

**Solution Manual for Labor Relations Development
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CHAPTER 2

THE EVOLUTION OF AMERICAN LABOR

MAJOR POINTS

1. Collective action by workers has been a feature of American economic life from the very formative period of the nation's history.
2. Political institutions of the United States, and particularly the judiciary, seemed hostile to the interests of organized labor throughout most of its history. Individual court decisions and statutes nibbled away at the conspiracy doctrine, (the Philadelphia Cordwainers Case) in 1794. Before the end of the 1920s, a political and social environment that was quite hostile to organized labor had developed. Many of labor's activities could be - and indeed were - blocked by court injunctions whenever these activities appeared to be effective.
3. While most democracies have favored corporatism, in the United States, the emphasis came to be on tangible near-term achievements for the members of a particular union or the workers for a specific employer. The American pattern was considerably more pragmatic and less ideological.
4. Colorful personalities characterized the spectrum of organized labor in the decades straddling the turn of the century. Terence Powderly and Uriah Stephens were among the earliest of national prominence, with Samuel Gompers and Adolph Strasser appearing on

the scene near the end of the nineteenth century, and Eugene Debs and “Big Bill” Haywood not long after.

5. Trade unions have traditionally displayed opposition to immigrant labor and have often flirted with radical politics throughout their history. These patterns have affected labor’s public image considerably, appealing to some sectors of society and alienating others at every stage of the labor movement’s development. These patterns figured prominently in the Congressional override of Truman’s veto (1947) of the Taft-Hartley slate of amendments to the National Labor Relations Act of 1935. The latter, “the cornerstone of American labor policy,” remains the fundamental statutory statement of the place of unions in the American economy; but Taft-Hartley was sweeping in its modifications, and clearly was an attempt to rein in what the public perceived as trade unionism gone unchecked. The Landrum-Griffin Act (1959) also reflected such public wariness, as it attempted to address internal corruption and fiduciary accountability in union leadership ranks.

KEY TERMS

Craft union
National union
American Federation of Labor (AFL)
Congress of Industrial Organizations (CIO)
Change to Win (CTW)
Corporatism Uplift
unionism Revolutionary
unionism Business
unionism Predatory
unionism Journeyman
Conspiracy doctrine
National Labor Union (NLU)
Knights of Labor
Arbitration
Industrial Workers of the World (IWW)
Boycott
Sherman Antitrust Act
Clayton Act
American Plan
Open shop
Yellow-dog contract
Industrial union
Committee for Industrial Organization (CIO)
Sit-down strike
Norris-LaGuardia Act
Wagner Act
National Labor Relations Board (NLRB)
Exclusive representation
Mohawk Valley formula
Jurisdictional dispute
Taft-Hartley
Right-to-work law
Federal Mediation and Conciliation Service (FMCS)
Drive system
Landrum-Griffin Act
Executive Order
Federal Labor Relations Authority

CHAPTER OUTLINE

UNION PHILOSOPHIES AND TYPES IN THE UNITED STATES

- ✓ The values of the labor movement can be summarized as follows: In society there is a productive class that ultimately creates the tangible products or delivers the services people demand. Labor is thus the ultimate creator of wealth and entitled to its returns. Society generally included a monied aristocracy that owns the means of production and controls much of society's wealth. Class distinctions exist, and the goals of workers and employers differ. Thus, trade unions are necessary to protect workers' rights.
- ✓ The labor movement elsewhere has attached itself to political parties and has pursued long-term improvements for the working class through a political agenda. The American experience has been somewhat different, and owed much to Gompers and the continuity of his leadership of the AFL. The typology of union philosophies and types offered in the text are as follows:
 - U.S. employers have strongly opposed a corporatist agenda, under which employment relationships would be jointly governed by unions, employers, and the government. This orientation has become fairly well established in some parts of Europe, though it has receded even more in the U.S. since the 1960s.
 - ***Uplift unionism***-- focusing on social issues and seeking the general improvement of opportunities for the working class. The National Labor Union of the mid-nineteenth century offers an American example.
 - ***Revolutionary unionism***-- presenting an alternative to the capitalist system and advocating worker-ownership of the principal organs of production and distribution. The IWW is the clearest example in the American labor movement.
 - ***Business unionism***-- emphasizing short-term and near-term objectives that have tangible substance and are directly related to the workplace: wages, working conditions, job security, etc. This posture was adopted by the AFL.
 - ***Predatory unionism***-- enhancing the union as a politically influential organization and a vehicle for status and power of the leadership at the expense of the workers the organization purports to represent. All unions must necessarily place some priority on the continuing viability of the organization, and from time to time advocate institutional interests that may not be entirely consistent with the priorities and direct interests of the rank and file.

