DEMOCRACY IN LABOR UNIONS

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INTRODUCTION

Although there are many articles written on the subject of union "democracy," there seems to be no consensus of opinion on what this "democracy" in unions is supposed to entail. For example, Reynolds (7) stated that "...trade-unions are probably more democratic than any other economic organization in our society." Velie (15), deplored what he called union "dictatorship," inquires: "Where is their (union members') voice? It has been choked by dictatorship...union citizens are losing rights to which they were born as free Americans."

These assertions are illustrative of the confusion which exists in respect to the problem of union "democracy." It is the purpose of this report to attempt to describe certain minimum requirements of an acceptable union "democracy," and then to attempt to determine whether the studies of this question have been sufficiently exhaustive, and have been of sufficient scope, to support a definitive judgement as to whether the majority of U. S. unions either are or are not "democratic."

Other related questions to be answered include: Are there any particular reasons why labor unions should be expected to be "democratic"? Is the federal government helping to foster "democratic" procedures in labor unions through the regulation of internal union affairs? And finally, if it is concluded that unions should be "democratic," what are the prospects for promoting more "democracy" in unions? Should the promotion of "democratic" procedures in labor unions come primarily from within via the actions of individual union members, or from without via federal and state regulation?

Present-day U. S. unionism consists of 138 internationals in the AFL-CIO, with 60,000 locals and a total combined membership of 16.1 million

members, and 57 independent international unions, with 15,000 locals and 1.8 million members. There is, however, marked concentration because 124 of these unions have fewer than 50,000 members each and account for a combined membership of only slightly more than one and one-half million members. In contrast, six unions, each with more than 500,000 members, represent an aggregate of nearly six million members or one-third of all union members (Paschell 6).

The distribution of unions by number of locals have characteristics similar to the distribution by membership, that is to say, a few unions with a large number of locals account for the majority of locals. Of the estimated 60,000 local unions affiliated with the 138 internationals in the A.F.L.-C.I.O., 19 unions have approximately 40,000 locals, or more than half of all locals; 80 unions, each with less than 100 locals, have slightly more than 3,000 locals, or only four per cent of the total (Paschell 6).

There is an important relationship between the structure of the U. S. labor movement and the problem of determining whether a majority of labor unions either are or are not "democratic." The importance of this relationship is exemplified by the fact that more than a majority of union members are concentrated in only six unions. Thus if all the 124 unions, with a total membership of only 1½ million, are found to be "democratic," this would be a "majority of unions," but would include only 9.4 per cent of total union membership. It is not enough that "most unions" are "democratic" (or "undemocratic"); these must also exercise jurisdiction over a numerical majority of union members.

The enactment of the Taft-Hartley amendments to the National Labor Relations Act in 1947 marked the first attempt by Congress to regulate the

internal affairs of unions. Some of the essentials for an acceptable union "democracy" which were unprotected by law prior to the Taft-Hartley Act became protected when it was passed. Thus some of the pre-1947 "undemocratic" practices of unions are now proscribed, and have lost much of their significance.

Very few studies since that date have attempted a comprehensive assessment of the changes in internal union government occasioned by the Labor Management Relations Act of 1947. Such a study is certainly warranted, but is outside the scope of the present effort, which is concerned with pre-1947 union "democracy." A separate chapter will be devoted to the provisions of the Taft-Hartley Act impinging on internal union affairs, and an effort will be made to suggest the likely weight of this impact, but no emperical verification is attempted.

THE ESSENTIALS OF UNION DEMOCRACY

Democracy is best defined in terms of the rights guaranteed to individuals as members of the group. Union democracy is best measured by the rights guaranteed individual workers within the union. The recognition of three basic rights of individual workers seems to represent the minimum essential of an acceptable union democracy. First, every worker is entitled to participate, directly or indirectly, in making decisions which affect him. The union, recognized and protected by law, acts as the worker's industrial government in helping to determine the rules which govern his working life. Its avowed purpose is to provide him a voice in the decisions which so vitally affect him. He is a citizen within the union and should be allowed to participate freely in the processes of self-government. Second, he is entitled to equal treatment with all others governed by the union. The majority must not

be allowed to use its power to discriminate against him or arbitrarily deprive him of his livelihood simply because he is a member of a racial or other minority group which is too weak to protect itself. Third, he is entitled to a fair trial on all charges brought against him. He should not be subject to penalties or deprived of any of his rights of membership without full and open hearing before an unbiased tribunal (A. C. L. U., 2).

