weber. He points out inter-industry advantages of agglomerating such as the use of another's by-products, the complementary use of labor, and the possibility of specializing to a higher degree, so that operations that an isolated firm might have to perform for itself can be farmed out economically. He does for the production cost function what he did for the transport cost function. He adds definition.

In basic effect, Hoover's theory is quite similar to Weber's. The locational choice is still a problem of substitution among costs. He does not explain the whys of the
location from the standpoint of demand. He keeps the analysis largely within a purely competitive and capitalistic framework.\textsuperscript{14}

Market Oriented Location Theories

In least-cost location theory the firm with the better location sells at the prevailing market price with greater profits than those obtained by competitors less fortunately situated. All sellers locate in respect to a buying center and have access to this small area point. The market area analysis is in contrast with this purely competitive framework. Under this type of analysis buyers are conceived as scattered over an area. Sellers will locate accordingly, and will thereby control different groups of buyers. Thus the demand curve at each location is not a horizontal line. Each seller becomes a monopolist in respect to customers who are located near his plant.

If this assumption of buyer scattering is correct, the least-cost system is nothing more than a very special model. The optimum location becomes not merely the site at which the firm achieves greater gains per unit sale at the given market price, but it is the location which enables the

\textsuperscript{14}Greenhut, \textit{op. cit.}, pp. 17-22.
firm to undersell its rivals at several consuming points and thereby to place a wider market area under its control.

With buyers scattered over a wide area it is unrealistic to presuppose a special location which is most advantagously situated in respect to the entire market. Some locations that are high in cost relative to other locations or even high in cost relative to the whole market area may be the most profitable because of their location with respect to a particular segment of the market.

According to Greenhut, there are two approaches to the attempt to determine the spatial features of a firm's market. The first, the market area approach, assumes fixed locations and is essentially a short run analysis. The second, the locational interdependence approach, uses movable locations or planned future locations and is designed for long run analysis.

The market from the demand point of view.---In the analysis by the market area approach which follows, consumers are assumed to be evenly scattered and to have identical demands. By this means, the dollar volume of sales is made to correspond to the unit area of the market area that is controlled by the firm. One other distinction needs to be kept in mind. The market area refers to the entire market. The market area of
a firm refers only to those customers who buy advantageously from a particular firm and who purchase nothing from its competitors.\textsuperscript{15}

The size and shape of the market area of a firm.—The following simple model begins the demonstration of the market area analysis.

1. Buyers are assumed to be evenly scattered and to have identical demand schedules.
2. The market is monopolistically competitive and firms are geographically dispersed.
3. All rivals charge a net mill price which is marked up above their cost by the same sum.
4. The produce is sold on a f.o.b. mill basis.

Under the f.o.b. mill system of pricing the sales price and the freight rate on the final product are the determinants of a firm's market area. Thus, two sellers located in different sectors divide the entire market area evenly if they have the same freight rates, charge the same mill prices, and sell a homogeneous product.

Any decrease in the freight rate or sales price of one firm as compared to the other widens the market area controlled by this firm; any increase narrows it. In fact, the firm's entire market area may be destroyed if its net mill price plus freight costs to any and all buyers exceeds those of the other

\textsuperscript{15}Ibid., pp. 23-25.
firm. The long run optimum location of the firm will also change to better serve the segment of the market remaining to it. Distortions in the line dividing the markets of the two firms will be caused by such factors as freight rate progressions within mileage brackets, carriers' use of basing points to meet competition, discriminatory pricing policies of the firms, and product differentiation. There may even be overlapping of the market areas when the markets are less than perfectly competitive for reasons other than space and number of sellers.\(^\text{16}\)

Lösch's definition of the firm's minimum size market area.—August Lösch realized that his explanation of the minimum size and shape of the firm's market area would be more illustrative of a principle than representative of the real world because he began as follows: "In the following example we proceed from radical assumptions to prevent spatial differences being concealed in our model."\(^\text{17}\)

He assumed that economic raw materials were evenly distributed over a wide plain. The area was homogeneous in every other respect as well. It had a uniformly distributed

\(^{16}\text{Ibid.}, \ pp. \ 25-31.\)

\(^{17}\text{Lösch, op. cit.}, \ p. \ 72.\)
agricultural population with each individual having identical tastes, preferences, technical knowledge and production opportunities. In the beginning the area contained nothing but self-sufficient farms, regularly distributed.

He begins by inquiring into the situation in which a farmer wants to go into the beer business. The extent of his operations will be limited by freight costs, but he can gain the advantages of large scale operations and specialization. If the market demand is sufficient the farmer can sell advantageously over a circular area. If the demand is too small relative to shipping costs, or the advantages of large scale production are too small, beer cannot become a marketable product and every farmer will have to brew his own as best he can.

If demand is large enough, however, beer production is immediately profitable, but in time competitors will enter the business and compress the circular market area to smaller and smaller size. The minimum size is that market area which is necessary for sales to just cover costs.\(^{18}\) This is the Chamberlinian tangency case.\(^{19}\)

\(^{18}\)Ibid., pp. 71-96.

\(^{19}\)Chamberlin, op. cit., p. 84.
The locational interdependence approach.--In the previous discussion of the size and shape of the market area of a firm, plant locations were assumed, and it was from this point that the size and shape of the firm's market area were discussed. If it is assumed that there is (1) an even spatial scattering of consumers, (2) an infinitely inelastic demand for the product of an industry, (3) equal costs of procuring and processing raw materials at all locations, (4) the same freight rate on the final product at all locations, (5) a perfectly competitive market except as regards space, and (6) sales of goods on a f.o.b. mill basis, firms tend to concentrate in the center of the entire market area. If, however, the market is not infinitely inelastic, but rather, each consumer's demand is identical and downward sloping, dispersion occurs.

Greenhut points out that the market area type of analysis disregards factors of concentration, never shows that firms are sometimes attracted to sites near their rivals, and does not define the maximum size of operation. The interdependence approach, on the other hand, seeks to find reasons for a particular location. It works with freely movable locations or planned future locations, and stresses the attraction or repulsion of a firm caused by the presence of a
rival at a specific location. That is, it considers the factors causing industrial concentration and dispersion. It is like the market area analysis, however, in that it also considers the monopolistic aspects of space.\textsuperscript{20}

Since locational interdependence is not concerned with the size and shape of the market area of a firm, the problem can be simplified by assuming a linear market rather than an areal market. The difference is that the market will expand proportionately with the distance from the plant in the linear model whereas it will expand proportionately to the square of the distance from the plant in the areal model. The conclusions reached in the linear model can be modified to fit the areal model.

The profit maximizing nondiscriminatory f.o.b. mill price of the spatial monopolist.—Before proceeding with the study of locational interdependence, it is necessary to have clearly in mind the characteristics of the profit maximizing nondiscriminatory f.o.b. mill price. This price refers to the seller's price at the mill. The buyer pays full freight to the transport agency. It is only nondiscriminatory in that each buyer purchases the product at the same mill price.

\textsuperscript{20}Greenhut, \textit{op. cit.}, pp. 37-42.
but, actually it can be used as a means of effecting spatial price discrimination through freight absorption by the seller. A word of caution needs to be inserted here. The rate of absorption is based on the freight rate to distant buyers. It might seem that since all the buyers are assumed to have identical demand schedules, that basing the rate of absorption on freight costs per unit sold would be the same thing. It is not. This is because buyers located near the plant will purchase larger quantities of the goods than distant buyers because they will not be burdened by freight charges which we will assume increase proportionately with distance from the mill, and we assume that the buyer's elasticity of demand is less than infinitely elastic. Figure 3 is a graphic illustration of the principle involved.

Assume one buyer, with linear, downward sloping demand curve, located proximate to the mill so that purchases are made at the mill net price without freight entering into the considerations of his purchases. The profit maximizing f.o.b. mill price to this one customer is shown in Figure 3 A. AK is the buyer's demand curve and AH is the corresponding marginal revenue curve. Since we are abstracting from costs, the profit maximizing f.o.b. mill price is OC, and this is equal to OA/2.
FIGURE 3

F.O.B. MILL PRICE DEMAND SCHEDULES FACED BY A SPATIAL MONOPOLIST
Now if a second buyer is assumed to be located at a distance from the plant so that freight has to be paid, and this buyer has a demand curve that is identical to the first buyer, and if the freight rate from the plant to him is equal to AB; his demand curve will appear, along with the data of the first buyer, as BI in Figure 3 B. and the corresponding marginal revenue curve will be BG. At the original f.o.b. mill price OC he will take OF units of product.

If the producer is able to practice price discrimination between the two buyers he will lower the f.o.b. mill price to the second buyer to OE while maintaining the f.o.b. mill price to the first buyer at OC. Thus he will maximize his profits by absorbing CE on sales to the second buyer which is half the freight rate to the second buyer.

The seller can accomplish the same thing with the profit maximizing nondiscriminatory f.o.b. mill price, by summing the demand at the mill schedules of these two buyers horizontally. In this case, the demand schedule for the total market is ANL and the corresponding marginal revenue curve is AMJ. The profit maximizing nondiscriminatory f.o.b. mill price will then be OD and he will absorb CD on all sales which is the equivalent of one-half the average freight rate to all his customers. (Remembering the note of caution, this
is not the equivalent of one-half the average freight cost per unit of product sold.)

If buyers are spaced evenly along a line with the first buyer proximate to the mill, freight absorption will be 25 per cent since the average freight rate will be 50 per cent of the freight rate to the most distant customer.

If there is no customer proximate to the mill and all customers are located equidistant from the mill the absorption rate will be 50 per cent, the same as the case of only one buyer located a distance from the seller. This is so because the average distance is the full distance.

If the market is not distributed along a line, but spread over an area circular in shape with the seller in the center, the following modifications will apply.

If the buyers are all located proximate to the mill no freight will be absorbed. If the buyers are all located on the perimeter the absorption rate will be 50 per cent. If the buyers are evenly dispersed over the area of the circle the freight absorption is 35.36 per cent the rate to the perimeter: 21

21 Ibid., pp. 42-48.
The maximum sales radius of the profit maximizing nondiscriminatory spatial monopolist.—From the above considerations, some conclusions can be drawn concerning the maximum size of the market of the profit maximizing nondiscriminatory spatial monopolist. Since the model is still abstracting from costs, this monopolist will find it profitable to expand his market so long as the increased sales net him anything at all. It may be that he can actually compute the average transportation rate to his customers, divide it by two and know what his rate of absorption is. Lacking actual computation of the average transportation rate, if he is already in business, he will have data available from which he can determine some very general characteristics of his market. Is it linear? Is it areal? Are the buyers concentrated near the plant, at the perimeter, or are they evenly scattered? If he is planning to establish a new division or branch plant, research on the market can be done to indicate these characteristics.

With knowledge of these characteristics and the guidelines developed in the preceding section (which can be refined to show intermediate points), he is in a position to estimate his freight absorption rate. So long as the sum of the freight rate to the most distant buyer plus the freight
absorbed is less than the profit maximizing nondiscriminatory f.o.b. mill price, there will be a net return to the seller and it will pay him to expand his market. The limit of his market then is the point at which the freight rate to the most distant buyer plus the freight absorbed just equals his profit maximizing nondiscriminatory f.o.b. mill price.\textsuperscript{22}

The relation of f.o.b. mill prices of competitors and the profit maximizing location of the spatial monopolist.---There remains the problem of whether a firm will locate proximate to, or at a distance from, its rivals. This involves the study of the relationship between the spatial monopolist's marginal cost and demand functions. Traditional economic theories of imperfect competition must be related to a spatial economy.

The results of such an analysis can be summarized in a sort of general rule: In a market area with a relatively even scatter of the buying population, if sellers are willing to compete actively so as to gain control over markets proximate to their location, a dispersion of firms will result even though marginal costs of production are higher at a point away from the low marginal cost point of production, provided,

\textsuperscript{22}Ibid., pp. 48-57.
that they are higher by less than the freight rate between
the two points. If, however, the marginal costs of produc-
tion are higher by more than the freight rates between the
two points, a concentration of firms will result.23

There are several other types of cases which could be
examined in which the sellers abstain from unrestrained price
competition but compete in everything but price. In such
event it can be shown that firms tend to concentrate rather
than disperse. In a general way competition in location is
synonymous with competition in price.24

Toward a More Complete Theory of Plant Location

It has been shown in the previous discussions that the
type of plant location has developed along two lines. The
first approach searches for the least-cost site by abstract-
ing from demand and from the monopolistic implications of
space by assuming competitive pricing of the product at the
market which is located at a point. It assumes different
costs among locations. All the sellers have access to the
buying center where the market is purely competitive with an
unlimited demand for the output of any seller at the prevail-
ing market price.

23Ibid., pp. 57-65.  24Ibid., pp. 65-75.
The second approach emphasizes the search for the most advantageous site by abstracting from cost, and is an outgrowth of monopolistic competition analysis. The cost of procuring and processing raw materials is assumed to be the same everywhere, and each seller charges an identical net mill price, but the buyers are conceived to be scattered over an area so that the delivered price varies with the distances between the consumers and the sellers. The market area-locational interdependence approach emphasizes the control over specific buyers that is offered by location in a space economy. These two approaches are not incompatible, however. They are both part of the same basic theory.

The maximum profit location, by definition, is that site at which the spread between total receipts and total costs is the greatest. The necessary condition for a maximum profit is that marginal revenue equal marginal cost. Under the least-cost approach, the competitive price is a constant, and is equal to average and marginal cost; consequently, the extension of production to that point where the added cost of producing the last unit just equals the price, equates marginal cost with marginal revenue.

Under the market area-locational interdependence approach the average cost is a constant and is equal to
marginal cost, and the emphasis on the adjustment of the price and extension of the market to that point where the added revenue from the last unit sold just equals the average cost of production, equates marginal revenue with marginal cost. Thus, both variable cost and flexible demand can be included within a single system of thought or theory.25

RELATIVE IMPORTANCE OF DIFFERENT FACTORS IN LOCATION THEORY

It follows that where the market situation in which the seller finds himself approximates the market assumptions of the least-cost approach to location theory, the variables emphasized by the least-cost approach will be the most important to consider in solving both location and production problems. Textile, shoe manufacturing, and garment industries face this type market,26 and these are the very industries which concern themselves with and seem to be attracted by right-to-work laws.27 They have very little to gain from

25Ibid., pp. 97-100.


emphasis on the monopolistic aspects of demand. The prospect of reducing costs through lower labor costs induced by right-to-work laws, lower taxes caused by local tax concessions, lower rent caused by local government providing factory sites and buildings at nominal cost, and other forms of cost subsidy will seem relatively more important to this type of industry, whose best course of action lies in reducing disadvantages (a defensive type action), rather than an aggressive use of market advantages.