EARLY UNIONS AND THE CONSPIRACY DOCTRINE

- ✓ Fossum states that “the first successful collective action to win a wage increase was implemented by New York journeyman printers” in 1778. Workers, who were not wage-earners, technically speaking, had joined together on several occasions well before that date.

Philadelphia Cordwainers

- ✓ Until about 1790, journeymen almost exclusively manufactured “bespoke” (i.e., custom) work. As efforts were made to simplify and speed up the process, wages for the work dropped. The journeymen cordwainers responded by attempting to fix wages for shoemaking at the rate for bespoke work. This was seen by employers as a criminal conspiracy.
- ✓ A court found that the cordwainers’ collective actions in pursuit of their personal interests contravened the public’s interests and was a criminal conspiracy.
 - This established the conspiracy doctrine under which a union could be punished if the courts deemed either its means or ends illegal.

Note: Exhibit 2.1 [Charge to the Jury in the Philadelphia Cordwainers Case]

Commonwealth v. Hunt

- ✓ The conspiracy doctrine was softened substantially in 1842 when the Massachusetts Supreme Court overturned the conviction of Boston Journeymen Bootmakers’ Society members for refusing to work in shops where nonmembers worked below the negotiated rate. The court held the society’s action was primarily to persuade nonmembers to join rather than to secure criminal ends and refused to enjoin organizing activities. However, it did not say that injunctions against other collective activities would be stopped.

Note: Exhibit 2.2 [Interpretation of the conspiracy doctrine under Commonwealth v. Hunt]

Pre-Civil War Unions

- ✓ During the pre-civil war years, unions were faced with a number of problems, including employers who doubted their legitimacy, courts that enjoined or punished collective activity and employment competition from increasing numbers of immigrants. But even in the face of these impediments, collective activity still occurred.

- ✓ Newly organized workingmen's parties contributed to the election of President Andrew Jackson. President Van Buren issued an executive order decreasing the workday for federal employees to 10 hours and unions in major U.S. cities successfully used strikes to secure wage increases.

THE BIRTH OF NATIONAL UNIONS

The National Labor Union

- ✓ Under the leadership of William Sylvis, the National Labor union developed a political and reformist agenda. The organization advocated the eight-hour workday as standard, the establishment of consumer and producer cooperatives, reform of currency and banking laws, limitations on immigration, and the establishment of a federal department of labor. Membership was open to interested and sympathetic individuals, not just skilled tradesmen. Suffragists were quite prominent at the organization's national meetings, and energetically sought the NLU's endorsement of its quest to gain the right to vote for women.
- ✓ Sylvis' death in 1869 and the organization's subsequent alliance with the Greenback party in 1872 resulted in the ultimate demise of the organization.

The Knights of Labor

- ✓ Fossum emphasizes the Knights of Labor's idealistic commitment to rational persuasion and compromise through arbitration for unresolved grievances. The rank and file was far more aggressive than Terence Powderly and Uriah Stephens. The Knights' official opposition to striking, as a tactic to raise the costs of employer intransigence, did not work. The blurring of craft distinctions in an effort to establish a monolithic labor organization did not work in practice, either. The failure of these policies was a lesson not lost on Samuel Gompers and the AFL.
- ✓ Being a secret society with rites and ceremonies of its own, which the Church feared might well prove to be inconsistent with Church teachings, the Knights of Labor was opposed by the Roman Catholic Church. Inasmuch as the Church was a strong influence in many ethnic neighborhoods and among those newly arrived to American shores, this was not a small concern. Negotiations between Terence Powderly and James Cardinal Gibbons resolved the concerns and Catholic workers were allowed to join.
- ✓ The Knights of Labor also ran into conflict with financier Jay Gould, who tried to break the union. By striking the Wabash Railroad and refusing to handle the rolling stock of the line when it was pulled by engines on other lines, the Knights of Labor forced an accommodation. But the idealism of Powderly and the leadership, who depended upon

logic, patience, and rational efforts that resorted to fair-minded arbitration when need be, was at odds with the sentiments and time horizons of the rank and file.