UNIONS SHOULD BE DEMOCRATIC

The widespread demand that unions should be more democratic has not always been accompanied by a statement of why unions should bear any heavier obligation in this regard than other of our institutions. There seem to be at least three compelling reasons why unions should have a special obligation to maintain democratic standards. First, a union in collective bargaining acts as the representative of every worker within the bargaining unit.[1] The union, in bargaining, helps to make laws; in processing grievances, acts to enforce those laws; and in settling grievances, helpt to interpret and apply those laws. The union is the worker's economic legislature; it is the worker's industrial government. The union's power is the power to govern the working lives of those for whom it bargains, and all governing should be exercised democratically. Second, unions should be democratic because the power which they hold over the worker is largely derived from the federal government. Labor relations acts such as the Wagner Act affirmatively protect the right to organize and place the government's seal of approval on unionization.[2] In the

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[1]The Globe Machine and Stamping Co., 3 N.L.R.B., 294, 1937; the Allis-Chalmers Mfg. Co.,4 N.L.R.B.,159, 1937; the Libbey-Owens-Ford Glass Co.,10 NL.R.B. 1470, 1939; and the Shipowners' Assoc. of the Pacific Coast, 7 N.L.R.B. 1002,1938.

[2]National Labor Relations Act, Public Law No. 198, 74th Congress, Senate 1958, Section 1.

exercise of these powers derived from government, unions should maintain the same democratic standards required of government itself. Third, unions should be democratic because the principal moral justification for their existence is that they introduce an element of democracy into the government of industry. They permit workers to have a voice in determining the conditions under which they will work. This high objective of industrial democracy can be fulfilled only if unions which sit at the bargaining table are themselves democratic (A. C. L. U., 2).

ARE UNIONS DEMOCRATIC?

The Right To Participate

The right of an individual to full and free participation in determining the policies of the union is considered by many students in the field as being the most important of all rights (A. C. L. U., 2). If this right is protected, corrupt leaders can be overthrown, oppressive policies reversed, and the government of the union reformed. The union will be what the workers want it to be.

The right to participate involves the whole process by which majority decisions are made. Within this process at least four elementary rights seem to be crucial: the right to vote; the right of political action; the right of free election; and the right to demand an accounting of union affairs.

The Right to Vote. A union may bar individuals from participation at the very threshold by denying them admission to the union. Although a great majority of unions freely admit any worker who desires to join, a substantial minority have denied workers full membership rights because of race, or political beliefs. Of the 185 unions studied by Summers (9), with a combined

membership of a little over 13½ million, a majority freely admit all workers within their jurisdiction without any substantial restrictions. It can be fairly stated as the general rule that the right of the workers to join is complete, and this right can be defined in terms of the exceptions to this general rule. Exceptions occur in those cases in which persons within their jurisdiction because of race, political beliefs, creed, sex, or because the union has a closed membership. These are the substantial grounds for exclusion around which most contention has centered. However, there are a few unusual grounds mentioned in various constitutions. The Blacksmiths exclude members of "the state militia, sheriff's office, police force, secret service, or miner's police force." The United Mine Workers exclude members of the National Chamber of Commerce, and the Longshoremen exclude anyone "dealing in spiritous liquors" (Summers, 9).

Exclusion Because of Race: From its very beginning the labor movement in this country has wrestled with the problem of admitting Negroes. Many of the early craft unions either excluded them or segregated them in separate locals. The constitutions of nine international unions explicitly deny the right to join on racial grounds.[1] While 32 out of a total of 185 international unions, with a combined membership of 2½ million out of a total 13½ million, expressly deny the right to join because of race by provisions in their constitutions, by-laws, or by established practices, forty-seven with a total membership of 6,240,000, expressly protect that right to join by provisions which prevent exclusion because of race (Summers, 9).