On the other hand, in cases where the seller finds himself in a situation that more nearly approximates the assumptions of the market area-locational interdependence approach, an aggressive exploitation of the possibilities of the market and the spatial aspects of the production site will be much more rewarding than emphasis on cost reduction. E. H. Chamberlin explained it this way:

Popular economic philosophy continues to regard the businessman as a producer only. It is by neglecting the market that it most obviously falls short of explaining the facts of economic life, and yet, the typical businessman has discovered, perhaps through experience, that in this world of monopolies, there are greater rewards to be gained through close attention to advertising, selling costs, and the market, than through a like attention to production costs and efficiency. 28

28Lecture before the Graduate Economic Club, Louisiana State University, January 5, 1963.
CONCLUSIONS REGARDING THE "PUZZLEMENT OF SOCIETY"

It is concluded that there is a sizeable group of employers who strongly advocate right-to-work laws before the fact, and evade them after the fact. This is part of what has been called the "puzzlement of society" in this study. Within this frame of reference the right-to-work controversy is not symbolic. It is symptomatic of an unsolved social problem. These advocates of right-to-work laws are basing their policy decisions regarding right-to-work laws on an incomplete location theory that is now recognized to be only production theory. They have failed to synthesize monopolistic and competitive theory.

The explanation for this failure lies partly in the fact that the subject matter is difficult per se, but it lies more in the fact that the process by which knowledge is gained is one of assimilation and accretion. New ideas induce a much required reorganization of the mental filing case one has been using to classify the factors involved.29 Unless this reorganization is done the problem is complicated by what amounts to a form of existing hidden prejudices. In this

chapter, for example, the concept of "the market" was re-defined. This made possible the re-examination of the relation of freight absorption to the demand schedule faced by the spatial monopolist and the presentation of a spatial economic location theory.

Meyers has suggested the need for a more relevant level of economic knowledge with which to confront the issues of the right-to-work controversy. Spatial economic location theory is of that level. Should this comprehensive location theory become more generally understood and adopted, then the union security controversy, in which the right-to-work issue is one facet, would be one step closer to solution.

SUMMARY

In Chapter V it was pointed out that the anticipated benefits to accrue from the passage of right-to-work laws emphasized advantages in production costs. It was then pointed out that the demand side of the problem was not even mentioned. Several sociological and psychological reasons for this emphasis on costs were then suggested as adapted from the work of William G. Bowen. In addition it was suggested that misapplication of theory or inadequacy of theory

\[30\] Meyers, op. cit., p. 46.
might be the cause.

For the above reasons it was necessary briefly to re-state location theory. The least-cost approach to location theory was shown to be based on assumptions of perfect competition, and this was illustrated with discussions of the works of von Thünen, Weber, and Hoover. The market area-locational interdependence approach was shown to be based on assumptions of monopolistic competition in a spatial economy. It was then shown how this approach could give theoretical answers to the questions of minimum and maximum size market areas and how considerations of space affected market shape. The monopolistic characteristics of the profit maximizing nondiscriminatory f.o.b. mill price were explained. Finally the agglomerating and deglomerating effects of the relationships of two sets of variables were explored: (1) the relationship between the spatial monopolist's marginal cost and demand functions, and (2) the relationship between his freight cost and demand functions.

The least-cost and market area-locational interdependence approaches were then shown to be the two parts of the maximum-profit location theory, and the relative importance of all the factors involved was then discussed in relation to (1) sellers facing a perfectly competitive market, and (2)
sellers facing an imperfectly competitive market.

It was then concluded that the disparity between the advocacy of the right-to-work laws before the fact, and the practice under the laws after the fact, was part of the "puzzlement of society" and that the right-to-work controversy was not merely symbolic but symptomatic of an unsolved problem. The advocates of right-to-work laws were basing their policy decisions on an incomplete location theory that is now recognized to be only production theory. They had failed to synthesize monopolistic and competitive theory.

It was finally concluded that should spatial economic location theory become more generally understood and adopted, then the union security controversy, in which the right-to-work issue is one facet, would be one step closer to solution.
CHAPTER VI

RIGHT-TO-WORK AND PLANT LOCATION PRACTICE

THE NEED TO COMPARE THEORY WITH PRACTICE

In Chapter V preceding, the idea was developed that the seeming importance of right-to-work legislation stemmed from two causes: (1) a misapplication of location theory, and (2) a failure to synthesize competitive and monopolistic theory and thus adapt it to present day conditions. It was pointed out that least-cost location theory ignores the demand side of the market completely and that reduction of labor costs is only one of many cost reduction possibilities.

It was concluded that one reason that so many businessmen pay only lip service to the right-to-work laws once they are passed, is that they have discovered that when possible, aggressive exploitation of the spatial advantages of the demand side of the market yields greater rewards than a like expenditure of effort on defensive cost reduction tactics in which the right-to-work effort is only a part.

In this chapter is indicated the extent to which this
is so, and the relative importance of right-to-work laws in location decisions.

THE SOUTHERN STUDY

Glenn E. McLaughlin and Stefan Robock, as part of the Committee of the South of the National Planning Association, conducted a study entitled *Why Industry Moves South*¹ investigating the factors influencing the location of manufacturing plants in the South. The study was motivated by a desire to help the South. They conducted interviews with more than fifty manufacturing concerns which were responsible for establishing eighty-eight new plants in the South between the close of World War II and June, 1949, the date of the report.

In Appendix C of this report they describe what they have found to be the general pattern of procedures followed by companies in selecting plant locations. They point out that some businessmen are faced by the problem of plant location infrequently and therefore have little experience in such matters. It is not surprising then that such business location decisions are sometimes poor. Other companies which frequently face the problem of the establishment of new plants

have been able to do an outstanding job. Companies usually handle the problem within their own organization, although some engage outside companies to do all or part of the location work.

The first step is a preliminary analysis of the market. The company conducts market research to get information on the geographical distribution of the prospective customers. It is determined whether the plant will supply an export, national, regional, or local market. The exact location of the market is determined as well as whether demand is concentrated at one point or scattered over a wide area. The company then derives estimates of the quantity of the product it can sell to this market under the various conditions of demand.

In describing this first step, McLaughlin and Robock make these comments.

A new plant will be considered only when market research reveals sufficient demand to support an economic sized plant. . . . In each case there is a definite market territory to be supplied by a new plant and this market is a fixed factor in the location problem. In order to understand any plant location decision the market involved must be known.²

It is important to note that the first step taken in

²Ibid., p. 139.
the general procedure of attacking a plant location problem as actually done in practice is an investigation of the market side of the location problem with all the implications of locational interdependence and monopolistic advantages in a spatial economy which were described previously in Chapter V. In addition it is the most important step because on the basis of this first investigation the decision is made whether to enter the market or stay out. McLaughlin and Robock see this process and describe it, yet they do not recognize it for what it is. To them the locational problem begins with the long run position of the firm when all costs are variable and nothing is fixed. The first step merely defines "the market" which then becomes a fixed factor in the locational problem as it moves to a shorter term point of view. Their analysis of Why Industry Moves South is in reality a least-cost analysis. In the beginning of their study this is made clear by their statement:

Some of the conclusions of this study are contrary to presently accepted notions. Many economists may be surprised by the simple theoretical pattern presented, and many laymen may find it hard to believe that anything but "cheap" labor was important in attracting industry to the South.3

According to McLaughlin and Robock, the second step in

3Ibid., p. 7.
the procedure of locating a plant is a formulation of a detailed list of requirements: land, buildings, materials, labor, transportation facilities, and local services. The minimum requirements of the plant are determined and the location checked to see if these minimum requirements can be met, and what the possibilities for substitution are.

McLaughlin and Robock do not mention it, but undoubtedly costs are part of the considerations in this second step. It is important to note, however, that the emphasis is not on costs, but on the possibility of physical production to meet the expected market.

The third step, according to McLaughlin and Robock, is to check the attributes of possible locations, such as the town's living conditions, recreational facilities, whether it is urban or rural, the possibility of hiring Negroes, women, or other specialized labor, and general community attitudes as they apply to company policies and preferences (this could include a company policy to avoid unionism for non-economic reasons, or if all other conditions were equal to avoid unionism for economic reasons). These considerations may result in the choice of a location which would be considered irrational from an economic point of view. It is explained that from the economic point of view such choices
are luxuries which cannot be afforded in industries that are highly competitive, but that in industries where there is a profit margin (presumably as a result of monopolistic elements) companies can select such locations and still continue to exist.  

THE MICHIGAN INDUSTRIAL MOBILITY STUDY

The Institute for Social Research of the University of Michigan conducted a study in 1950, the purpose of which was to find the best possible way to promote Michigan and to advance the state's industrial position in the nation. Executives of two hundred manufacturing plants were interviewed about their location needs and their attitudes toward location factors. The sample was chosen to eliminate the immobile industries, and to eliminate both the giant corporations and the very small plants with less than twelve employees. Three-fourths of the sample represented Michigan's three major industries: (1) manufacturers of metal products; (2) manufacturers of furniture and fixtures; and (3) the chemical industry. The other fourth was a miscellaneous group of


industries. The results were also weighted by size groups so that they would be representative of the number of persons employed.

Those firms which indicated that they contemplated either a removal from Michigan or the establishing of a branch plant elsewhere were asked their reasons for considering moving. They gave four reasons, all disadvantages of a Michigan location: (1) the desire to be nearer to materials (steel in particular); (2) the need to be nearer markets; (3) to have good transport facilities and low transport costs; and (4) to have a good labor situation (a condition which right-to-work advocates say their proposals encourage and implement). These four main disadvantages seemed to be of about equal importance. Taxes and a desire to decentralize were also mentioned but seemed to be of minor importance.6

The study qualified the above finding by stating that the number of plants considering expansion elsewhere was not large, that the number of plants whose executives were thinking about moving out was small, and the number with actual moving plans was smaller still; and in many cases where high wages or difficulties with organized labor was given as a

6Ibid., p. 18.
reason for moving or expanding elsewhere, the serving of other market areas or getting closer to materials was also given as a reason. The study concluded that, in general, high wages as well as taxes seemed to be of much less importance in actual migration of industry than they were as pervasive irritants. ⁷

The interviewers' major findings concerning the advantages of Michigan which made it a desirable place to locate were: (1) the plant owners wanted to be located first, close to their markets, and second, close to their sources of materials; (2) Michigan was given a high rating on the proximity to market criterion; (3) Michigan had no special advantage in respect to the distance from materials criterion; (4) about one-fourth of the persons interviewed saw an advantage in their labor situation in Michigan, especially in regard to skill, productivity, and attitude—disadvantageous labor situations were largely confined to the City of Detroit and were not state wide; (5) there were two main reasons given why plants had moved to Michigan—the first was to be near their market, usually the automobile industry, and the second was a personal preference for Michigan as a place by the executives making the location decision. ⁸

⁷Ibid., p. 29. ⁸Ibid., p. 30.
The above findings of the Michigan study again disclose actual business practices which seem to confirm the Chamberlinian conclusion. It also seems to indicate that the presence of high labor costs is just one (although perhaps the most important one) of many cost based locational disadvantages considered by a firm, but that positive advantages on the demand side of a location make firms willing to endure the labor cost disadvantage, in which case it remains as a pervasive irritant.

THE NEW YORK AREA STUDY OF JOHN I. GRIFFIN

In 1955 John I. Griffin conducted a study which he called *Industrial Location in the New York Area*\(^9\) for the New York Area Research Council of the City College of New York.

The stated purposes of the study were to interpret industrial patterns, to identify the larger firms in the New York area, to reveal through a questionnaire and interview program attitudes towards locational factors, and finally, to consider some issues of policy concerning these attitudes and the out-migration of industry.

The New York area in the study included fifteen

counties of the New York Metropolitan Region and encompassed 91 per cent of the population, 90 per cent of the manufacturing employment, and 95 per cent of the manufacturing firms in the entire New York Metropolitan Region as defined by the Regional Plan Association. From the Industrial Directory of the New York State Department of Commerce, he was able to identify 2,582 firms employing 100 persons or more. These he classified by county, industry and employment size, and mailed a questionnaire to a systematic 50 per cent sample of these firms. He received a 25 per cent response to his mailing, with the response weighted in the direction of the larger firms.

The questionnaire listed thirty-three locational factors, and the firms were asked to classify these factors as advantages or disadvantages and to rate them in each class in the order of their importance as locational factors in the respective county in which the firm was located.

Griffin scored the answers by county and determined a mean score for each locational factor. He gave each factor listed by a firm as the most important favorable factor a +50, each second most important favorable factor a +40, each third most important favorable factor a +30, each fourth most important favorable factor a +20, each fifth most important
favorable factor a +10, and he did not go any deeper. The unfavorable factors, he scored the same way except to assign negative values, with the most important unfavorable factor scoring -50. The values for each factor were added algebraically and divided by the number of responses to that factor to get a mean score.

Griffin then added these mean scores on all the factors algebraically by counties and got a score for each county. He interpreted the results as indicating, on a comparative basis, the attitudes of the responding firms toward their present locations. A high positive score would indicate that a county was a good location area, while a low or even negative score would indicate that the county was a poor location area.10

Griffin was not interested in the relative importance of the locational factors and so made no attempt to determine this, but if his scores for each locational factor by county are added algebraically, the results will indicate whether the factor is an advantage or a disadvantage, depending upon whether its score is positive or negative. In addition its relative importance can be calculated, at least for the New

10Ibid., pp. 41-78.
York area, by setting the most important factor equal to one and scaling the values of the other factors proportionately.

This has been done for this study in Table VI. From this table it can be seen that the most important factor is the advantage of access to markets. The six most important factors are all advantages of the location, and four of these six pertain to the demand side of the firm's locational problems, access to markets, distribution facilities, railroad facilities, and truck facilities. The other two of the first six advantage factors pertain to the possibility of physical production to meet the expected demand: factory buildings and room for expansion. The pattern seems to correspond to McLaughlin and Robock's findings in the South.