Note: Exhibit 2.3 [The Ascetic Terence Powderly on Labor Picnics]

The American Federation of Labor

- ✓ The American Federation of Labor was created in a meeting of national unions in Columbus, Ohio, in 1886. It was born out of the frustration craft unionists felt about mixing skilled and unskilled workers in Knights of Labor assemblies and Knights' increasingly reformist orientation.
- ✓ The pragmatism of the AFL was also reflected in the structure of the organization. International unions remain autonomous, and the locals within that skilled trade group are subordinate to their national or international union. This keeps union leaders focused on the unique problems of that particular craft; and at the same time, it preserves national control over locals' activities. As Fossum explains, this led to taking wages out of competition for the occupations represented by the national union ("*monopoly power*").

LABOR UNREST

- ✓ Several financial panics and consequent depressions fueled the unrest. Some tensions arose out of the solidarity of ethnic groups (such as the Molly Maguires among Irish coal miners). In other cases, such as the Haymarket Square Riot in Chicago or the armed battle at the Homestead Steel Works outside of Pittsburgh or the Pullman Strike in the railroad car manufacturing industry, violence was specific to a company or industry following unilateral wage cuts or other management action.

The IWW and the Western Federation of Miners

- ✓ The IWW was a colorful group whose radical orientation kept them out of the mainstream of the American labor movement. They had considerable strength in certain pockets, however, particularly in mining towns and in timber areas. In such remote working environments, workers often were housed in company buildings, and that gave employers another kind of leverage to resist worker demands: if they were to lose their jobs, they would also be forced to leave their homes. In 1905, Eugene Debs and other leading socialists banded together to form the IWW.
- ✓ Fossum notes that Haywood was tried for the booby-trap bombing murder of Frank Steunenberg, formerly the governor of Idaho during a hot period of mine wars that had taken place in the northern panhandle of the state. Steunenberg had asked President McKinley for federal troops to

quell the unrest. The strike was broken, and most of the strikers were replaced by strikebreakers in a move that economically ruined many of them. With their case advocated by the famed defense lawyer, Clarence Darrow, all were acquitted.

- ✓ The IWW managed a successful textile worker strike in Lawrence, Massachusetts, in 1912, but lost another the next year in New Jersey.
- ✓ At the outset of World War I, the IWW lost a textile strike in New Jersey and in addition, announced that it would not support either side, inasmuch as only capitalists would benefit. The American public found this unacceptable, and the IWW began to sink permanently out of sight.

Note: Exhibit 2.4 [Preamble to the IWW Constitution]

The Boycott Cases

- ✓ In addition to strikes, labor also urged members to boycott struck or “unfair” products. In the *Danbury Hatters* case, the union was charged and found guilty of conspiring to restrain trade in violation of the Sherman Antitrust Act. The conspiracy doctrine reappeared in the application of court injunctions halting union actions. All concerted actions by unions were increasingly interpreted by federal courts as restraints on interstate commerce, and hence enjoined and punishable.
- ✓ Injunctions not only ended the strikes at which they were aimed, but also reduced the willingness of workers in other situations to strike.

Early Legislation

- ✓ The Clayton Act (1914)
 - The Clayton act removed unions from Sherman Act jurisdiction and limited the use of federal injunctions. However it was ambiguously worded and subject to judicial interpretation. The Supreme Court held that, although unions could not be construed as illegal per se, their actions might still be held to restrain trade.

TRADE UNION SUCCESS AND APATHY

World War I

- ✓ As indicated earlier, the attitude of the IWW during World War I gave Americans pause concerning the risks of too strong or too radical a labor movement.
- ✓ Labor’s right to organize and to bargain collectively was largely recognized, if not enthusiastically embraced in all quarters.