Some unions, such as the Woodworkers, specificly prohibit exclusion by

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[1]Airline Disachers, Railroad Telegraphers (30,000), Railway and Steamship clerks (204,000), Railway Mail Association (21,800), Switchmen (9,300), Locomotive Engineers (76,000), Locomotive Firemen and Enginemen (119,686), Railroad Trainmen (210,570), and the Railway Conductors (36,000).

providing in their constitution that "no worker otherwise elegible to membership shall be discriminated against or denied membership because of race...," but others, such as the United Mine Workers, simply provide that all workers within the union's jurisdiction "shall be eligible regardless of color." The Bricklayers protect against exclusion by providing that no person shall be blackballed except for incompetency, and that any discrimination because of race will be punishable by a fine of $100.00. These provisions purport to admit or exclude workers, but the local practice may divert from this norm because the international is either unwilling or unable to compel compliance. Thus the Machinists local at Lockheed-Vega has admitted Negroes in spite of the express prohibition in the international's by-laws, and the Providence local of the Boilermakers International has admitted Negroes on a basis of equality, even though the international constitution provides for exclusion by admitting only auxilaries (16). The boilermakers voted to give auxilaries more automony and representation in the Metal Trades Council, and the National Convention. Likewise, the Atlanta local of the United Mine Workers refused to admit Negro janitors who were otherwise eligible, in spite of the international constitutional provision against exclusion and strong policy against discrimination (Northrup, 5). Although a significant minority of railroad unions exclude from membership on racial grounds, a substantial majority of unions do not exclude because of race.

Exclusion Because of Political Beliefs. To those who have been saturated with the polemics against labor unions because of their alleged communistic attitudes, it may come as a surprise to find at least thirty international unions, with a total of nearly 4,000,000 members, having constitutional provisions denying the right to join because of political affiliations or beliefs (Summers, 9). All of these provisions, except the Blacksmiths who exclude only members

of the I. W. W., contain clauses which either expressly or impliedly exclude Communists. Most of these provisions made membership in a forbidden organization the test. Thus the Woodworkers exclude "members of the Communist, Nazi, and Fascist parties." The United Mine Workers add to this list members of the I. W. W. and the Ku Klux Klan, and the Painters add members of the German-American Bund. A few of these provisions made personal political beliefs the test. The Bill Posters excluded "anyone advocating the overthrow of the government by force"; and the Teamsters barred any member of the Communist Party or anyone who subscribes to its doctrines (Summers, 9).

In contrast to unions which exclude from membership because of particular political affiliations, twenty-nine unions protect the right to join by constitutional provisions which prohibit local unions from discriminating on political grounds (Summers, 9). However, a substantial majority of unions have constitutional provisions denying membership because of certain political beliefs. For the most part these exclusions apply to dissident fringe groups whose interests are often inimical to labor, and whose admission might jeopardize the life of the union. Communists are excluded not only from unions, but from other private business organizations and government as well. This is, of course, no justification for such discrimination.

Exclusion Because of Creed. Only two international unions have been found which have any constitutional restrictions on admission because of creed. The Master, Mate, and Pilots union requires a worker to be "a firm believer in God, the Creator of the Universe," and the Railway Carmen Exclude a worker unless "he believes in the Existence of a Supreme Being." Until recently the Wire Weavers admitted only "White Christians" (Northrup, 5). This provision no longer appears in the constitution. There is scant evidence that unions attempt to enforce these provisions, and an overwhelming majority of unions have no restrictions on admission because of creed.

Exclusion Because of Sex. Labor unions in their early days were looked upon, in part, as social clubs for the working man, and in such an organization women had no place. As unions became increasingly interested in the economic welfare of their members, the desire to exclude women continued because of fear of competition for jobs. Only gradually have the internationals removed their constitutional bars against women, the last two being the United Mine Workers in 1942 (2), and the Boilermakers in 1944 (A. C. L. U., 2). Eight unions have constitutional provisions excluding women, and all but three of these are railroad unions.[1] The customary provision simply requires a worker to be "male" to be eligible for membership. Here again, many unions take a contrasting position by giving constitutional protection to women in their right to join. The constitutions of nineteen unions provided that no worker shall be excluded because of sex, and nineteen others provided that "male and female" workers shall be eligible; these unions had a combined membership of four and one-half million (Summers, 9). It is significant to note that the unions which excluded women from membership through constitutional provisions were in occupations where they were seldom employed. Most unions in occupations employing women had no provisions excluding them from membership.