If only those location factors which have an association with unionism are selected for appraisal, it can be seen that there are eight factors more important than wages, which is considered a disadvantage only 35 per cent as important as the most important factor, and seven of those eight factors are location advantages.

Fringe benefits are sometimes considered to be a concomitant of unionism. In the table, the fringe benefits factor has an unfavorable locational importance of only 25.2 percent of the most important factor and it is seventeenth
## TABLE VI

**GRiffin's Location Factors Classified and Rated**

<table>
<thead>
<tr>
<th>No.</th>
<th>Class</th>
<th>Rate</th>
<th>Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>a</td>
<td>1.000</td>
<td>Access to markets</td>
</tr>
<tr>
<td>2.</td>
<td>a</td>
<td>.832</td>
<td>Factory buildings</td>
</tr>
<tr>
<td>3.</td>
<td>a</td>
<td>.466</td>
<td>Distribution facilities</td>
</tr>
<tr>
<td>4.</td>
<td>a</td>
<td>.462</td>
<td>Railroad facilities</td>
</tr>
<tr>
<td>5.</td>
<td>a</td>
<td>.443</td>
<td>Room for expansion</td>
</tr>
<tr>
<td>6.</td>
<td>a</td>
<td>.434</td>
<td>Truck facilities</td>
</tr>
<tr>
<td>7.</td>
<td>d</td>
<td>-.364</td>
<td>Taxes in general</td>
</tr>
<tr>
<td>8.</td>
<td>a</td>
<td>.363</td>
<td>Rent</td>
</tr>
<tr>
<td>9.</td>
<td>d</td>
<td>-.350</td>
<td>Wages</td>
</tr>
<tr>
<td>10.</td>
<td>d</td>
<td>-.313</td>
<td>Parking and traffic conditions</td>
</tr>
<tr>
<td>11.</td>
<td>a</td>
<td>.306</td>
<td>Availability of raw material</td>
</tr>
<tr>
<td>12.</td>
<td>d</td>
<td>-.293</td>
<td>Workmen's compensation costs</td>
</tr>
<tr>
<td>13.</td>
<td>d</td>
<td>-.280</td>
<td>Municipal taxes</td>
</tr>
<tr>
<td>14.</td>
<td>a</td>
<td>.263</td>
<td>Supply of unskilled labor</td>
</tr>
<tr>
<td>15.</td>
<td>d</td>
<td>-.262</td>
<td>Real estate taxes</td>
</tr>
<tr>
<td>16.</td>
<td>a</td>
<td>.261</td>
<td>Supply of skilled labor</td>
</tr>
<tr>
<td>17.</td>
<td>d</td>
<td>-.252</td>
<td>Fringe benefits</td>
</tr>
<tr>
<td>18.</td>
<td>d</td>
<td>-.192</td>
<td>Air pollution</td>
</tr>
<tr>
<td>19.</td>
<td>d</td>
<td>-.175</td>
<td>Local laws and regulations</td>
</tr>
<tr>
<td>20.</td>
<td>d</td>
<td>-.154</td>
<td>Waste disposal</td>
</tr>
<tr>
<td>21.</td>
<td>d</td>
<td>-.141</td>
<td>Attitudes of local government officials</td>
</tr>
<tr>
<td>22.</td>
<td>d</td>
<td>-.138</td>
<td>State taxes</td>
</tr>
<tr>
<td>23.</td>
<td>a</td>
<td>.096</td>
<td>Supply of electric power</td>
</tr>
<tr>
<td>24.</td>
<td>d</td>
<td>-.096</td>
<td>Industrial fuel supplies</td>
</tr>
<tr>
<td>25.</td>
<td>d</td>
<td>-.094</td>
<td>Local union attitudes</td>
</tr>
<tr>
<td>26.</td>
<td>a</td>
<td>.093</td>
<td>Supply of water</td>
</tr>
<tr>
<td>27.</td>
<td>a</td>
<td>.075</td>
<td>Waterway facilities</td>
</tr>
<tr>
<td>28.</td>
<td>d</td>
<td>-.073</td>
<td>Local promotion of industry</td>
</tr>
<tr>
<td>29.</td>
<td>d</td>
<td>-.069</td>
<td>Personal property tax</td>
</tr>
<tr>
<td>30.</td>
<td>d</td>
<td>-.062</td>
<td>Quality of police and fire services</td>
</tr>
<tr>
<td>31.</td>
<td>d</td>
<td>-.057</td>
<td>Labor relations</td>
</tr>
<tr>
<td>32.</td>
<td>a</td>
<td>.035</td>
<td>Airline facilities</td>
</tr>
<tr>
<td>33.</td>
<td>a</td>
<td>.018</td>
<td>Other advantages mentioned</td>
</tr>
</tbody>
</table>

---

in a list of thirty-three locational factors.

Local union attitudes and labor relations are both considered unfavorable locational factors, but they only have a value of 9.4 per cent and 5.7 per cent respectively, of the most important factor, and are twenty-fifth and thirty-first in importance in a field of thirty-three.

Finally, it can be seen that there are several other locational factors, both favorable and unfavorable, which are not related to unionism, but which are at least as important to locational decision making as unionism.

Because the technique of this analysis permits only the most tentative conclusions, the results should be considered only as exemplary and indicative even though they are expressed in numerical terms. They do, however, indicate the relative importance and effects of the factors listed, at least in the New York area from which they were drawn. By a similar technique information could be gained for other areas if the applicability of this particular study is questioned, and such information should be reliable enough for use as a basis for policy in attracting industry.
SUMMARY

In Chapter IV, it was shown that, in effect, many businessmen advocate and support right-to-work legislation, but only pay lip service to the laws once they are passed. In Chapter V, it was shown why this was so. It was shown that the locational theory subscribed to by these businessmen was inadequate, and a more complete theory was outlined in an attempt to better explain their locational decisions and so indicate what the impact of right-to-work laws should be expected to be.

Chapter VI presented empirical evidence supporting the theory outlined in Chapter V. The Southern study of McLaughlin and Robock was presented to show that those researchers had seen the process described in the theory outlined in Chapter V of this study, and they had described it. They did not recognize it for what it was, but their description gave support to the more complete theory of location. The Michigan industrial mobility study was presented and analyzed. This study also indicated that in practice, businessmen did what the more complete locational theory presented in Chapter V had indicated. The New York study of John I. Griffin was presented and figures were developed from that study which indicated quantitatively what the relative impact of right-to-
work legislation could be expected to be upon the locational
decisions of businessmen, at least in the New York area.

It is concluded that, in theory and in practice, the
market considerations are the most important of all the eco-
nomic locating factors to most firms, and the presence or
absence of right-to-work legislation does not have any rele-
vance to the analysis of the market for the products of the
firm. It follows that the presence or absence of right-to-
work legislation cannot be expected to have any direct im-
pact on the locational decision of a firm through its analysis
of the market. The presence or absence of right-to-work laws
may have an indirect impact on the locational decision, how-
ever, if the market analysis discloses favorable enough
conditions to allow the firm to avoid unionism for non-
economic reasons.

If, as both sides to the right-to-work controversy
allege, the right-to-work laws do hinder union organization
and effectiveness and so cause a reduction in costs, this is
only one of many factors affecting the locational decision of
a firm through its analysis of costs. It follows that in the
type of industry where the firm faces a purely competitive
market and where a favorable cost structure is necessary for
profitable operation and even survival, right-to-work laws will have their greatest effect upon the location decision of the firm.
CHAPTER VII

THE EFFECTS OF RIGHT-TO-WORK LAWS ON UNION ORGANIZATION: THE NATIONAL LABOR RELATIONS BOARD STATISTICS

DO RIGHT-TO-WORK LAWS REALLY AFFECT UNION ORGANIZATION?

Earlier in Chapter III of this study, it was established that one of the purposes of right-to-work legislation was to impede union organization and effectiveness. It was stated several times that both the proponents and the opponents assume that this will be the result if the laws are passed.

In Chapters V and VI immediately preceding this chapter, it was shown what the effects of right-to-work laws on industrial growth might be expected to be if it is true, as both sides assume, that right-to-work laws do actually impede union organization and effectiveness and so reduce union bargaining power. It remains to be shown that such is actually the case.

In this chapter some statistics reported by the National Labor Relations Board in their annual reports have been compiled into tables suitable for the purposes of this study and
analyzed to show the relation between right-to-work legislation and union organization, effectiveness and bargaining power as indicated by the filing of unfair labor practices charges and the results of employee representation elections.

UNFAIR LABOR PRACTICE CASES

The National Labor Relations Board has divided unfair labor practice cases brought under the Labor Management Relations Act of 1947, as amended, into six different types of cases. They are listed and described briefly as follows:

CA Cases: A charge of unfair labor practices against an employer under Sec. 8(a). In general, CA cases are those brought against an employer for proscribed anti-union, anti-union employee, activity in the usual employer-employee-union relationship.

CB Cases: A charge of unfair labor practices against a labor organization under Sec. 8(b)(1), (2), (3), (5), (6). In general, CB cases are those brought against a union to prevent discrimination against an individual or an employer or the exacting of money from an employer for work not done or not to be done, in the usual employer-employee-union relationship.
**CC Cases:** A charge of unfair labor practices against a labor organization under Sec. 8(b)(4)(i)(A), (B), (C). In general, CC cases prohibit unions from striking or refusing to handle certain goods or services where the object is to force their own employer or another employer to join an employer's association, or to force another employer to recognize an uncertified union as the representative of his employees.

**CD Cases:** A charge of unfair labor practices against a labor organization under Sec. 8(b)(4)(i)(D). In general, CD cases prohibit one union from striking in order to get work assigned to its members instead of to members of another union. This section prohibits jurisdictional strikes.

**CE Cases:** A charge of unfair labor practices against both a labor organization and an employer under Sec. 8(e). In general, CE cases prohibit union-employer agreements not to use the goods or services of another employer, a type of secondary boycott.

**CP Cases:** A charge of unfair labor practices against a labor organization under Sec. 8(b)(7)(A), (B), (C). In general, where a union has been certified as the representative and may not be challenged under the Act, CP cases prohibit...
picketing by another union where the object is (1) to force an employer to recognize the picketing union as the representative of his employees, or (2) to force the employees to accept the picketing union as their representative.

In its annual reports,¹ the National Labor Relations Board gives the geographical distribution by states of all unfair labor practices cases received during the fiscal year. The series is complete for all CA, CB, CC and CD type cases from 1949, the first full year after the passage of the Act, through 1961. CE and CP type cases originated with the 1959 amendment, and the series only goes back two years. Table VII gives the distribution of all the CA, CB, CC, and CD type cases.

In the discussion which follows, only CA and CB type cases are considered. There are several reasons for this. First, the CA and CB type cases are those which involve direct contact in a union management dispute. CC cases involve indirect action, and CD cases are not related to the problem at hand. Second, the bulk of the cases are of the CA and CB types. CC cases make up an average of less than eight cases per state per year, and CD cases make up an average of

TABLE VII

DISTRIBUTION OF CA, CB, CC, AND CD CASES

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
<th>Per Cent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>CA</td>
<td>65,438</td>
<td>71.5</td>
</tr>
<tr>
<td>CB</td>
<td>19,398</td>
<td>21.2</td>
</tr>
<tr>
<td>CC</td>
<td>5,096</td>
<td>5.6</td>
</tr>
<tr>
<td>CD</td>
<td>1,642</td>
<td>1.8</td>
</tr>
<tr>
<td>Total</td>
<td>91,574</td>
<td>100.0</td>
</tr>
</tbody>
</table>


less than three cases per state per year. The data as to these CC and CD type cases is too discrete to disclose any tendencies from which a meaningful conclusion can be drawn, and too small to affect conclusions based on CA and CB type cases alone.

Table VIII shows the geographic distribution of CA and CB unfair labor practices cases by number and as a per cent of the total CA and CB cases for each state. Alaska and Hawaii were excluded to avoid introducing any aberration resulting from remotesness or new statehood. Washington, D. C. was included because it is geographically integrated but
### TABLE VIII