The American Plan

- ✓ Systematic discouragement of organized labor developed under the so-called “American Plan” strategy during the 1920s:
 - Association of trade unionism in the public’s mind with foreign subversives.
 - Advocacy of the open shop arrangement, ostensibly to preserve individual employee freedom of choice but in fact to make unions have a more difficult time building membership and war chests.
- ✓ Widespread use of the so-called “*yellow-dog*” *contracts*, under which employment was conditioned upon signing a contract pledging not to associate with unions.
- ✓ When organization was inevitable, employers citing the importance of local control encouraged the establishment of an independent company sponsored union, which would not be under the influence of a national or international union but which would almost always be influenced if not dominated by the employer.

Note: Exhibit 2.5 [Charles M. Schwab, Chairman of the Board of Bethlehem Steel, in a speech to a Chamber of Commerce audience, 1918]

The End of an Era

- ✓ During the 1920s, the United States shifted from an agricultural society to an industrial one. The change was social, technological, geographical, economic, and political.
- ✓ The dramatic nature of the change was punctuated by the passing of Samuel Gompers, whose presence had shaped the labor scene for half a century.
- ✓ The AFL employed a “stand-pat” approach to industrial worker organization, hinting at the aloofness with which skilled craftsmen viewed themselves within the labor movement.

Note: Exhibit 2.6 [Lewis and Hutcheson at the 1935 AFL convention]

INDUSTRIAL UNIONS

- ✓ Organization of industrial unions prior to 1930 had been largely unsuccessful.
 - A continuing supply of immigrant labor competed with unskilled labor.
 - The AFL was relatively disinterested in organizing unskilled labor or bringing such workers under their umbrella.

- The tendency of industrially oriented unions to adopt goals that were perceived as too radical and revolutionary by much of society.
- The impact of the Depression and the legislative initiatives in labor-management relations in response to it changed the environment.
- Rapid industrialization made unskilled labor a clearly growing segment of the union movement, and they provided fertile ground for organizing efforts.

The Industrial Union Leadership

- ✓ John L. Lewis of the United Mine Workers, together with others who disagreed with the posture of the AFL, formed the Committee for Industrial Organization (CIO) on their own.

Note: Exhibit 2.7 [Telegram from Sit-Down Strikers to Governor Murphy]

Organizing the Industrial Work Force

- ✓ Philip Murray's efforts as head of the Steel Workers Organizing Committee (SWOC) led to dramatic increases in membership enrollments.
- ✓ The growing success of industrial organizing campaigns helped to fuel a broader civic movement in Chicago that united unionists, liberal progressives, and advocates of industrial democracy in promoting a broader agenda and more militant tactics than contemplated by the SWOC.
- ✓ Even though Henry Ford offered relatively high wages in his factories, autoworkers followed suit. Automotive laborer jobs were tedious and fatiguing, and private police forces were hired to keep disgruntled workers in line.
- ✓ Culminating in the "sit-down strike" at General Motors in late 1936, workers declined to leave the plant and stayed beyond their shifts and got in the way. GM viewed this sit-down strike as criminal trespass, but the workers asserted that job rights were superior to property rights. Injunctions to oust them were ignored. The Michigan governor declined to mobilize the militia, and GM gave in. The same tactic was employed in other industrial union organizing campaigns, and the CIO membership passed that of the AFL by 1938.

Legislation

Norris-LaGuardia Act (1932)

- ✓ Fossum portrays the Norris-LaGuardia Act as a “neutral policy,” because the act did not create any basis to demand employer recognition of a union. One might take the view that removing the legitimacy of the so-called **yellow-dog contract**, together with the limitations this act placed, on securing injunctions to block labor strikes, made substantive improvements in accommodating labor’s agenda, thus making the statute something other than strictly neutral in its effect upon labor-management relations.

National Industrial Recovery Act (1933)

- ✓ This legislation was not primarily aimed at labor, but rather sought to promote cooperative industrial practices for the common good and encouraged employees to band together and complete an industrial code. The requirement of employers to permit collective bargaining was not detailed and offered nowhere near the encouragement that the National Labor Relations (or Wagner) Act of 1935 would provide. Fossum’s observation that labor was perhaps fortunate that this legislation did not survive Supreme Court review but did stay around long enough to sow the seeds of a more comprehensive bill shortly thereafter is a keen one and worth emphasis.