Closed Unions. Only six international unions have provisions in their constitutions relating to the practice of denying the right to join because the union has closed its membership books or accepts only a few favored workers, such as relatives of members. Both the Hosiery Workers and the Horseshoers provide that no new members shall be accepted by a local when any of the local's

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[1]Airline Dispatchers, Operating Engineers (100,000), Railway Mail Association (21,800), Switchmen (9,300), Wire Weavers (400), Railway Trainway (210,570), Railroad Yard Masters (3,500), and Railway Conductors (36,000).

members are unemployed, and the Brewery Workers provide that no new workers shall be admitted unless jobs are available (Summers, 9). On the other hand, the Hatters and Wallpaper Craftsmen provide in their constitutions that the membership books shall not be closed without the consent of the Executive Board of the International, and the Musicians provide that a local must accept all competent musicians.

Refusal to admit however, is not always open and direct. Initiation fees and dues may be set so high as to bar entry; apprenticeship training may be required and then the number of apprentices limited; or competency test may be required and then made impossible to pass. Generally, the older unions of skilled workers have the highest dues and initiation fees. The higher payments may be related to fraternal benefits, or may have arisen out of other circumstances. Many older unions of skilled workers, in addition to protective functions---collective bargaining---have maintained systems of benefits. Death benefits are the most common, but a number of unions pay disability, old age, and limited sickness benefits (Taft, 12). Some labor leaders have argued that with high dues and initiation fees a large treasury, needed to support the union in difficult times, could be built, while a low-dues union might not be able to sustain an attack from an employer. Frequently, but not always, high dues accompany high initiation fees. The latter has a dual objective. Older members are likely to contend that the new recruit--- the "Johnny come lately"---should pay a high initiation fee, and thus bear some of the costs of raising the wage and working standards in the industry. A high initiation fee also has the effect of excluding many prospective applicants for membership and thereby allows the union members to share a greater part of the available work.

Of the 354 American Federation of labor local constitutions examined, before the A. F. L.-C. I. O. merger, 73 failed to specify the dues charged, and dues in 31 others were in whole or in part a percentage of weekly earnings, which makes the precise amount paid indeterminate (Taft, 12). In considering dues per month, the total contribution made by the union member should be counted. Some unions specify a given amount as dues, and also require additional contributions by the membership, for some particular purpose. Data on the level of dues are available for 250 locals. All except nine brewery workers' locals were affiliated with the American Federation of Labor.[1] Dues in the 250 locals ranged from 50 cents per month, charged by a local of brewery workers, to $7.00 per month, charged by a local of electricians. The mode was $2.00 per month, charged by 81 local unions; $3.00 per month, charged by 54 locals, was the next in importance. The distribution is shown in Table 1. The median falls between $2.35 and $2.50 per month (Taft, 12).

Dues charged by union affiliated with the Congress of Industrial Organizations were lower than those charged by unions affiliated with the A. F. of L. In some instances the international union sets the dues for the entire organization, and divergence from the amount set is allowed only by special permission of the General Executive Board. The international union which specify the dues to be charged in their constitutions are shown in Table 2.

Initiation fees are a charge imposed upon newly admitted members into a union. Some unions specified that in addition to an initiation fee the

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[1]Four are Federal locals. The others belong to the following unions: bakery, bookbinders, bricklayers, building service, carpenters, electricians, engravers, lathers, machinists, painters, plasterers, plumbers, printing pressmen, roofers, sterotypers, streetcarmen, teamsters, and printers.

Table 1. Dues in 250 local unions.[1]

Amount of dues per month	Number of local unions charging
$ .50	1
1.00	6
1.50	24
2.00	81
2.50	27
3.00	54
3.50	17
4.00	21
4.50	5
5.00	10
5.50	1
6.00	1
6.50	1
7.00	1

Table 2. Dues specified by internationals' constitutions.*

Unions	Monthly dues
Automobile, Aircraft and Agricultural Implement Workers of America, United.....	$1.00
Marine Cooks and Stewards Association of the Pacific Coast.....	1.50
Maritime Union of America, National.....	2.50
Office and Professional Workers of America, United.	2.00
Rubber Workers of America, United.....	1.00
Shoe Workers of America.....	2.18½
Steel Workers of America, United.....	1.00
Stone and Allied Products Workers of America.....	1.25
Transport Workers of America.....	1.75
Transport Service Employees of America, United.....	1.50

*Taft (12).

applicant must pay a registration fee, or that in addition to a local fee one must be paid to the International. From the point of view of the individual, the total amount constituted the admittance or initiation fee; and in this study all charges, except regular dues assessments imposed upon the applicant

[1]The local constitutions examined were varying dates. It was assumed that no important changes had been made in the data since they were deposited in several libraries in the years between 1940 and 1945 (Taft, 12).

as a condition of admittance to the union, were regarded as the initiation fee. Of the 354 local constitutions examined by Taft (12), 54 failed to specify their initiation fees. Initiation fees in the remaining 300 locals ranged from $2.00 charged by five locals, to $350.00 required by one union; see Table 3. The most common charge was $50.00, charged by 76 locals.