**CA AND CB UNFAIR LABOR PRACTICE CASES (IN 48 STATES AND DISTRICT OF COLUMBIA) BY NUMBER AND PER CENT 1949-1961**

<table>
<thead>
<tr>
<th>State</th>
<th>Total</th>
<th>CA</th>
<th>Per Cent CA</th>
<th>CB</th>
<th>Per Cent CB</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>84,836</td>
<td>65,438</td>
<td>77.0</td>
<td>19,398</td>
<td>22.8</td>
</tr>
<tr>
<td>Maine</td>
<td>276</td>
<td>237</td>
<td>86.0</td>
<td>39</td>
<td>22.8</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>170</td>
<td>155</td>
<td>91.2</td>
<td>15</td>
<td>8.8</td>
</tr>
<tr>
<td>Vermont</td>
<td>116</td>
<td>111</td>
<td>95.8</td>
<td>5</td>
<td>4.3</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>2,480</td>
<td>2,016</td>
<td>81.0</td>
<td>464</td>
<td>18.7</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>405</td>
<td>316</td>
<td>78.0</td>
<td>89</td>
<td>22.0</td>
</tr>
<tr>
<td>Connecticut</td>
<td>917</td>
<td>787</td>
<td>85.7</td>
<td>130</td>
<td>14.3</td>
</tr>
<tr>
<td>New York</td>
<td>11,542</td>
<td>8,183</td>
<td>71.0</td>
<td>3,359</td>
<td>29.2</td>
</tr>
<tr>
<td>New Jersey</td>
<td>3,321</td>
<td>2,498</td>
<td>75.1</td>
<td>823</td>
<td>24.8</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>5,029</td>
<td>3,577</td>
<td>73.1</td>
<td>1,352</td>
<td>26.8</td>
</tr>
<tr>
<td>Ohio</td>
<td>4,624</td>
<td>3,632</td>
<td>78.2</td>
<td>992</td>
<td>21.5</td>
</tr>
<tr>
<td>Indiana</td>
<td>2,736</td>
<td>2,108</td>
<td>77.0</td>
<td>628</td>
<td>22.8</td>
</tr>
<tr>
<td>Illinois</td>
<td>5,362</td>
<td>4,104</td>
<td>76.7</td>
<td>1,258</td>
<td>23.4</td>
</tr>
<tr>
<td>Michigan</td>
<td>4,136</td>
<td>3,324</td>
<td>80.5</td>
<td>812</td>
<td>19.6</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>987</td>
<td>869</td>
<td>88.0</td>
<td>118</td>
<td>12.0</td>
</tr>
<tr>
<td>Iowa</td>
<td>415</td>
<td>380</td>
<td>91.5</td>
<td>35</td>
<td>8.4</td>
</tr>
<tr>
<td>Minnesota</td>
<td>565</td>
<td>480</td>
<td>84.8</td>
<td>85</td>
<td>15.1</td>
</tr>
<tr>
<td>Missouri</td>
<td>3,176</td>
<td>2,524</td>
<td>79.5</td>
<td>652</td>
<td>20.5</td>
</tr>
<tr>
<td>North Dakota</td>
<td>97</td>
<td>94</td>
<td>97.0</td>
<td>3</td>
<td>3.1</td>
</tr>
<tr>
<td>South Dakota</td>
<td>62</td>
<td>62</td>
<td>100.0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Nebraska</td>
<td>451</td>
<td>380</td>
<td>84.2</td>
<td>71</td>
<td>15.8</td>
</tr>
<tr>
<td>Kansas</td>
<td>616</td>
<td>527</td>
<td>85.5</td>
<td>89</td>
<td>14.5</td>
</tr>
<tr>
<td>Delaware</td>
<td>180</td>
<td>137</td>
<td>76.2</td>
<td>43</td>
<td>23.8</td>
</tr>
<tr>
<td>Maryland</td>
<td>976</td>
<td>719</td>
<td>73.6</td>
<td>257</td>
<td>26.4</td>
</tr>
<tr>
<td>Dist. of Col.</td>
<td>333</td>
<td>248</td>
<td>74.6</td>
<td>85</td>
<td>25.5</td>
</tr>
<tr>
<td>Virginia</td>
<td>943</td>
<td>852</td>
<td>90.4</td>
<td>91</td>
<td>9.7</td>
</tr>
<tr>
<td>West Virginia</td>
<td>998</td>
<td>714</td>
<td>71.4</td>
<td>284</td>
<td>28.4</td>
</tr>
<tr>
<td>North Carolina</td>
<td>1,571</td>
<td>1,483</td>
<td>94.2</td>
<td>88</td>
<td>5.6</td>
</tr>
<tr>
<td>So. Carolina</td>
<td>432</td>
<td>388</td>
<td>89.7</td>
<td>44</td>
<td>10.2</td>
</tr>
<tr>
<td>Georgia</td>
<td>1,926</td>
<td>1,484</td>
<td>77.0</td>
<td>442</td>
<td>23.0</td>
</tr>
<tr>
<td>Florida</td>
<td>3,574</td>
<td>2,890</td>
<td>80.8</td>
<td>684</td>
<td>19.1</td>
</tr>
<tr>
<td>Kentucky</td>
<td>1,289</td>
<td>898</td>
<td>69.5</td>
<td>391</td>
<td>30.4</td>
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<tr>
<td>Tennessee</td>
<td>2,293</td>
<td>1,786</td>
<td>78.0</td>
<td>507</td>
<td>22.0</td>
</tr>
<tr>
<td>Alabama</td>
<td>1,598</td>
<td>1,189</td>
<td>74.8</td>
<td>409</td>
<td>25.2</td>
</tr>
<tr>
<td>State</td>
<td>Total</td>
<td>CA</td>
<td>Per Cent CA</td>
<td>CB</td>
<td>Per Cent CB</td>
</tr>
<tr>
<td>------------</td>
<td>-------</td>
<td>-----</td>
<td>-------------</td>
<td>-----</td>
<td>-------------</td>
</tr>
<tr>
<td>Mississippi</td>
<td>497</td>
<td>431</td>
<td>86.8</td>
<td>66</td>
<td>13.2</td>
</tr>
<tr>
<td>Arkansas</td>
<td>593</td>
<td>535</td>
<td>90.2</td>
<td>58</td>
<td>9.8</td>
</tr>
<tr>
<td>Louisiana</td>
<td>1,691</td>
<td>1,237</td>
<td>73.1</td>
<td>454</td>
<td>26.8</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>523</td>
<td>472</td>
<td>90.2</td>
<td>51</td>
<td>9.8</td>
</tr>
<tr>
<td>Texas</td>
<td>3,092</td>
<td>2,514</td>
<td>81.2</td>
<td>578</td>
<td>18.7</td>
</tr>
<tr>
<td>Montana</td>
<td>282</td>
<td>213</td>
<td>75.5</td>
<td>69</td>
<td>24.5</td>
</tr>
<tr>
<td>Idaho</td>
<td>362</td>
<td>331</td>
<td>91.5</td>
<td>31</td>
<td>8.6</td>
</tr>
<tr>
<td>Wyoming</td>
<td>174</td>
<td>145</td>
<td>83.2</td>
<td>29</td>
<td>16.7</td>
</tr>
<tr>
<td>Colorado</td>
<td>1,047</td>
<td>897</td>
<td>85.6</td>
<td>150</td>
<td>14.3</td>
</tr>
<tr>
<td>New Mexico</td>
<td>619</td>
<td>471</td>
<td>76.2</td>
<td>148</td>
<td>23.8</td>
</tr>
<tr>
<td>Arizona</td>
<td>409</td>
<td>329</td>
<td>80.5</td>
<td>80</td>
<td>19.6</td>
</tr>
<tr>
<td>Utah</td>
<td>173</td>
<td>150</td>
<td>86.7</td>
<td>23</td>
<td>13.3</td>
</tr>
<tr>
<td>Nevada</td>
<td>104</td>
<td>76</td>
<td>73.0</td>
<td>28</td>
<td>26.9</td>
</tr>
<tr>
<td>Washington</td>
<td>2,000</td>
<td>1,414</td>
<td>70.7</td>
<td>586</td>
<td>29.3</td>
</tr>
<tr>
<td>Oregon</td>
<td>1,288</td>
<td>1,050</td>
<td>81.4</td>
<td>238</td>
<td>18.5</td>
</tr>
<tr>
<td>California</td>
<td>8,386</td>
<td>5,922</td>
<td>70.8</td>
<td>2,464</td>
<td>29.3</td>
</tr>
</tbody>
</table>

\(^a\)Right-to-work states.

\(^b\)CA cases above the National per cent.

Federally administered, and it was desired to see if Federal control made any difference.

From an examination of Table VIII it can be seen that fifteen of the right-to-work states are above the national average in the ratio of CA cases to the total CA and CB cases. Two right-to-work states are equal to the national average, and two are below the national average. This is in contrast to sixteen non-right-to-work states being above the national average while fifteen fall below. This would seem to indicate that there is some relationship between the enactment of right-to-work laws and the ratio of the number of unfair labor practices cases brought against employers to the number of unfair labor practices cases brought against unions.

There are several possibilities. The proportionate number of CA cases in a state could be higher than the national average both before and after the passage of right-to-work laws, in which case it would be a reflection of a relatively more hostile anti-union attitude on the part of management in that state.

The proportionate number of CA cases in a state could increase over the national average after the passage of right-to-work laws in that state. The change in proportion could be caused by a relative increase in CA cases denoting a more
active hostile anti-union attitude on the part of management, or the change could be caused by a relative decrease in CB cases denoting a less militant attitude on the part of the unions.

The proportionate number of CA cases in a state could decrease compared to the national average after the passage of right-to-work laws in a state. This change in proportion could be caused by a relative decrease in CA cases signifying a less hostile anti-union attitude on the part of management, or there could be a relative increase in CB cases denoting more militant union action.

Finally, the total of CA plus CB cases could increase or decrease in proportion to the national average, signifying a disruption or a furtherance of industrial peace.

Statistics with which to check the above possibilities are available for only seven states: Nevada, Alabama, South Carolina, Mississippi, Utah, Indiana, and Kansas. They are shown in Table IX below.

In Table IX the figures for each state and for the United States are divided according to the end of the year in which right-to-work laws became effective. This is shown as a before and after division. It can be seen from the column entitled "Per Cent of U.S. Total" that in four of the seven
**TABLE IX**

CA AND CB UNFAIR LABOR PRACTICES CASES IN SEVEN RIGHT-TO-WORK STATES, 1949-1961

<table>
<thead>
<tr>
<th></th>
<th>Total CA &amp; CB</th>
<th>Per Cent of U. S. Total</th>
<th>CA</th>
<th>CB</th>
<th>Per Cent CA</th>
<th>Relative Per Cent Change</th>
<th>State CA Per Cent</th>
<th>State CB Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. to 1952</td>
<td>19,909</td>
<td></td>
<td>16,508</td>
<td>3,401</td>
<td>82.9</td>
<td>-11.2</td>
<td>.0304</td>
<td>.0880</td>
</tr>
<tr>
<td>U.S. from 1953</td>
<td>64,927</td>
<td></td>
<td>48,930</td>
<td>15,997</td>
<td>75.5</td>
<td></td>
<td>.145</td>
<td>.156</td>
</tr>
<tr>
<td>Nev. to 1952</td>
<td>8</td>
<td>.0403</td>
<td>5</td>
<td>3</td>
<td>62.5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nev. from 1953</td>
<td>96</td>
<td>.148</td>
<td>71</td>
<td>25</td>
<td>73.9</td>
<td>+18.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. to 1953</td>
<td>24,915</td>
<td></td>
<td>20,738</td>
<td>4,177</td>
<td>83.1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. from 1954</td>
<td>59,921</td>
<td></td>
<td>44,700</td>
<td>15,221</td>
<td>74.6</td>
<td>-10.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ala. to 1953</td>
<td>301</td>
<td>.121</td>
<td>257</td>
<td>44</td>
<td>85.5</td>
<td>1.24</td>
<td>1.06</td>
<td></td>
</tr>
<tr>
<td>Ala. from 1954</td>
<td>1,297</td>
<td>.216</td>
<td>932</td>
<td>365</td>
<td>72.0</td>
<td>-15.8</td>
<td>2.08</td>
<td>2.40</td>
</tr>
<tr>
<td>U.S. to 1954</td>
<td>30,321</td>
<td></td>
<td>24,941</td>
<td>5,380</td>
<td>82.2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. from 1955</td>
<td>54,515</td>
<td></td>
<td>40,497</td>
<td>14,018</td>
<td>74.2</td>
<td>- 9.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.C. to 1954</td>
<td>174</td>
<td>.572</td>
<td>164</td>
<td>10</td>
<td>94.2</td>
<td>.658</td>
<td>.186</td>
<td></td>
</tr>
<tr>
<td>S.C. from 1955</td>
<td>258</td>
<td>.473</td>
<td>224</td>
<td>34</td>
<td>86.7</td>
<td>- 8.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miss. to 1954</td>
<td>157</td>
<td>.517</td>
<td>143</td>
<td>14</td>
<td>91.1</td>
<td>.572</td>
<td>.262</td>
<td></td>
</tr>
<tr>
<td>Miss. from 1955</td>
<td>340</td>
<td>.623</td>
<td>288</td>
<td>52</td>
<td>85.0</td>
<td>- 6.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. to 1956</td>
<td>35,936</td>
<td></td>
<td>29,199</td>
<td>6,737</td>
<td>81.2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. from 1957</td>
<td>48,900</td>
<td></td>
<td>36,239</td>
<td>12,661</td>
<td>74.1</td>
<td>- 8.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah to 1956</td>
<td>80</td>
<td>.223</td>
<td>69</td>
<td>11</td>
<td>86.2</td>
<td>.237</td>
<td>.164</td>
<td></td>
</tr>
<tr>
<td>Utah from 1957</td>
<td>93</td>
<td>.190</td>
<td>81</td>
<td>12</td>
<td>87.1</td>
<td>+ 1.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. to 1957</td>
<td>45,246</td>
<td></td>
<td>36,164</td>
<td>9,082</td>
<td>79.8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. from 1958</td>
<td>39,590</td>
<td></td>
<td>29,274</td>
<td>10,316</td>
<td>73.8</td>
<td>- 7.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ind. to 1957</td>
<td>1,419</td>
<td>3.13</td>
<td>1,126</td>
<td>293</td>
<td>79.3</td>
<td>3.12</td>
<td>3.23</td>
<td></td>
</tr>
<tr>
<td>Ind. from 1958</td>
<td>1,317</td>
<td>3.33</td>
<td>982</td>
<td>335</td>
<td>74.7</td>
<td>- 5.8</td>
<td>3.38</td>
<td>3.35</td>
</tr>
</tbody>
</table>

144
<table>
<thead>
<tr>
<th></th>
<th>Total of U. S. CA &amp; CB</th>
<th>CA</th>
<th>CB</th>
<th>Per Cent of U. S.</th>
<th>CA</th>
<th>CB</th>
<th>Per Cent of U. S.</th>
<th>Relative Per Cent Change</th>
<th>State CA</th>
<th>Per Cent</th>
<th>State CB</th>
<th>Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. to 1958</td>
<td>53,512</td>
<td>42,024</td>
<td>11,488</td>
<td>78.4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. from 1959</td>
<td>31,324</td>
<td>23,414</td>
<td>7,910</td>
<td>74.8</td>
<td></td>
<td></td>
<td></td>
<td>- 4.6</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kan. to 1958</td>
<td>409</td>
<td>.765</td>
<td>356</td>
<td>87.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>.843</td>
<td>.462</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kan. from 1959</td>
<td>207</td>
<td>.662</td>
<td>171</td>
<td>82.5</td>
<td></td>
<td></td>
<td></td>
<td>- 5.2</td>
<td>.730</td>
<td>.455</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

states, unfair labor practices cases of both types became a greater proportion of the national total after the passage of right-to-work laws, and in three of the states it became less. It cannot be shown from this that right-to-work laws disrupted or furthered industrial peace.

From the column entitled "Per Cent CA" it can be seen that with the exception of Nevada and Utah, the two states with a very small number of cases, the percentage of CA type cases declined in the national figures and five of the states shown followed the general pattern. Each state's CA cases were figured as a per cent of the national total of CA cases both before and after right-to-work legislation, and each state's CB cases were figured as a per cent of the national total CB cases both before and after. This was done in an attempt to detect any kind of pattern. None was detected; in fact, the two states that did not follow the national pattern in the "Relative Per Cent Change" departed for different reasons: Nevada because of an excess of CA cases and Utah because of a deficiency of CB cases. In Table IX, no change traceable to the passage of right-to-work laws could be found.