Wagner Act (National Labor Relations Act) (1935)

- ✓ Fossum emphasizes that the Wagner Act also established the concept of exclusive representation in the relationship between a union and the employer of its members.
- ✓ Federal, state, and local government employees are not covered by the Wagner Act. In addition, those covered by the Railway Labor Act, domestic employees, family workers, and workers employed in primary agriculture likewise do not fall under the Act.

EMPLOYER INTRANSIGENCE

- ✓ Besides the American Plan, employer resistance to unionization also included the Mohawk Valley formula to:
 - Associate labor leaders with agitators and subversives, especially foreign influence and most especially communism.
 - Organize “back-to-work” drives, and emphasize freedom of choice in public relations issuances.
 - Precipitate picket line violence, and use this as a pretext to call in the police to break up the strike.

- Enlist local interests against union activities wherever possible.

Constitutionality of the Wagner Act

- ✓ Fossum notes that there was considerable speculation that the Wagner Act would not survive Supreme Court review, a review that was a certainty on an expedited basis. Fossum points out that almost half the labor strikes between 1935 and 1937 were over recognition rather than economic matters.
- ✓ Members of the Labor Board staff worked zealously to settle disputes in weak cases or persuade unions to abandon them in order to ensure that only the strongest possible cases would be the vehicle for the inevitable Supreme Court review.
- ✓ In *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937), the Supreme Court held that manufacturing, even if conducted locally, was a process involving interstate commerce, and was therefore subject to the constitutional assignment to Congress of the responsibility to do whatever was necessary and proper to regulate that interstate commerce.
 - The Great Depression of the 1930s sent a very critical message to American workers regarding the equity and the legitimacy of the free enterprise system. A good many became enamored of Marxist philosophy, and a socialist ideology had a pedigree in the labor movement that could be traced back at least as far as Eugene Debs in the late 1800s.

LABOR POWER

Pre-World War II

- ✓ Fossum details the strained relationship between the AFL and the CIO, noting the celebrated fistfight between United Mine Workers President John L. Lewis and the considerably more conservative Carpenters Union President “Big Bill” Hutcherson at the 1935 AFL convention.
- ✓ The left-wing elements of the labor movement that did not favor Roosevelt’s support for the Allies in the wake of Germany’s non-aggression pact with Russia in 1939 and the heavy-handed way in which Lewis attempted to call in the political IOU’s for his earlier support of Roosevelt lent credence to the complaints that the Wagner Act was one-sided, that it placed restraints only on employers without curbing abuses of power at the hands of organized labor.

Note: Exhibit 2.8 [The Rhetoric of John L. Lewis]

World War II

- ✓ The National War Labor Board was an attempt to keep factories running in the face of unresolved grievances and other sources of labor dissatisfaction during wartime.
- ✓ The cost of consumer goods soared during the war as production was shifted to military production needs.
- ✓ This together with the realization that the war effort provided organized labor with a certain bargaining.
- ✓ Leverage combined to drive up expectations and demands for dramatic wage increases. Despite the no-strike pledges, Fossum reports that 4,750 strikes left workers idle for some 38 million employee-days in 1945 alone.
- ✓ The stridency of John L. Lewis of the United Mine Workers in particular drew repeated criticism, and seemed to personify the need to curb abuses by organized labor in the minds of many.
- ✓ The strike activity led Congress to pass the War Labor Disputes Act over President Roosevelt's veto. This act authorized seizure of plants involved in labor disputes, made strikes and lockouts in defense industries a criminal offense, required 30 days' notice to the NWLD of a pending dispute, and required the NLRB to monitor strike votes.
- ✓ Accommodation and innovation in bargaining was evident during World War II. The experience also led to widespread acceptance of fringe benefits in lieu of wage increases.

Note: Exhibit 2.9 [Comments by President Roosevelt on coal strikes during 1943]

Reconversion

- ✓ After the war ended, labor looked for wage increases to offset cost-of living increases that occurred during the war. This led to the greatest incidence of strikes in U.S. history. These were settled with wage increases averaging over 15 percent and some resulted in price increases as well.