Table 3. Initiation fees in 300 locals.*

Control value of class intervals	Number of locals
$ 5.00	24
10.00	24
15.00	10
20.00	3
25.00	56
35.00	12
50.00	76
75.00	30
100.00	38
125.00	3
150.00	11
200.00	9
300.00	4

*Taft, 12.

As with dues, so with initiation fees, the highest ones were charged by the skilled building trades unions. In contrast, the initiation fees in the Federal labor unions, the building service trade, baker workers, bookbinders, brewery workers, machinists, and streetcarmen were comparatively low. Four unions, the typographers, steriotypers, printing pressmen, and teamsters, fell in between the high and low groups. There was a slight tendency for locals in smaller communities to charge lower dues and initiation fees than locals established in the larger cities. It would be difficult, however, to work out a correlation between size of the community and the amount of dues and initiation fees. Length of time in the industry would influence the level of initiation fees (Taft, 12).

While dues and initiation fees are the main charges borne by union members, assessments are by no means unimportant. Since they are not regular levies, it is difficult to determine how frequently they are imposed. In general, unions seek to avoid levying assessments because such irregular and uncertain imposts are likely to create dissatisfaction. In 1939, several anthracite miners struck against an international assessment, in more recent times, the membership of the International Typographical Union overwhelmingly rejected a proposal for increasing assessments (Taft, 12).

Assessments can be levied by either the International, the District, if one exists, or by the local union. As a rule the conditions under which assessments can be imposed were outlined in the union constitutions. An international assessment in the International Association of Machinists must be approved by two-thirds of the vote of all members attending a summoned meeting. The International Brotherhood of Electrical Workers specify that if the defense fund falls below $20,000.00 an assessment of 50 cents on each male and 25 cents on each female can be levied. In addition, if the pension fund falls below $250,000.00, an assessment of $1.00 can be levied on all except pensioners. The constitution of the Brotherhood of Locomotive Engineers authorized the International President and the Secretary-Treasurer "to levy one or more additional assessments" until there are enough funds to meet the losses arising from accidents to members. The General Executive Board of the International Association of Bridge, Structural and Ornamental Iron Workers is allowed "to levy an assessment sufficient to replenish the treasury and meet all demands created by...an emergency." Locals of the same union can levy a local assessment provided the proposal has been presented to the local union in writing, read at three consecutive meetings, and been approved by a majority vote of all members present at the third meeting. If the income of

the Journeymen Barbers' Union is insufficient to meet the expenses of the union, a referendum on levying an assessment can be taken. In contrast, the General Executive Board of the Boot and Shoe Workers' Union "can levy such assessments as they deem necessary." Local unions of the same international can levy assessments with the approval of the General Executive Board, (Taft, 12).

Locals of the International Typographical Union can levy special assessments, if such levies are approved by the members on a referendum vote. The requisite majority is determined by the local constitution. In addition, "must plainly explain the necessity for the proposed charge." The painter's union requires that a proposal for levying a local assessment must be "laid over at least one week for consideration" and be approved by a majority of those present at a meeting. The Granite Cutter's International Association allows its locals to impose an assessment upon their members "not to exceed one dollar." The procedure for levying is not specified (Taft, 12).