In this analysis of Unfair Labor Practices Cases there was discovered just one tendency which was noted in Table
VIII. In the right-to-work states, taken as a whole, CA cases constitute 81.8 per cent of the total of both CA and CB cases. This is higher than the national average of 77.0 per cent. The passage of right-to-work laws seems not to affect this tendency. This suggests the pre-existence of an anti-union attitude in those states which perhaps contributed toward the enactment of the right-to-work proposals into law.

EMPLOYEE REPRESENTATION ELECTION RESULTS

Under the National Labor Relations Act of 1935 and the Labor Management Relations Act of 1947 and the 1959 Amendments, there is a provision for a government supervised election in which employees can elect to be represented by a union or not to be represented by a union. They also can choose the union they want as their representative. The majority choice prevails and if a union is selected it becomes the exclusive representative of all employees in the bargaining unit. The National Labor Relations Board is charged with the conducting of these elections.

In its annual reports, the National Labor Relations Board gives the geographical distribution by states of all elections conducted by it during the fiscal year with the results of those elections. The series is complete for the
years 1946 through 1961 for the breakdown showing whether the employees chose to be represented by a union or chose not to be represented by a union. Table X below shows the number of elections held by states (Alaska and Hawaii excluded and Washington D. C. included, for the reasons given in the previous discussion of unfair labor practices cases), the number of these elections which resulted in a decision of employees not to be represented by a union, and the percentage of the total number of elections which resulted in a decision not to be represented by a union.

From an examination of Table X it can be seen that in fifteen of the right-to-work states a proportionately greater number of representation elections resulted in a choice of no union than the national average, and in four of the right-to-work states a proportionately smaller number of these elections resulted in a choice of no union. This is in contrast to the results in non-right-to-work states where in thirteen states the decision not to be represented by a union was higher than the national average while one was the same as the national average and sixteen were below the national average. This would seem to indicate that there is some relationship between the enactment of right-to-work laws and the percentage of representation elections which result in
### TABLE X

NLRB REPRESENTATION ELECTIONS AND RESULTS (IN 48 STATES AND DISTRICT OF COLUMBIA), 1946-1961

<table>
<thead>
<tr>
<th>State</th>
<th>Total</th>
<th>No Union</th>
<th>Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>85,152</td>
<td>27,166</td>
<td>31.9</td>
</tr>
<tr>
<td>Maine</td>
<td>422</td>
<td>165</td>
<td>39.0</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>374</td>
<td>156</td>
<td>41.7</td>
</tr>
<tr>
<td>Vermont</td>
<td>218</td>
<td>84</td>
<td>38.4</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>3,277</td>
<td>995</td>
<td>30.4</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>595</td>
<td>189</td>
<td>31.8</td>
</tr>
<tr>
<td>Connecticut</td>
<td>1,171</td>
<td>389</td>
<td>33.3</td>
</tr>
<tr>
<td>New York</td>
<td>8,043</td>
<td>2,113</td>
<td>26.3</td>
</tr>
<tr>
<td>New Jersey</td>
<td>3,646</td>
<td>967</td>
<td>26.5</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>5,440</td>
<td>1,674</td>
<td>30.8</td>
</tr>
<tr>
<td>Ohio</td>
<td>6,133</td>
<td>1,938</td>
<td>31.5</td>
</tr>
<tr>
<td>Indiana</td>
<td>2,654</td>
<td>911</td>
<td>34.3</td>
</tr>
<tr>
<td>Illinois</td>
<td>5,356</td>
<td>1,702</td>
<td>31.8</td>
</tr>
<tr>
<td>Michigan</td>
<td>4,164</td>
<td>1,281</td>
<td>30.8</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>1,963</td>
<td>528</td>
<td>26.8</td>
</tr>
<tr>
<td>Iowa</td>
<td>1,135</td>
<td>338</td>
<td>29.8</td>
</tr>
<tr>
<td>Minnesota</td>
<td>1,850</td>
<td>483</td>
<td>26.1</td>
</tr>
<tr>
<td>Missouri</td>
<td>3,579</td>
<td>897</td>
<td>24.9</td>
</tr>
<tr>
<td>No. Dakota</td>
<td>307</td>
<td>101</td>
<td>32.8</td>
</tr>
<tr>
<td>So. Dakota</td>
<td>210</td>
<td>75</td>
<td>35.6</td>
</tr>
<tr>
<td>Nebraska</td>
<td>673</td>
<td>268</td>
<td>39.8</td>
</tr>
<tr>
<td>Kansas</td>
<td>1,001</td>
<td>313</td>
<td>31.3</td>
</tr>
<tr>
<td>Delaware</td>
<td>190</td>
<td>50</td>
<td>26.3</td>
</tr>
<tr>
<td>Maryland</td>
<td>1,207</td>
<td>482</td>
<td>39.8</td>
</tr>
<tr>
<td>Dist. of Columbia</td>
<td>494</td>
<td>163</td>
<td>33.3</td>
</tr>
<tr>
<td>Virginia</td>
<td>1,239</td>
<td>435</td>
<td>35.0</td>
</tr>
<tr>
<td>West Virginia</td>
<td>731</td>
<td>272</td>
<td>33.8</td>
</tr>
<tr>
<td>No. Carolina</td>
<td>1,161</td>
<td>534</td>
<td>45.9</td>
</tr>
<tr>
<td>So. Carolina</td>
<td>345</td>
<td>137</td>
<td>39.8</td>
</tr>
<tr>
<td>Georgia</td>
<td>1,378</td>
<td>550</td>
<td>39.6</td>
</tr>
<tr>
<td>Florida</td>
<td>1,560</td>
<td>629</td>
<td>40.3</td>
</tr>
<tr>
<td>Kentucky</td>
<td>1,246</td>
<td>477</td>
<td>38.2</td>
</tr>
<tr>
<td>Tennessee</td>
<td>1,773</td>
<td>701</td>
<td>39.5</td>
</tr>
<tr>
<td>Alabama</td>
<td>1,015</td>
<td>394</td>
<td>38.8</td>
</tr>
<tr>
<td>Mississippi</td>
<td>479</td>
<td>203</td>
<td>42.4</td>
</tr>
<tr>
<td>Arkansas</td>
<td>898</td>
<td>303</td>
<td>33.8</td>
</tr>
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</table>
TABLE X (CONTINUED)

<table>
<thead>
<tr>
<th>State</th>
<th>Total</th>
<th>No Union</th>
<th>Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Louisiana</td>
<td>1,184</td>
<td>418</td>
<td>35.4</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>913</td>
<td>379</td>
<td>41.5</td>
</tr>
<tr>
<td>Texas</td>
<td>3,389</td>
<td>1,180</td>
<td>35.0</td>
</tr>
<tr>
<td>Montana</td>
<td>241</td>
<td>77</td>
<td>31.9</td>
</tr>
<tr>
<td>Idaho</td>
<td>383</td>
<td>107</td>
<td>27.8</td>
</tr>
<tr>
<td>Wyoming</td>
<td>161</td>
<td>61</td>
<td>37.8</td>
</tr>
<tr>
<td>Colorado</td>
<td>1,332</td>
<td>411</td>
<td>30.8</td>
</tr>
<tr>
<td>New Mexico</td>
<td>414</td>
<td>127</td>
<td>30.7</td>
</tr>
<tr>
<td>Arizona</td>
<td>526</td>
<td>143</td>
<td>27.3</td>
</tr>
<tr>
<td>Utah</td>
<td>323</td>
<td>121</td>
<td>37.4</td>
</tr>
<tr>
<td>Nevada</td>
<td>101</td>
<td>17</td>
<td>17.0</td>
</tr>
<tr>
<td>Washington</td>
<td>1,310</td>
<td>297</td>
<td>22.6</td>
</tr>
<tr>
<td>Oregon</td>
<td>1,364</td>
<td>439</td>
<td>32.0</td>
</tr>
<tr>
<td>California</td>
<td>7,475</td>
<td>2,482</td>
<td>33.3</td>
</tr>
</tbody>
</table>

a Right-to-work states.

b No union results above the national average.

a decision not to be represented by a union.

There are several possibilities. The proportion of no-union decisions could be higher than the national average both before and after the passage of right-to-work laws, in which case it would be a reflection of an existing social attitude in these states towards unionism.

The proportion of no-union decisions in a state could increase after the passage of right-to-work legislation. This would be an indication that right-to-work laws do hinder union organization.

The proportion of no-union decisions in a state could decrease after the passage of right-to-work legislation. This might be an indication that employee response to union organization efforts was more favorable perhaps as a reaction to an anti-union management, or it might indicate a more cautious attitude on the part of unions in not asking for elections in cases where a loss was indicated as the probable outcome. A change in the proportionate number of total cases might serve to indicate which of these was the case.

Statistics with which to check the above possibilities are available for only seven states—Nevada, Alabama, South Carolina, Mississippi, Utah, Indiana, and Kansas. They are analyzed in Table XI.
TABLE XI

REPRESENTATION ELECTION RESULTS IN SEVEN RIGHT TO WORK STATES, 1946-1961

<table>
<thead>
<tr>
<th></th>
<th>Elections</th>
<th>Per Cent of U. S. Total</th>
<th>No-Union</th>
<th>Per Cent No-Union</th>
<th>Relative Per Cent Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. to 1952</td>
<td>39,331</td>
<td></td>
<td>10,176</td>
<td>25.8</td>
<td></td>
</tr>
<tr>
<td>U.S. from 1953</td>
<td>45,821</td>
<td></td>
<td>16,990</td>
<td>37.1</td>
<td>+43.7</td>
</tr>
<tr>
<td>Nev. to 1952</td>
<td>39</td>
<td>0.0996</td>
<td>6</td>
<td>15.4</td>
<td></td>
</tr>
<tr>
<td>Nev. from 1953</td>
<td>63</td>
<td>0.137</td>
<td>11</td>
<td>17.5</td>
<td>+13.6</td>
</tr>
<tr>
<td>U.S. to 1953</td>
<td>45,185</td>
<td></td>
<td>11,834</td>
<td>26.2</td>
<td></td>
</tr>
<tr>
<td>U.S. from 1954</td>
<td>39,967</td>
<td></td>
<td>15,332</td>
<td>38.3</td>
<td>+46.2</td>
</tr>
<tr>
<td>Ala. to 1953</td>
<td>579</td>
<td>1.28</td>
<td>185</td>
<td>32.0</td>
<td></td>
</tr>
<tr>
<td>Ala. from 1954</td>
<td>436</td>
<td>1.09</td>
<td>209</td>
<td>48.0</td>
<td>+50.0</td>
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<tr>
<td>U.S. to 1954</td>
<td>49,692</td>
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<td>13,396</td>
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<tr>
<td>U.S. from 1955</td>
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<td>13,770</td>
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<tr>
<td>S.C. to 1954</td>
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<td>0.461</td>
<td>80</td>
<td>34.8</td>
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<tr>
<td>S.C. from 1955</td>
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<td>0.328</td>
<td>57</td>
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<tr>
<td>Miss. to 1954</td>
<td>308</td>
<td>0.620</td>
<td>112</td>
<td>36.3</td>
<td></td>
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<tr>
<td>Miss. from 1955</td>
<td>171</td>
<td>0.482</td>
<td>91</td>
<td>53.3</td>
<td>+46.8</td>
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<td>U.S. to 1956</td>
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<td></td>
<td>14,738</td>
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</tr>
<tr>
<td>U.S. from 1957</td>
<td>31,328</td>
<td></td>
<td>12,428</td>
<td>39.9</td>
<td>+46.2</td>
</tr>
<tr>
<td>Utah to 1956</td>
<td>195</td>
<td>0.362</td>
<td>60</td>
<td>30.7</td>
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<tr>
<td>Utah from 1957</td>
<td>128</td>
<td>0.408</td>
<td>61</td>
<td>47.6</td>
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<tr>
<td>U.S. to 1957</td>
<td>63,317</td>
<td></td>
<td>18,192</td>
<td>28.7</td>
<td></td>
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<tr>
<td>U.S. from 1958</td>
<td>21,835</td>
<td></td>
<td>8,974</td>
<td>41.0</td>
<td>+42.8</td>
</tr>
<tr>
<td>Ind. to 1957</td>
<td>2,064</td>
<td>3.25</td>
<td>665</td>
<td>32.3</td>
<td></td>
</tr>
<tr>
<td>Ind. from 1958</td>
<td>590</td>
<td>2.70</td>
<td>246</td>
<td>41.7</td>
<td>+29.1</td>
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152
### TABLE XI (CONTINUED)

<table>
<thead>
<tr>
<th>Location</th>
<th>Per Cent of U. S. Total</th>
<th>No-Union</th>
<th>Per Cent No-Union</th>
<th>Relative Per Cent Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. to 1958</td>
<td>67,588</td>
<td>19,879</td>
<td>29.4</td>
<td></td>
</tr>
<tr>
<td>U.S. from 1959</td>
<td>17,564</td>
<td>7,287</td>
<td>41.4</td>
<td>+41.0</td>
</tr>
<tr>
<td>Kan. to 1958</td>
<td>810</td>
<td>1.20</td>
<td>236</td>
<td>29.2</td>
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<tr>
<td>Kan. from 1959</td>
<td>191</td>
<td>1.09</td>
<td>77</td>
<td>40.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>+38.0</td>
</tr>
</tbody>
</table>

From an examination of Table XI it can be seen that the relative number of elections resulting in a choice of no-union by the employees is increasing in the United States. That is, the percentage of no-union elections results is higher in every case for the more recent years. This is true also for the seven right-to-work states shown. Further, from the "Relative Per Cent Change" column it can be seen that the right-to-work states as a whole are following the national pattern with four of them increasing at a slightly slower rate than the national rate and three of them increasing at a slightly faster rate.

Table XI shows that unions win proportionately more elections in Nevada and Kansas than the national average and they lose proportionately more in Alabama, South Carolina, Mississippi, Utah, and Indiana.

An examination of the column "Per Cent of U. S. Total" discloses that in all the seven states except Nevada and Utah, the total number of representation elections declined as a proportion of the national total after the passage of right-to-work laws. Remembering that in Table IX in the "Per Cent CA" column, it was also Nevada and Utah that did not follow the national pattern of a declining percentage of CA type unfair labor practices cases. A search was made for a
reason for this apparent correlation. None was found.