CHANGING THE BALANCE

Taft-Hartley Act

- ✓ The Taft-Hartley Act was passed over President Truman's veto, much to the surprise and chagrin of organized labor.
- ✓ Taft-Hartley amended the National Labor Relations Act in seven particularly important ways:
 - It defined unfair labor practices by unions, including claims of unfair representation of bargaining unit members themselves.

- It explicitly protected the right of workers *not* to participate in unions, and gave individual states the option to pass right-to-work laws.
- It created a process through which bargaining units which were dissatisfied with their bargaining representative could decertify that union in favor of another or in favor of nonunion status.
- It provided for court injunctions if strikes threatened production in ways that were contrary to the national interest, as determined by the President. In such cases, Taft-Hartley provided for an 80-day “cooling- off” period, during which strikes were prohibited where the national interest was affected, with NLRB elections on final contract proposals conducted during this period.
- It created the *Federal Mediation and Conciliation Service* to offer assistance in settling labor disputes.
- It limited legal exposure of individual members with respect to suits against the union, but it did authorize the union as an organization to sue and be sued in federal court.
- It prohibited strikes by federal employees.

The New Production Paradigm

- ✓ Whereas the 15 years prior to Taft-Hartley had ceded to employers the organizational role of intensely directing employees with the ultimate power of hiring, firing, and pay decisions through the so-called drive system, Taft-Hartley ushered in a new accommodation between management and labor.
- ✓ In the new paradigm, higher-ability employees were hired, and wage and benefit programs were funded through increases in productivity per worker. In Fossum’s view, this situation was largely in place until the 1980s.

RETRENCHMENT AND MERGER

The Lessons of Taft-Hartley for Labor

- ✓ Organized labor would, in future, have to be prepared to exert more influence in legislative activity and to take a more visible public stance on issues affecting the interests of labor.
- ✓ The relative strengths of labor and management had fundamentally changed, and labor could no longer afford to squander its energies on internecine quarrels as that which raged between the AFL and the CIO.
- ✓ Fossum notes that with the passing of both William Green and Philip Murray in 1952, and with the arrival of leaders like George Meany of the AFL and Walter Reuther of the CIO, conciliation was more feasible than it had been in many years. While John L. Lewis was still

a very visible leader of the United Mine Workers, the unaffiliated UMW was not in a position to scuttle these developments.

Merger

- ✓ Higher wages, bigger profits, and improved living standards for workers together with a period of relative acquiescence of business to unionization also contributed to the reduction in barriers between the CIO and the AFL.
- ✓ George Meany and Walter Reuther were able to close ranks in the labor movement with easier facility than would have been possible for their respective predecessors.
- ✓ Meany re-endorsed Gomper's concept of "more" as it applied to a person's standard and quality of living. He reaffirmed labor's commitment to collective bargaining. He was unwilling to involve labor in management, but demanded that management's stewardship be high. He reiterated the business unionism approach of the U.S. union movement.
- ✓ As a proportion of the civilian labor force, union workers peaked at approximately a third in 1956. The proportion fell to 30% by 1964.
- ✓ While the size of the civilian labor force is growing, union membership has fallen in absolute numbers, too.

Corruption

- ✓ For two and a half years, beginning in 1957, the American public watched televised hearings in which a parade of labor officials invoked the Fifth Amendment to avoid self-incrimination. The publicity associated with the hearings cast a pall over the entire labor movement. By inference, all labor was corrupt.
- ✓ The AFL-CIO insisted upon changes in internal operations on some unions which had been shown to cast all organized labor in a bad public light. The Teamsters, the Bakers, and the Laundry Workers would not accept what they regarded as outside interference in their internal affairs, and were expelled from the AFL-CIO in 1957.

Landrum-Griffin Act

- ✓ This legislation attempted to make labor organizations more democratic and responsive to the interests of the rank-and-file. It established individual union members' rights to freedom of speech, equal voting, control of dues increases, and copies of labor agreements under which they worked. Unions were required to file periodic reports of official and financial activities and financial holdings of union officers and employees, and employers were required to report financial transactions with unions. Internal union political activities involving election of officers and the placing of subordinate bodies under trusteeship were regulated.