In summarizing, contributions for dues and initiation fees in labor unions are not uniform. Skilled trades which pay a wide variety of benefits and which have been organized for the longest periods require the highest contributions. Originally built on the theory that a large treasury provided a margin of safety, they have continued to charge high dues and initiation fees because of the benefits they furnish. For example, members of the electricians' union 65 years of age and in continuous good standing for twenty years can draw pensions of $40 per month. A death benefit is also paid. In addition, many locals operate independent sick and death benefit systems. These activities must be financed out of dues. Whenever these unions take in non-beneficial members, the latter are charged lower dues. The more recently organized unions pay no benefits, and consequently do not require

so high a level of dues to maintain themselves. On the whole, there is no evidence that dues are generally exorbitant, and many "low dues" unions have found that too low contributions hamper the proper functioning of the organization. High initiation fees were devised at a time when craft unions were exclusive and tried to limit their membership to what they believed was the available employment in the trade. They are found mainly in the skilled crafts. Unions that seek mass membership among semi-skilled and unskilled labor find high initiation fees impractical. The evidence seems to indicate that relatively few unions charge exorbitant initiation fees, and not many workers are affected by them (Taft, 12).

By way of summary, Negroes were barred from about one-sixth of organized labor, including most railroad unions and most of the building and printing trades. One-fourth of the international unions barred members of undesired political groups such as Communists, Fascists, or Klansmen. Exclusions because of citizenship, sex, or creed were relatively infrequent. Although the post-war years have shown marked decreases in exclusion because of race, creed, or sex, there has been a marked increase in exclusion because of political beliefs. The practice of closing the union membership to all but a chosen few is also relatively infrequent. The right to vote seem protected in a substantial majority of cases.

The Right to Free Political Action. The right to vote may be hallow unless the members of the union are free to debate the policies of the union, criticize the conduct of the officers, form an organized opposition, and campaign during union elections. The process of free criticism, electioneering, and debate is the very heart of the democratic determination of majority will. However, full protection of this freedom is not without serious dangers. Vigorous action may degenerate into factional strife of

such bitterness that the energy of the union is dissipated and it becomes too divided to bargain effectively with the employer. The union needs outward strength to deal with the employer, but it needs internal freedom for political activity of its members.

Nearly every constitution contains provisions which may be used to curb freedom of political action within the union. Half of the international unions have provisions which limit the criticism of officers and fellow members (A. C. L. U., 2). In 1944 the opposition candidate in one of the large industrial unions was expelled on charges of circulating derogatory statements concerning officers in their official capacity (A. C. L. U., 2). Opposition to officers in union elections frequently reveals the degree of control the officers exercise. In a study which examined seven unions, 764 offices had been filled in the period between 1910 and 1941; the results are summarized in Table 4 (Taft, 13).

Of the total 764 officers chosen, 634 ran for office unopposed and 130, or 17 per cent, of the officers were uncontested. The percentages of offices contested in the seven unions in this period varied from 5 per cent in the International Brotherhood of Teamsters, Chauffers, Helpers and Warehousemen, to 52 per cent in the Journeymen Barbers International Union. Out of a total of 83 officers elected by the Brotherhood of Railway Carmen since 1910, twenty-one were challenged. Six presidential offices were filled and one contest took place. In the seven conventions of the International Brotherhood of Teamsters, Chauffers, Helpers and Warehousemen, a total of 65 officers had been elected. The International president in 1944 was first elected in 1907 by defeating the incumbent, and had not been challenged since 1910 (Taft, 2).

Table 4. Number of offices filled and number of other offices contested in seven international unions.*

Union organization	Total offices			Uncontested			Contested					
	All	Pres.	Other	All	Pres.	Other	All	%	Pres.	%	Other	%
Total	764	63	701	634	54	585	130	17	9	14	121	17
Brotherhood of Railway Carmen	83	6	77	62	5	57	21	25	1	17	20	26
Amalgamated Assoc. of Street, Electrical Railway, & Motor Coach Employees	222	15	207	205	15	190	17	8	0	0	17	8
International Brotherhood of Teamsters, Chauffers, Helpers & Warehousemen	65	7	58	62	7	55	3	5	0	0	3	5
United Brotherhood of Carpenters and Joiners	96	8	88	64	5	59	32	33	3	38	29	33
Bricklayers, Masons, & Plasterers International Union	83	7	76	79	7	72	4	5	0	0	4	5
Journeymen Barbers International Union	67	6	61	32	3	29	35	52	3	50	32	53
Hotel & Restaurant Employees International Alliance & Bartenders International League	148	14	134	130	12	118	18	12	2	14	16	19

*Elections were held at different intervals by different unions, and the number of officers chosen changed with time. Sometimes one or more offices were not filled at conventions. In this table the election of an officer for one term was counted as one. Consequently, each office was counted separately for each term (Taft, 13).