In this analysis of representation elections there was just one tendency discovered which was noted in Table X. Right-to-work states, taken as a whole, have an average of 36.5 per cent of their representation elections result in a choice of no-union. This is higher than the national average of 31.9 per cent. The passage of right-to-work laws seems not to affect this tendency. It might be concluded that this indicates the pre-existence of an anti-union attitude in those states which perhaps contributed toward the enactment of the right-to-work proposals into law.

SUMMARY

Chapter VII is an attempt to find an indication of some effect of the right-to-work laws on union organization and industrial peace in the states which have enacted them. In this chapter the statistics of the National Labor Relations Board concerning unfair labor practices cases and concerning representation election results were compiled into tables and analyzed. These series were available from 1949 through 1961 for the unfair labor practices cases and from 1946 through 1961 for the representation elections results. These series showed the geographical distribution by state,
so that each state could be compared with each other state and the national total for the time period covered, but the time period only went back far enough for a before and after analysis of seven right-to-work states.

This analysis disclosed that of the total cases brought against employers and against unions for unfair labor practices of the CA and CB types, in right-to-work states the proportion of the CA type (cases against employers) tended to be significantly higher than the national average, both before and after the passage of right-to-work laws, and in non-right-to-work states it did not.

It further disclosed that representation elections in right-to-work states tended to have a significantly higher proportion of no-union results than the national average, both before and after the passage of right-to-work laws, and in non-right-to-work states they did not.

The analysis failed to disclose any significant change as the result of the passage of right-to-work laws, but it did expose, in the total social environment, a pre-existing attitude in the states which now have right-to-work laws more antagonistic to union organization and activity than in non-right-to-work states. Right-to-work laws are just one manifestation of this attitude.
CHAPTER VIII

THE EFFECTS OF RIGHT TO WORK LAWS ON UNION ORGANIZATION: THE DIRECT INQUIRY

THE NEED FOR DIRECT INQUIRY

This study was undertaken with the knowledge that there would be little published factual material regarding actual effects of right-to-work laws on union organization and that direct inquiry would be necessary. The following brief review of some of the existing published material shows where direct inquiry is most necessary for the purposes of this study.

In his study on Texas labor relations, Meyers concluded that in the traditional domain of the closed shop the passage of the right-to-work statute in Texas had a minimal effect, but he admitted that, peripherally, the statute had had some effect in preventing the organization of certain unorganized crafts, particularly common laborers, when they worked beside organized trades.\(^1\) In the area of new union

\(^1\)Meyers, *op. cit.*, p. 20.
organization, he also concluded that the right-to-work statute had had minimal effect, in spite of the fact that many unionists and employers argued that a change had taken place because of the law. Again, he admitted that the general area in which the law might function meaningfully would encompass about six per cent of the total eligible employees in organized manufacturing bargaining units.²

Meyers also conceded that there were two indirect effects of the statute which concerned industrial peace: (1) the statute may be used to emphasize an anti-union social atmosphere,³ and (2) it has made the unions not more responsible, but more responsive to the demands of a tiny vocal minority of the membership.⁴ It remained his feeling, however, that the effects of "Right-To-Work" proposals on unions are minimal and are only a symbol because they mean so little.⁵

Beginning in 1913, there has existed in England a set of circumstances in which the effects of worker inertia can be seen in the membership of the Labor Party. It is the English "contracting out" and "contracting in" experience.

² Ibid., pp. 20-28.  
³ Ibid., p. 21.  
⁴ Ibid., p. 41.  
⁵ Ibid., p. 45.
An analogy can be drawn between the effects of worker inertia on the membership of the Labor Party in England under "contracting out" and "contracting in" conditions and the effects of worker inertia on the membership of unions in the United States under compulsory unionism and right-to-work conditions.

Under the English 1913 Trade Disputes and Trade Unions Act unionists who had party allegiances other than to the Labor Party or who for other reasons did not wish to contribute to the political funds of their unions were able to "contract out" of paying the political levy. The 1927 Act changed this so that members of unions who wished to pay the political levy had to "contract in" by signing a written undertaking to this effect. The 1927 Act was repealed in 1946, and the practice returned to "contracting out."

In 1920, under conditions of "contracting out," 52 per cent of the total membership of the trade unions were members of the Labor Party. In 1927, the last year of "contracting out," it was over 65 per cent. In 1928, under conditions of "contracting in," it fell to just under 42 per cent. By 1946, the last year of "contracting in," it fell to just under 30 per cent. In 1947, the first year after the return to "contracting out," the per cent of the total membership of the trade unions who were members of the Labor Party rose to more
than 48 per cent, and by 1949 it had risen to 53 per cent.\(^6\)

The inference raised by this analogy is that right-to-work laws by creating voluntary unionism can be expected to have more than a "minimal" effect on union organization, as suggested by Meyers, and that this needs investigating by the direct inquiry of this study.

There is one other published work, an article by James W. Kuhn,\(^7\) critical of Meyers' conclusions, which helps outline the scope of the needed inquiry. Kuhn points out two areas in which right-to-work laws may be expected to have more than "minimal" effects. The first is the voluntary recruitment of members. He finds that American workers have often displayed little or no initiative in taking out and maintaining union membership. There is evidence that some unions find the union shop not only a useful, but a necessary, device for recruiting many workers whose voluntary and eager support is lacking. Even the results of the union shop elections held under the Taft-Hartley provisions, although generally favorable with 97 per cent resulting in favor of


\(^7\) James W. Kuhn, "Right-To-Work Laws--Symbol or Substance?" Industrial and Labor Relations Review (July, 1961), pp. 587-94.
the union shop, were not decided by as impressive majorities as the results would indicate. Only about 77 per cent of the eligible voters voted for the union shop. Under right-to-work conditions this might mean that perhaps 23 per cent of the workers would not join unless persuaded by active union recruitment.  

The second area in which right-to-work laws may have more than "minimal" effects, on unions, according to Kuhn, is in their expenses and dues receipts. Meyers himself indicated that loss of the union shop might result in as much as a six per cent average loss in membership. Not only will this result in a reduction in dues received, but the cost of active recruitment will be increased. At the same time, the unions would still have to provide the full services of representing and protecting all workers that they now furnish. If, as Meyers suggests, unions are forced to provide additional services and process an increased number of grievances for wavering members, costs will go up while dues, at best, will no more than remain the same. The direct inquiry part of this study, the questionnaire, correspondence and interviews, inquired into both the areas suggested by Kuhn.

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8Ibid., pp. 588-91.  
9Ibid., pp. 391-93.
THE DIRECT INQUIRY

This part of this study was begun with a questionnaire and followed by correspondence and personal interviews. The questionnaire was confidential and limited to thirteen questions which could be answered simply by "Yes" or "No," because it was expected that a short, easily answered, confidential questionnaire would elicit a greater response. The respondents were asked to identify themselves so that more detailed information could be obtained through further correspondence and personal interviews.

It was recognized that there were two problems which had to be anticipated in order to secure a response from which reliable conclusions could be reached. The first was the problem of assuring the representativeness of the information received. Because of budget limitations and inasmuch as there were only nineteen right-to-work states a statistical method of sampling was not used. Instead, it was decided to inquire into the opinions of the three groups which would be most likely to have an informed opinion on the subject: (1) the AFL-CIO, (2) the Chamber of Commerce, and (3) employers who had made the decision to locate in a right-to-work state. Accordingly, the inquiry was directed to individuals holding office in, or having positions of responsibility in, these
groups, people whose opinions were believed to be representative of their group. The response was analyzed according to group as a check to see if the individual response was typical of the group opinion. Where questions arose, supplemental inquiry was made.

The second problem was that of bias. Because it was known that the groups selected were special interest groups, the response from each group was analyzed separately and compared with the response from the other groups to detect differences of opinion. It was expected some of the questions would be answered by only one group in areas where the other groups had no information. For this reason the questionnaire was constructed in a manner calculated to detect intentional misinformation and emotional or uninformed opinion. Because the response, in general, seemed to indicate complete candor, the information received is believed to be the considered opinion of the respondents based on their observed experiences, and the conclusions reached in this study based on such information are believed reliable although much of the information could be obtained from only one source, the admittedly partisan group to which it was of special interest.
Preparation of the Questionnaire

The questionnaire inquired into the effects of right-to-work laws on unions and was divided into two sections. The first section was primarily concerned with the effects in plants where workers were already organized and was an inquiry into the problems of the preservation of membership, organization, and effectiveness. The second section was primarily concerned with the effects in plants where workers were not yet organized and was an inquiry into the problems of recruitment and new plant organizing.

Under the first section, Questions 1 and 2 dealt with the free-rider problem and were:

1. Do many union members drop out since the passage of right-to-work laws in your state?

2. Do many workers who never were union members stay out?

The primary purpose of these two questions was to separate the recruitment problem from the union preservation problem and in so doing to clarify the purpose of this section of the questionnaire so that the answers to the remaining questions would be in the proper frame of reference. The answers to these questions also could be used to determine the relative effects of right-to-work laws in the first section as opposed to the second.
Questions 3 and 4 dealt with grievances and were:

3. Have grievances increased in number?

4. Has the nature of the grievances changed?

The purpose of these questions was to test whether management had become more militant after its power to defeat the union in the political arena had been demonstrated.

Questions 5 and 6 dealt with union militancy and were:

5. Do unions process more minor grievances in order to keep their membership up since the passage of right-to-work laws in your state?

6. Do unions make more contract demands than before the passage of right-to-work laws in an effort to keep their membership up?

The purpose of these questions was to test whether under right-to-work conditions unions had become not more responsible, but more responsive to the demands of a tiny vocal minority of the membership and whether "every grievance had become a crisis."

Question 7 was the last question in the first section of the questionnaire and dealt with union effectiveness or bargaining power in organized plants. It was:

Except for union security clauses, has there been any substantial change from the contract provisions unions were able to negotiate before the passage of right-to-work laws in your state?

The purpose of this question was to test whether the effects of right-to-work laws was "minimal" in organized plants in
the matter of contract negotiation.

Under the second section, Questions 8, 9, and 10 dealt with NLRB representation elections and organizing in unorganized plants. They were:

8. Have right-to-work laws had an effect on the number of elections held in your state?

9. Are NLRB elections easier or harder for unions to win in a right-to-work state?

10. Is it harder for a union to organize a plant since the passage of right-to-work laws in your state? If so, how?

Questions 8 and 9 had two purposes. First, they were to change the frame of reference from union preservation to recruitment and organizing. Second, the answers to these questions could be compared with the NLRB reports and this would give some indication of the reliability of the questionnaire answers in general. Question 10 is almost a rephrasal of Questions 8 and 9 but includes plants that do not fall under NLRB jurisdiction. Any difference between answers to Questions 8 and 9 and Question 10 would open an area for more detailed information.

Questions 11, 12, and 13 were grouped under the heading, court cases, and dealt with unfair labor practice charges against both employers and against unions brought before the NLRB and with the use of injunctions by the state courts.
They were:

11. Has anything happened to the number or disposition of NLRB unfair labor practice charges against employers in your state since the passage of right-to-work laws?

12. Has anything happened to the number or disposition of NLRB unfair labor practice charges against unions in your state since the passage of right-to-work laws?

13. Has there been a change in the use of the injunction by the state courts against unions since the passage of right-to-work laws in your state? If so, in what way?

Questions 11 and 12 had three purposes. First, the answers to these questions could be checked against the NLRB reports and this would give some indication of the reliability of the questionnaire answers in general. Second, the answers to these two questions could be compared with the answers regarding both employer and union militancy (Questions 3, 4, 5, and 6). Third, they led the line of response from what should be a rather uniform application and interpretation of the Federal law to the more diverse experience under the state courts and state laws. The purpose of Question 13 was to investigate whether right-to-work laws, by providing additional grounds for the issuance of an injunction, affected union activities in more than a minimal way.
Mailing and Response to the Questionnaire

The questionnaire was mailed to three groups whose responses were analyzed separately. First, the AFL-CIO offices at the state level in all the right-to-work states. It was considered that these labor unions would have had first-hand experience with the right-to-work laws. The questions were asked about problems with which they continually had to contend. It was believed that by mailing the questionnaire to the highest office in each state, an over-all composite or average answer could be received which would be less likely to be colored by emotionalism, or particular isolated experiences. The response from this group was considered to be so important that the questionnaires were followed by personal interviews in all cases where the response was lacking or considered inadequate so that a 100 per cent return was received from the 19 offices.

The second group to which the questionnaire was sent was the Chamber of Commerce offices at the state level in all the right-to-work states. It was recognized that the Chamber of Commerce organizations would probably not have first-hand experience with the effects of right-to-work laws on unions and would not have had to solve any of the problems which the right-to-work laws posed to unions; but the Chamber of
Commerce organizations did support right-to-work legislation publicly and did work with the problems of industrial location, in which they usually listed the presence of a right-to-work law as an advantage to a firm considering locating within a given state. Further, the Chamber of Commerce organizations are composed of organized business and industry and as such represent the composite thinking of that group. Out of 19 questionnaires mailed to this group there were 10 returns or a 53. per cent return from the second group.

The questionnaire was mailed to the third group through a re-mailing process. It was desired to reach those firms which had the following characteristics. (1) They should be employers of labor. (2) The firms should have located subsequent to the passage of right-to-work laws in their states, and they should have made the location decision fairly recently so that they might better remember the factors considered. (3) They should have been attracted, in part at least, through the efforts of their state's Chamber of Commerce.

To accomplish this, a group of three questionnaires ready for re-mailing was enclosed in a letter to the Chamber of Commerce office at the state level in each right-to-work state with a request that they be re-mailed to companies which
they had succeeded in attracting to their state within the past five years and which were employers of labor. Out of 19 sets mailed out, three sets were returned by the Chamber of Commerce offices with pamphlets and information, apparently in an effort to be generally helpful. This reduced the mailing to 48 questionnaires. There is no way of telling how many of these were re-mailed, but there was a return from 10 companies in nine states. One of the company returns was from a firm of attorneys who handled the labor relations problems for the firm, and one of the company returns was from a management consultant firm to whom it had been referred for answer. If all the 48 questionnaires were in fact re-mailed, this constituted a 21 per cent return from the third group.