PUBLIC SECTOR UNION GROWTH

Federal Executive Orders

- ✓ Executive Order 10988 enabled a majority union to bargain with a governmental agency over terms and conditions of employment but not wages. Such unions could not represent workers who advocated strikes or the right to strike. A grievance procedure was established, but final determination rested with the federal employer.
- ✓ This posture was modified by Executive Order 11491 (1970), which provided for a secret ballot to determine recognition, as well as a procedure through which an appropriate bargaining unit might be determined, compliance with Landrum-Griffin requirements, and also provided for arbitration as a final settlement procedure for grievances. Unfair labor practices were also delineated, an Impasse Panel was authorized to issue binding decisions when collective bargaining failed to produce a contract, and there was some relaxation of the no-strike posture.
- ✓ Executive Order 11616 (1971) allowed professional employees in an agency the option to affiliate with a bargaining unit, and offered a choice of grievance resolution procedures. There were other features, too.

Civil Service Reform Act (1976)

- ✓ In addition to codifying the above-referenced Executive Orders, the Civil Service Reform Act established the Federal Labor Relations Authority, the federal sector equivalent of the NLRB.

LABOR IN CRISIS AND TRANSITION

Rising Employer Militancy

- ✓ Hyperinflation
 - The 1970s saw two major oil shocks in which petroleum shortages and price increases were major influences on the economy. Inflation became an increasing problem, with prices rising by more than 10 percent annually by the end of the decade. Unemployment increased as well.
- ✓ Reagan Administration
 - A substantial income tax cut made after-tax consequences of employer expenses significantly more. Thus, there was a new-found aggressiveness in holding down business expenditures.
 - Short-term interest rates rose above 15% in an effort to curb inflation. One byproduct was to drive unemployment rates up to 10%.

- Inefficient plants, especially in durable goods industries like autos and steel, were closed, leading to large cuts in the number of production workers, professionals, and managers.

Striker Replacements

- ✓ Employers have been able to replace economic strikers since the *McKay Radio* decision, in 1938, which Fossum cites in the text. Employers seldom utilized this tactic, however, until the 1981 Professional Air Traffic Controllers Organization (PATCO). Reagan ordered the air traffic controllers back to work in 48 hours, and terminated those who did not return as directed. Military flight traffic control personnel covered the shortfall until a large number of newly-trained civilian workers could be brought on line. With this example to follow, many private sector employers became emboldened enough to resort to replacement workers during a strike, when they had not been inclined to do so before.

New Union Leadership

- ✓ Lane Kirkland of the United Auto Workers retired as president of the AFL-CIO in 1994, and was succeeded by John Sweeney of the Service Employees International Union. His platform and promise was to reenergize the union movement's activities. However his presidency did not witness an end to union decline, as low-wage jobs have been under continuing pressure from globalization and nonunion competition.
- ✓ Andy Stern, Sweeney's successor as president of SEIU made calls for more intensive and innovative organization campaigns. He led a campaign to take the SIEU out of the AFL-CIO and in 2005, the SEIU and the United Food and Commercial Workers, the Teamsters, the Carpenters, the Laborers, UNITE HERE, and the Farm workers from a new coalition called Change to Win, covering about 5 million members.
- ✓ According to Fossum, the new coalition is still tenuous and the top level of the labor movement is embroiled in intrigue and infighting at the very period their national political fortunes would be best served by unity.

Selected Web Sites

Enter "labor history Web sites" into your search engine window. You will find university, labor union, government, and international Web sites that provide general historical information. There is also a large variety of general and incident-centered YouTube videos that can be accessed by entering "YouTube labor history" in your search window.

DISCUSSION QUESTIONS

1. Trace the evolution of the legal status of American unions. What activities were restricted by laws and courts? Did constraints increase or decline with time?

American unions had difficulty gaining legal status. Early cases found that collective actions in pursuit of personal interest contravened the public's interest and was hence a criminal conspiracy. Courts were able to stop strikes and boycotts with injunctions. Despite these setbacks, collective action still occurred. Although the Clayton Act in 1914 removed unions from the Sherman Antitrust Act, courts still could find union activity an illegal restraint on trade. In 1918 the National War Labor board was established to reduce strikes. Labor's right to organize and bargain collectively was recognized. By the 1930s, public policy toward unions shifted radically. The Wagner Act of 1935 re-secured organizing rights and specified employer illegal activities that had been ruled unconstitutional when part of the National Industrial Recovery Act of 1933. It also established the concept of exclusive representation in the agency relationship between the union and the employees. Although there was some doubt about the constitutionality of the Wagner Act, the Supreme Court ruled in 1937 that it was constitutional under the Commerce Clause.