The opposition to the re-election of officers may have no relation to the method of election. While six of the unions selected their officers at conventions, the United Carpenters and Joiners of America chose their officials by referendum ballot. Of course, it might be argued that the lack of opposition showed satisfaction with the performance of those in office. However, there may be additional reasons. In some organizations it may be both difficult and dangerous to challenge the heads of the union in an election duel, even when the opponent may have some chance of success. In 1936, J.W. Williams

allowed his name to go before the convention of the Carpenters Union as a candidate for president to oppose the incumbent, W. D. Hutchison. Williams was not an unknown and he was an established trade union official of some importance, yet the situation appeared so hopeless that he withdrew his name. Soon thereafter Williams was forced out as president of the Building Trades Department of the American Federation of Labor which was dominated by the Carpenters Union.

Between 1899 and 1908 John Mitchell served as president of the United Mine Workers of America. His prestige because of his successful leadership in the anthracite strikes of 1900 and 1902 however, was such that no one would challenge him for office. As soon as he retired, the office was contested. John L. Lewis took office in 1920, and he was opposed for election in 1920, 1924, and 1926. Those were the last times that attempts were made to beat Lewis, as of 1944. Both John Brophy and Alexander Howard, who ran against Lewis in 1926, were eliminated from the union because of their opposition (Taft, 13).

A later study by Philip Taft included thirty-four union elections between 1900 and 1948, with the election of 2307 general officers being recorded (Taft, 14). With the election of 2307 officers, there were 1770 who were uncontested; the remaining 537, which was 23.2 per cent of the total, were contested. Taft (14), concluded that "... the absence of formal opposition, since differences may be settled or compromises evolved at conferences held by the significant leaders behind the scenes..."

Divisions within a union are not always desirable, but when they do not impede the efficiency of the union or complicate the problems involved in collective bargaining, the factions may act as a check upon the official excessess and promote honest and effective administration (Taft, 13).

The ideal in union political democracy is exemplified by the International Typographical Union, characterized by two well marched political parties, it conducts regular and orderly "campaigns", where the issues are fully discussed and positions taken and defended by proponents of both sides. In contrast to many labor unions, the International Typographical Union has never experienced an influx of thousands of new members. Membership increases have been slow and steady. As a result, new members are assimilated by the organization; they become aware of the union's practices and learn its ideals. Bargaining is conducted primarily on a local basis, and the opportunities for intervention in the local union's affairs by the international officers are reduced. Although international representatives frequently participate in negotiations with the employer, they are there to assist the local bargaining committee, rather than to bargain on a regional or national basis. The total membership voting in elections has ranged from 54.3 per cent in 1904 to 81.4 per cent in 1924. Moreover, the margin that divides the victorious and the defeated candidates has usually been narrow, so that officers must be on their mettle. The existence of political parties automatically creates a board of critics for the administration in power; the administration in turn naturally seeks to avoid giving the opposing faction ammunition for the next campaign. "The age and traditions of the I. T. U., the slow and steady growth, have all made the printers' union a microcosm of democracy and a model for all labor organization" (Taft, 13).

Unions may curtail freedom of the press by prohibiting the issuing of any circular without the consent of the international officers. In one instance members were expelled because they had circulated, without approval, a pamphlet objecting to the pay of the international officers. A few unions prohibited the organizing of any groups within the union whose purpose was to

shape the policies of the union or to determine the choice of officers. One large union flatly prohibited any political campaigning within the union. In addition to these provisions which placed specific limitations on political action, most union constitutions had more vague clauses which might be used to curtail criticism or debate. Union members may be expelled for "causing dissention," "creating disharmony," or for "conduct unbecoming a union member." In a number of cases these provisions had been used to silence those who questioned union policies or challenged the officers in power (Freidan, 3).

By way of summary, nearly every constitution contained provisions which might be used to curb the right to free political action. Half of the international unions had constitutional provisions which limited union members' right to criticize the union officers and fellow members. In the study of seven unions cited above, from the total 764 officers chosen in elections, 634 ran for office unopposed. While one need not necessarily imply from this the absence of effective political opposition, this conclusion certainly is invited; the right to free political action is seriously limited, at least potentially, either by constitutional provisions or by coercive actions of individual union officers.