The Replies of the AFL-CIO

**Question 1.** Do many members drop out since the passage of right-to-work laws in your state?

The answers received were: No-8, Yes-6, In some cases-3, and Don't know-2. These were accompanied by the following explanatory remarks.

No. We have had right-to-work laws a long time and the reason our members join is because of the bad attitude of the right-to-work employers.¹⁰

¹⁰Union questionnaire No. 15.
It depends on the type union involved and whether a union security provision was in effect before.\textsuperscript{11}

Yes, in a plant that has been organized for years we got a note from the union saying that right-to-work was killing them because they lost about 50 per cent of their membership. This is more true of CIO than AFL unions.\textsuperscript{12}

Yes, we get dropouts unless we can get an agency shop clause in our contracts. In the State of ________ the agency shop has nullified the right-to-work law.\textsuperscript{13}

From the above remarks and from interviews it appeared that unions as a whole do not consider the "drop out" as a major problem under right-to-work laws. The remarks indicated that it was less of a problem in the skilled trades unions than in the general craft unions, and that it was more temporary than permanent. As time passed after the passage of right-to-work laws there was less wavering membership and unions developed other forms of union security.

Question 2: Do many workers who never were union members stay out?

The union answer to this was an unqualified "Yes." In each state the union considered this a major problem created by

\textsuperscript{11}Union questionnaire No. 2.
\textsuperscript{12}Union questionnaire No. 1.
\textsuperscript{13}Union questionnaire No. 9.
right-to-work legislation. Since the second section of the questionnaire dealt with this problem in more detail, the unions confined their comments to those questions.

Since Questions 3 and 4 are related, the answers to these questions are set forth first, and then the questions are discussed together.

Question 3: Have grievances increased in number?  
The answers received were: Yes-14, No-4, and Don't know-1.

Question 4: Has the nature of the grievances changed?  
The answers received were: Yes-8, No-9, and Don't know-2.

These two questions were accompanied by the following explanatory remarks:

Yes. This is due to a great extent to management's harassment tactics in their efforts to destroy the union.\textsuperscript{14}

Yes. Management has pushed grievances because it costs the union to process them. This keeps the unions financially weak and keeps them from exerting themselves organizing some place else.\textsuperscript{15}

Yes. Many of them are over contract violations that management would not attempt except for weakened conditions of unions because of right-to-work laws.

\textsuperscript{14}Union questionnaire No. 3.  

\textsuperscript{15}Union questionnaire No. 1.
Many are minor, and could and should be settled in the first step. Often management refused, in an attempt to convince them [the workers] that the union is unable to do anything for them, thus encouraging them to drop out.16

Yes, Unions have to process grievances even of non-members whom they represent in a plant. If we do not process these, even if they have little merit we get into trouble.17

From the union viewpoint at least, it appears that the passages of right-to-work laws may have resulted in some hardening of management's anti-union attitude into anti-union action. Before drawing any conclusion from the above, the answers to Question 5, which is the other side of the coin, should be considered.

**Question 5:** Do unions process more minor grievances in order to keep their membership up since the passage of right-to-work laws in your state?

The union answers to this question were: Yes-14, No-4, and Perhaps-1. There were only two comments made. These were to the "No" answers, and took the attitude that unions have always processed all grievances, minor or otherwise, for all workers. The answers seem to indicate, however, that unions do tend to process some grievances under right-to-work

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16Union questionnaire No. 5.

17Union questionnaire No. 14.
conditions which they would not otherwise handle. In an interview one unionist stated that the union must show the workers that it is willing to "Go to bat" for them and that their interest lies in becoming and remaining members of the union. One unionist said it plainly in the following way:

Because neither side is united there may be some members and non-members who are rumor spreaders and who create violence and cause problems. Both management and labor have to process a lot of grievances neither one really cares about.18

From the answers to Questions 3, 4, and 5 it would seem that perhaps Meyers was right about grievances. The grievance forum is one of the battle grounds in which unions admit they skirmish in part for membership purposes as a result of the right-to-work laws and in which they believe management also skirmishes in part at least to impede unions.

**Question 6:** Do unions make more contract demands than before the passage of right-to-work laws in an effort to keep their membership up?

The answers to this question were: No-11, Yes-8, and Don't know-1.

There were some accompanying comments which clarify the union attitude on this point. They were:

18Union questionnaire No. 15.
No. A weakened union is in no position to make strong demands.\textsuperscript{19}

No. Not really, in bargaining a union always lists many demands, but doesn't expect to get all it asks. You must have some demands that you can compromise on. We have always included many of this kind.\textsuperscript{20}

Yes. I suppose there is a tendency to do this, but that isn't saying that it affects the contract much.\textsuperscript{21}

From the mixed answers which came in from the questionnaire and from the comments on the question it did not seem that making more contract demands to satisfy a wavering membership was a recognized part of the effects of right-to-work laws on union behavior. This point was brought up in some of the interviews for clarification. The answer seemed to be that if some minority members wanted some additional demands made in the contract negotiation, these would be included in the demand package. If there were enough importance placed on these demands, they would be pushed, but that this was part of normal bargaining and not attributable to the effects of right-to-work laws.

\textsuperscript{19}Union questionnaire No. 5.
\textsuperscript{20}Union questionnaire No. 18.
\textsuperscript{21}Union questionnaire No. 1.
Question 7: Except for union security clauses, has there been any substantial change from the contract provisions unions were able to negotiate before the passage of right-to-work laws in your state?

The union answers to this question were: Yes-12, No-5, and It depends-2.

This was the most important question in this section of the questionnaire and as such provoked comment from almost all respondents. These were in part as follows:

No. There is no change because we have substituted the agency shop.22

No. There is no change in large multi-plant interstate companies.23

No. There is no change, but negotiation is much more difficult.24

It Depends. There is no change where the unions were already strong, but the smaller unions are hurt and will never recover.25

Yes. We can't get the workers behind the union now.26

Yes. Unions are offer-takers now because they can't shut down a plant. In automated industries

22Union questionnaire No. 4 and No. 12.
23Union questionnaire No. 2.
24Union questionnaire No. 7.
25Union questionnaire No. 13, No. 5 and No. 9.
26Union questionnaire No. 17.
supervisors can run a plant with only a handful of non-members and the union can't enforce its demands.\textsuperscript{27}

Yes. Employers are tougher in right-to-work states because there are more unemployed there to break the strike.\textsuperscript{28}

Yes. Wages are lower now.\textsuperscript{29}

Those unionists interviewed also believed generally that unions were less effective in their contract negotiations because of the effects of right-to-work laws. The results from these interviews and answers to the question suggested the following conclusions.

Where a company has a multi-plant operation or operates in both right-to-work states and non-right-to-work states, the effects of the law are reduced because there is a tendency for the contracts to be uniform.

Where a substitute form of union security has been adopted, the effects of right-to-work laws are reduced, but this is generally possible only in the traditional areas of the union shop where there are strong unions.

Where a plant operation is involved, the skilled

\textsuperscript{27}Union questionnaire No. 1 and No. 9.  
\textsuperscript{28}Union questionnaire No. 14.  
\textsuperscript{29}Union questionnaire No. 6 and No. 11.
trade unions are affected to a lesser degree than the more general craft unions. With high degrees of automation, the right-to-work laws affect the bargaining power of even the strong unions adversely.

The ability of right-to-work laws to affect union contract negotiation adversely is related to employee turnover in a company. Unless some sort of hiring hall procedure can be used, employee turnover dilutes union strength under right-to-work conditions. In the construction business and in businesses where employment tends to be more casual, union bargaining power is particularly hampered by right-to-work laws.

Not all union bargaining difficulties which seem to be present in right-to-work states were attributed to the effects of right-to-work laws. It was admitted that the seemingly greater number of unemployed in right-to-work states, whose presence made employers tougher and caused unions to be contract-takers, originated, in part at least, from other causes such as mechanization of farms and surplus farm population.

Because they are closely related, Questions 8, 9, and 10 are discussed together below.

Question 8: Have right-to-work laws had an effect
on the number of [NLRB representation] elections held in your state?

The answers to this question were: Yes-11, No-3, and Don't know-5.

There were two kinds of "Yes" answers. "Yes-more"-3, and "Yes-less"-8. The following two comments are typical of these two opinions.

There are more and were it not for right-to-work, many employers would recognize the union and not force an NLRB election.30

There are less because of management's ability to sell to the workers the fact that their rights would be taken away if they joined the union; however, as time passes, workers are now beginning to see through the so-called right-to-work issues.31

**Question 9:** Are NLRB elections easier or harder for unions to win in a right-to-work state?

The answers to this question were: Harder-17, Neither-1, and Don't know-1.

The comments of those who answered "Harder" were generally placed following Question 10. The other two answers were qualified by the following comments:

We have no enabling act to our right-to-work law. All they can do is sue you so it has no effect on

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30 Union questionnaire No. 3.

31 Union questionnaire No. 4.
the number or outcome of NLRB elections.\(^{32}\)

We don't have any breakdown on that. There has been a decline in industry volume and employment in ______ generally in the past 4 years. Industrial growth has been chiefly in smaller plants located in country areas and using local farmers and high school graduates. There hasn't been a great deal of union organizing done in ______ in the last 4 years.\(^{33}\)

**Question 10:** Is it harder for a union to organize a plant since the passage of right-to-work laws in your state? If so, how?

The union answers to this question were: Harder-18, and Don't know-1. The unionist who didn't know was the same one who in the previous question had indicated a general industrial decline in his state, but the rest of the answers were accompanied by the following comments which are fairly uniform.

Right-to-work laws seem to emphasize an anti-union atmosphere and make it harder to get enough members.\(^{34}\)

Employers who don't want their employees to organize have discharged some and made their future as employees very difficult. Under our law those who fight unionism are protected, but, those who wish to join get no help or protection in their belief.\(^{35}\)

Organizing a plant and being a strong union are

\(^{32}\)Union questionnaire No. 15.

\(^{33}\)Union questionnaire No. 1.

\(^{34}\)Union questionnaire No. 2 and No. 9.

\(^{35}\)Union questionnaire No. 5 and No. 13.
two different things now. I know of one plant in _______ where the percentage of the workers in the union has always been less than 50 per cent. The company knows this but does not ask for decertification. The union representatives believe that should an election be held that those not belonging to the union would vote for the union realizing that the union does make many contributions, yet they will not join and pay their fair share.36

It is harder because the workers know that the union won't be as strong since all won't have to belong.37

It will be remembered that in Chapter VII this study investigated the effects of right-to-work laws on NLRB representation elections. Although it found no effect either in number of elections held or in the results of these elections which it could attribute to the effects of right-to-work laws, it did find that in right-to-work states unions lost a greater percentage of such elections than the national average, both before and after the passage of right-to-work laws, that nationwide and over time unions were losing a greater percentage of these elections, and that right-to-work states seemed to follow the national trend.

The union answers to Questions 8 and 9 are not in conflict with these findings, although they do attribute the

36Union questionnaire, No. 8, No. 10, and No. 16.

37Union questionnaire No. 11.
greater percentage of elections lost by unions to the effects of right-to-work laws. This gives some measure of credence to their answers to Question 10 in which they say that organizing a plant is harder in right-to-work states.

Because Questions 11, 12, and 13 are closely related they are discussed together below.

**Question 11:** Has anything happened to the number and disposition of NLRB unfair labor practice charges against employers in your state since the passage of right-to-work laws?

The answers to this question were: No-7, Yes-6, and Don't know-6.

**Question 12:** Has anything happened to the number and disposition of NLRB unfair labor practice charges against unions in your state since the passage of right-to-work laws?

The answers to this question were: No-9, Yes-4, and Don't know-6.

There was very little comment on these two questions. Those respondents who answered "No" and "Don't know" in most cases had never considered the possibility that unfair labor practices charges against either an employer or a union might be affected by right-to-work laws. The only comments came from those who answered "Yes" and were as follows:

We could bring many against the employer but they are expensive to process so many fall by the wayside.
Here again the employer has money, law and time on his side. On just about every occasion that unions have attempted organization such charges of "unfair Practices" are brought by employers, but things are changing, labor seems to be having more of a chance.38

It seems that in right-to-work states the employer's attitude is harder and when unions try to organize, the employers do more unfair practices and bring unfair practices charges against unions.39

Yes. We just finished a drive to organize the hotel industry and some employers got pretty desperate. It is related to right-to-work.40

**Question 13:** Has there been a change in the use of the injunction by the state courts against unions since the passage of right-to-work laws in your state? If so, in what way?

The union answers to this question were: Yes-15, No-3, and Don't know-1.

This question was accompanied by much comment which ran as follows:

No. We have a special statute on injunctions that is outside of the right-to-work law.41

Yes it is abused.42

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38 Union questionnaire No. 13.
39 Union questionnaire No. 18.
40 Union questionnaire No. 19.
41 Union questionnaire No. 19, and No. 22.
42 Union questionnaire No. 11 and No. 15.
Yes. The right-to-work law just gives the court another grounds for issuing an injunction.43

Yes. I have an injunction against me now enjoining my intent.44

No. The courts have always made a practice of using it wherever possible.45

Yes. ______ has become a "justice by injunction" state. An employer can simply make wild charges and get an injunction, restraining picketing and just about any other action, with a hearing some 60 days later, then even if the charges are untrue the case is lost through timing.46

Yes, although labor's strength in this state is growing and we are able to get verdicts in our favor unheard of in earlier years.47

Since the answers to Questions 11 and 12 could be checked against the NLRB reports, these questions were included in the questionnaire to give some indication as to the validity of the answers to Question 13. In Chapter VII it was found that there was a national tendency for there to be a higher proportion of unfair labor practice charges brought against employers than against unions and in right-to-work states the proportion of unfair labor practice

43 Union questionnaire No. 1, 8, 10, 14, 16, and 17.
44 Union questionnaire No. 15.
45 Union questionnaire No. 12.
46 Union questionnaire No. 2 and No. 13.
47 Union questionnaire No. 4.
charges brought against employers tended to be higher than the national average. No tendency was found in right-to-work states for the proportion of these CA charges against employers to change as compared with the national average, and no tendency was found for the number of unfair practice cases (CA plus CB) to change as compared with the national average.