To support the assertion that constraints increased over time, students may cite the actions of the National War Labor Board and the Sherman Antitrust Act.

To support the assertion that constraints declined with time, students may cite the provisions of the Wagner Act and the Supreme Court ruling in its favor.

2. What were the major contributing causes to the failure of uplift unionism?

Uplift unionism is aimed at the general betterment of educational and economic outcomes and labor-management systems for workers. Early union movements focused on such public policy goals. The National Labor Union, founded in 1866, was one of the first attempts at uplift unionism. A lack of leadership and inattention to worker problems contributed to its demise. The Knights of Labor, founded in 1869 was more willing than the NLU to recognize the short-term legitimacy of capitalism and its leaders favored the use of arbitration rather than strikes. Despite some successes, the leader's position was oriented to the long run rather than toward satisfying day-to-day grievances and was inconsistent with the immediate results new member sought. As a result, unions such as the American Federation of Labor, which was concerned more with immediate results, gained popularity while the Knight's membership dwindled.

3. What were the advantages and disadvantages of taking a "business union" approach as opposed to advocating a labor political party?

Business unionism involves the representation of employees' immediate interests, primarily the regulation of wages, hours, and terms and conditions of employment. This is the approach taken by the American Federation of Labor (AFL). It is concerned with winning tangible gains by entering into collective agreements with employers. The leaders of this movement

accepted the existing economic system and worked within it. The advantage of this approach is that it is able to satisfy members concerns and win immediate results. The disadvantage is that it limits the unions' ability to sponsor social reforms and requires an absence of ideology.

4. Who were the leading personalities in labor relations? Which ones contributed to the definition of labor relations in the United States?

William Sylvis was the leader of the National Labor Union, founded in 1866. Its goals were largely political and reformist rather than economic or immediate and therefore proved to be less effective in the American model.

Uriah Stephens and Terence Powderly were the leaders of the Knights of Labor. They were idealists who favored the use of arbitration rather than strikes. Their focus on long term goals rather than short-term gains limited their movement.

Samuel Gompers was the first president of the AFL. He sought a pragmatic approach and preferred bargaining rather than legislation. He was the leader from 1886 to 1925, except for one year and is in large part responsible for the business orientation of U.S. unions today. Gompers ideology could be summarized by his answer to a question asking what labor's goals were: "More, more, more."

"Big Bill" Haywood played an active role in organizing the Western Federation of Miners (WFM). In 1905, Haywood, Eugene Debs and other leading socialists banded their unions together to form the Industrial Workers of the World (IWW). Although the rhetoric of the IWW was radical, its demands were not. It's primary goal however was to abolish the wage system. It encountered violent resistance from employers and was unable to build a viable union. The IWW also lost popularity with the advent of World War I during which it stated its members would fight for neither side since only the capitalists would benefit.

5. Who were the most effective union leaders during the 1930s and 1940s? What are your criteria for effectiveness? Would these same leaders be effective now?

John L. Lewis of the United Mine Workers, an AFL union, spearheaded the drive for members over the objections of craft unions. Lewis realized UMW membership was eroding in a declining industry and decided to push for industrial organizing. He was met with adamant opposition from the AFL. Together with Philip Murray of the UMW and other leaders he formed the Committee for Industrial Organization. They were successful in organizing the steel and autoworkers and by 1938 their membership exceeded the older AFL by 300,000.

Students can pick their own criteria for effectiveness and analyze. Criteria considered may include the size of the unions, their influence on legislation passed at the time, the concessions unions gained from employers, etc.

When discussing the effectiveness of union leaders in the present situation, students can support their answers by discussing the changes in type of employment (from primarily

manufacturing to primarily service jobs), the changes in the legal environment (legal support for unionization, pressure tactics, management rights and workers' rights), changes in society (blue-collar to white-collar workers), etc.