The fact that the union answers, in general, failed to associate this type of case with the effects of right-to-work laws, a fact which the National Labor Relations Board statistics confirmed, rules out emotionalism and lends credence to their answers to Question 13 in which they say that state courts have used the right-to-work law as another ground for the issuance of injunctions against union activity and so have affected union organization activity adversely.

**Summary of AFL-CIO response.** The total union response can be summarized generally as follows: Right to work laws impede union growth. They cause member "drop outs" when first enacted. "Drop outs" do not remain a problem, but the recruitment of new members is made a continuous and difficult problem.

Unions find it harder to organize plants in right-to-work states. This is partly because of the increased use of injunctions against union activity, partly because workers
hesitate to join a union they feel will be weak and have to face strong anti-union opposition, and partly because of the anti-union social attitude.

Both unions and employers process more petty grievances as a result of right-to-work laws. This impairs industrial peace and is a major result of right-to-work laws.

Even though unions may be able to organize a plant, they are not able to negotiate as good contracts under right-to-work conditions unless a substitute form of union security can be adopted. This is partly because workers know they do not have to join the union to get many of the benefits the union might negotiate. Their failure to join weakens the union's ability to enforce its demands. The adverse effects of right-to-work laws are generally less if the employer has a multiplant interstate operation reaching into non-right-to-work states. The skilled crafts unions are generally less adversely affected than the more general trades unions. The adverse effects are increased if a high degree of automation is involved. Conditions of rapid employee turnover increase the adverse effects of right-to-work laws on union bargaining power.

The Replies of Chambers of Commerce

Although the response from the Chamber of Commerce
offices was good and there was a 53 per cent return, the answers to the questionnaire indicated that this group as a whole did not have first-hand information about the effects of right-to-work laws on unions; consequently, this report is not complicated with a detailed question by question discussion of their replies. A general discussion of the answers does give some insight into the controversy however.

There were ten responses. Five of these ten gave, in substance, the same reply which is quoted from one of them as follows:

While this organization supported passage of right-to-work legislation in ______ and, subsequently, the writing of it into the Constitution, we have made no study of the effects on labor relations in the state.48

It is not known whether this is the result of a lack of great concern, or the result of reluctance to answer the questions.

The remaining five responses can be summarized as follows: the respondents believed that union members did not drop out, but some conceded that non-members tended to stay out. No respondent thought that right-to-work laws caused any change in the number or nature of grievances. One thought that perhaps unions tended to process more minor grievances and another thought that unions tended to make

48 Chamber of Commerce questionnaire No. 3.
more contract demands in order to keep their membership up. No respondent thought that unions were less effective in the contracts they were able to negotiate. No one thought that right-to-work laws had any effect on the number of NLRB representation elections held or their outcome. Two respondents thought that unions were finding it harder to organize plants. Their reasons were as follows:

They find it harder because the majority are not sold on "union" domination.49

It is harder because bullying and goon-squad methods are not tolerated.50

One respondent thought that there were more unfair labor practices against employers, not because of right-to-work laws, but because the NLRB had moved to the left, and one thought that there were more charges against employers because unions were getting more intelligent. Otherwise no one thought that there were any more unfair labor practices either against employers or against unions, and no one thought that there was any change in the use of the injunction by the state courts as a result of right-to-work laws.

The replies indicated that the Chamber of Commerce

49Chamber of Commerce questionnaire No. 10.
50Chamber of Commerce questionnaire No. 2.
respondents either did not know or did not believe that right-to-work laws had any effect on union effectiveness, but some did believe that right-to-work laws have a deterring effect on union growth and recruitment. There was some expression that the right-to-work laws contributed to industrial peace.

The Replies of Firms

The replies of different firms to the questionnaire indicated that these firms at least did not have general first-hand information about the effects of right-to-work laws on unions. Their answers reflected more their own particular experiences with unions. Because these answers were generally alike their response to the questionnaire is discussed generally rather than in detail.

There were ten responses of which eight were from companies. These companies agreed that they could detect no effect that right-to-work laws might have upon unions, grievances, bargaining effectiveness, ability to organize a plant, or the use of the injunction.

One of the responses was from a labor-relations consulting firm who reported as follows:

If you are honest, you recognize that right-to-work laws are but one small, very small, factor in
the total employee-employer relationship, industrial growth, development, etc. Too many factors across the nation, unemployment, highlevel national production, etc., turnover, mobility of labor--partially determined by the current going pension and separation pay practices, unemployment compensation rules, etc., have a far greater effect than right-to-work. My practice takes me into two right-to-work states and two non-right-to-work states. Right now, I am currently involved in various stages with 21 cases before the NLRB. I can see no significant part played by right-to-work in any of them.\textsuperscript{51}

The other reply was from a firm of attorneys who had been sent the questionnaire by a firm, one of their clients, for reply. These attorneys report that they find frivolous grievances and demands much increased, but that they believe unions negotiate about the same contract provisions; no more and no less, than they would without right-to-work laws. They close with this remark:

The real impact of the RTW laws has been on bargaining strategy. The granting of agency shop has become a trump card.\textsuperscript{52}

From the answers of business companies and their representatives several things become apparent. The respondents make no claim to know what effects right-to-work laws may have on unions internally. They do notice an increase in the processing of grievances and a disruption of industrial peace.

\textsuperscript{51} Business questionnaire No. 3.

\textsuperscript{52} Business questionnaire No. 9.
To them the right-to-work laws, as a practical thing, are only a very small part of the total employee-employer relationship. If there is any change in the effectiveness of unions it is not of a kind that affects their contracts other than in the inclusion of the agency shop, a substitute form of union security, aimed at restoring industrial peace.

SUMMARY

In the beginning of this chapter some of the existing published material was reviewed briefly to indicate the area in which the direct inquiry part of this study was conducted. It was shown that in one of the few studies made on the subject Meyers had found that the effects of right-to-work laws on unions was minimal, but that he had found that, peripherally, the statute had had some effect in preventing the organization of certain unorganized crafts, that the statute could have had the effect of reducing union membership by about six per cent of the total eligible employees in organized manufacturing bargaining units, that the statute could have been used to emphasize an anti-union social atmosphere and that it had made the unions not more responsible but more responsive to a tiny vocal minority of the membership.
The English experience with "contracting in" and "contracting out" of the Labor Party was reviewed as an analogy to voluntary unionism and the union shop to infer that the effects of right-to-work laws might be more than minimal.

The article of James W. Kuhn, critical of Meyers conclusions, was reviewed to show that the right-to-work laws could have effects that were more than minimal in the recruitment of new members and in union growth and effectiveness, and that the effects could also be more than minimal on union strength by increasing union expenses and reducing union receipts.

The direct study was made by using a questionnaire followed by correspondence and personal interviews. The details of the construction of the questionnaire, its mailing and the response were explained so that the validity of the conclusions reached might be evaluated and the areas in which more direct inquiry is needed would be apparent.

The direct study was of limited scope and was directed to three groups--the AFL-CIO state organization offices in right-to-work states, the Chamber of Commerce state organization offices in right-to-work states, and 57 employers of labor (three in each right-to-work state) who had been attracted at least in part through the efforts of the Chamber
of Commerce in their state and had made the location decision within the past five years.

The results of this study failed to disclose an overall pattern of effects of right-to-work laws on unions which is agreed upon by all groups, but the composite report from all groups does indicate that right-to-work laws do affect unions and industrial peace in ways that are more than minimal.

The AFL-CIO group reported that right-to-work laws impede union growth and hamper recruitment. When they are first passed they cause some member "drop outs" an effect which has a tendency to decline, but the recruitment of new members is made a continuous and more difficult problem. It is harder to organize plants in right-to-work states partly because of the increased use of injunctions against union activity, partly because workers hesitate to join a union they feel will be weak and have to face strong anti-union opposition, and partly because of the anti-union social attitude. Both unions and management process more petty grievances as a result of right-to-work laws, and this impairs industrial peace.

Even though unions may be able to organize a plant, they are not able to negotiate as good contracts under
right-to-work conditions unless a substitute form of union security can be adopted. This is partly because workers do not have to join the union to get many benefits they may negotiate. As a result the union is unable to get enough workers behind it to enforce its demands. The adverse effects are less in multiplant interstate industry and less in the skilled trades unions. They are more where a high degree of automation is involved or where there are conditions of more rapid employee turnover.

The Chamber of Commerce group reported a lack of knowledge about the effects of right-to-work laws, but there was some indication that they believed the union recruitment problem was made more difficult, that there might tend to be more grievances processed and that unions might tend to find it harder to organize new plants. There was no indication that any of this group thought that unions could not negotiate as beneficial contracts as before the passage of right-to-work laws.

The group of firms reported that they could detect no effect of right-to-work laws upon unions, grievances, bargaining effectiveness, ability to organize a plant or the use of the injunction. There was a slight indication that grievances might have been increased, and there was one reply to
the effect that substitute union security measures had been contrived to restore industrial peace. This group seemed to indicate that as a practical matter to the businessman, the right-to-work laws were only a small part of the total employer-employee relationship and did not affect them profoundly.
CHAPTER IX

SUMMARY AND CONCLUSIONS

EFFECTS OF RIGHT TO WORK LAWS ON UNION ORGANIZATION,
GROWTH, AND EFFECTIVENESS

Right-to-work laws impede union growth. They cause member "drop outs" when first enacted. "Drop outs" do not remain a problem, but the recruitment of new members is made a continuous and difficult problem.

Right-to-work laws impede union organization. Unions find it harder to organize a plant in right-to-work states partly because of the increased use of injunctions against union activity, partly because workers hesitate to join a union they feel will be weak and have to face strong anti-union opposition, and partly because of the anti-union social attitude.

Right-to-work laws impede union effectiveness. Even though unions may be able to organize a plant, they are not able to negotiate as good contract provisions under right-to-work conditions unless a substitute form of union security
can be adopted. This is partly because workers know they do not have to join the union to get many of the benefits the union might negotiate. Their failure to join reduces the union's ability to enforce its demands because it weakens the union financially and because the union cannot get concerted worker action to back its enforcement strategy.

The adverse effects of right-to-work laws are generally less if the employer has a multiplant interstate operation reaching into non-right-to-work states. The skilled craft unions are generally less adversely affected than the more general trades unions. The adverse effects are increased if a high degree of automation is involved. Conditions of rapid employee turnover increase the adverse effects of right-to-work laws on union bargaining power.

EFFECTS OF RIGHT-TO-WORK LAWS ON LABOR-MANAGEMENT RELATIONS AND INDUSTRIAL PEACE

Right-to-work laws have an adverse effect on labor-management relations and industrial peace. Both unions and employers process more minor grievances as a result of right-to-work laws. Some unions do this to show the workers that they are willing to "Go to bat" for them and that their interest lies in becoming and remaining members of the union.
Some employers do this to harass union members. Other employers take advantage of the fact that unions must represent non-members as well as members and use the grievance procedure to wear the union out.

Right-to-work laws disrupt industrial peace because they have a tendency to emphasize an anti-union social atmosphere and harden the anti-union attitudes of some employers into anti-union action. In situations where the injunction can be used against union activity forbidden under the statute, some anti-union employers use it to impede general union activity, and so abuse its use.

The need to alleviate these detrimental effects on labor-management relations and industrial peace explains, in part, a tendency among some employers and unions to nullify the right-to-work laws by finding substitutes for the proscribed means of achieving union security and to evade the law.

EFFECTS OF RIGHT-TO-WORK LAWS ON INDUSTRIAL GROWTH

As an economic factor in industrial growth the effects of right-to-work laws are limited in scope. Classical competitive least-cost location theory is only a part of
modern comprehensive maximum-profit location theory. It seeks to solve only the demand or cost side of the problem of the locating firm. Modern location theory shows that there is also a market or selling side to the problem for the locating firm. This side contains such monopolistic elements as spatial discrimination between customers through freight absorption and non-price competition in the market-area and locational-interdependence aspects of spatial economics. An analysis of the practices of firms making the locating decision discloses not only that firms recognize these aspects of the modern location problem, but that the market considerations are the most important of all the economic location factors to most firms. The presence or absence of right-to-work legislation is not a part of the analysis of the market for the products of the firm; consequently, it cannot be expected to have any direct impact on the location decision through the firm's analysis of its market. It may have an indirect impact on the locational decision however, if the market analysis discloses favorable enough conditions to allow the firm to avoid unionism for non-economic reasons.

Where right-to-work laws have any beneficial effect on industrial growth at all, it is small. The presence or absence of right-to-work legislation is a part of the
analysis of the costs of a firm because right-to-work laws through their adverse effects on unionism offer the possibility of reducing labor costs. It has already been pointed out that most firms consider the positive monopolistic advantages of the market side of the location more important, but there are some firms which face a competitive market and can not avail themselves of monopolistic advantages of the market. In these firms a favorable cost structure is necessary for profitable operation and even survival. It is here that locational advantages in cost have their greatest effect upon the location decision of the firm. Labor cost is just one (although perhaps the most important one) of many cost-based location factors. Right-to-work laws as one facet in the total employer-employee relationship offer the possibility of some reduction in labor cost. Although this is a favorable factor, it is not sufficient to be decisive in very many instances.

CONCLUSION

This study has led to the conclusion that right-to-work laws impede union organization, growth, and effectiveness. In addition, they have an adverse effect on labor-management relations and industrial peace. As an economic
factor in industrial growth, these effects of right-to-work laws are limited in scope, and where right-to-work laws have any beneficial effect on industrial growth at all, it is small.
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VITA

Norman Loose Brown was born in Wichita, Kansas on December 21, 1916. He was a student at the University of Kansas from 1934 until 1940, receiving the Bachelor of Arts degree in 1938 and the Bachelor of Laws degree in 1940 at the University of Kansas.

Since 1940, the author has been an attorney engaged in the general practice of the law in the State of Kansas. During this period of time he has also engaged in the following activities:

From 1942 until 1944, he was employed as a personnel technician by Beech Aircraft Corporation.

From 1944 until April, 1945, he was the personnel director of the G. & H. Tool Company.

From April, 1945 until October, 1945, he served in the United States Navy.

During the summer of 1959, he attended the University of Wichita, taking post graduate work in Business Administration.

From September, 1959 until June, 1960, he was an instructor on the faculty of Friends University in the
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Title of Thesis: Imperfect Competition and the Effects of Right to Work Laws on Union Organization and Industrial Growth

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Date of Examination:

May 1, 1963