The Right of Free Elections. The right to belong to a union and to engage in political action is enhanced when adequate protection is given to the voting process through which the individual member makes his wishes known. Many union political matters were typically decided by direct vote and debate in the local meeting, others were made through referenda of all union members, and still others were determined by officers or delegates who were elected by the members to represent them (A. C. L. U., 2). Although some of these methods of making decisions may enable the members to speak

with a clearer and more effective voice than the others, all seem to be democratic methods. But regardless of the other methods used, the voting process must be protected.

There seem to be three essential requirements for meeting the right of free elections. The first essential is that each member be free to vote as he chooses. This essential is fully recognized in the secret ballot, but it is endangered when votes are taken by a show of hands in open meetings. If the issue is hotly contested, and particularly if the officers have taken a strong hand, the ordinary member may not vote his true convictions for fear of possible reprisals. Although he is too timid to speak his mind, he is still entitled to his vote. The right to a free choice may be denied in more subtle ways.. Opposition candidates may be prevented from obtaining nominations, or be forced to withdraw under threats. Issues submitted for referenda may be misrepresented or presented without suitable alternatives, or the members may merely be asked to ratify action already taken by the officers. These devices maintain only the empty form of democracy while denying the basic right to choose freely between genuine alternatives (A. C. L. U.,2).

A second essential for the election process seems to be that the votes be honestly counted. If the election tellers represent conflicting points of view there is little danger, but if they are appointed by the officers in power, they may falsify the returns and thereby frustrate the majority will. This danger can be easily avoided, as it has been done by some unions, by having the whole election supervised by an independent agency such as the Honest Ballot Association (A. C. L. U., 2).

The third essential is that qualified persons elected to positions by the membership be allowed to serve. If a local union officer is arbitrarily

removed by the international officers, or if a delegate to the convention is denied admittance because he advocates certain union policies, it is not merely the officer or the delegate who is injured. The whole local membership has been deprived of its ballot.

No systematic effort to assess the degree to which unions generally adhere to these minimum requirements seems to have been undertaken, hence no judgement can be made in this respect.

The Right to Demand an Accounting of Union Affairs. The right to participate does not end in the voting booth, for participation in policy-making is mere formality if the policies decided by the majority are not carried out; if issues have been decided by direct vote, the members have a right to know what steps are being taken to enforce those decisions (A. C. L. U., 2). If officers have been elected the members are entitled to know how they are conducting the union's business and whether they are fulfilling their pledges. The members' right to an accounting of union affairs helps insure that decisions made through the democratic process are not frustrated, and it also greatly aids the members in making future choices of policies and leadership.

An essential part of this right is the right to an accounting for union funds, for the use of the union treasury is one of the critical policies to be governed by the members. There, the right is more than the right that money not be stolen, it is the right of members that union funds be used for the purpose determined by their vote. Illustrative of this is the issue which Local 47 of the American Federation of Musicians, which is the second largest local in the A. F. M., is having with the international. At issue is whether the funds of the recording musicians of the local are being used by James C. Petrillo, the international president, to build up union trust

funds at the expense of their individual rights as performing artists. The quarrel is actually with what the members see as Petrillo's arbitrary and undemocratic handling of A. F. M.'s Music Performance Trust Fund, to which Local 47's members are the major contributors but from which they receive little returns. Mr. Read, the local's president, told the executive board of the A. F. M. that the local had lost $3,000,000 during the past two years because money they felt they had earned was being diverted into the controversial fund (Hendrick, 4).

There are also certain dangers involved in the union's giving full accounting of all union affairs. If the employer knows all the details of the union's objectives and strategy, and knows the limits of its resources, the union may be seriously handicapped in its bargaining with him. If the union makes full disclosure to its members, then the employers are almost certain to know. This again is one of the dilemmas of a democracy. However essential the right to demand an accounting of union affairs may seem to be, there is not enough evidence available to determine the facts regarding the extent to which unions were or were not meeting this right.[1]

By way of summarizing, at least four elementary rights seem to be crucial in protecting the right to participate in union affairs: (1) the right to vote; (2) the right of political action; (3) the right of free elections; and (4) the right to demand an accounting of union affairs. The right to vote seems protected in a substantial majority of cases. The evidence would seem to indicate that the right of free political action is seriously limited, at least potentially, either by constitutional provisions or by coersive action of individual union officers. No systematic effort to assess the degree to which

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[1]The Taft-Hartley Act now requires unions to account for many of their internal affairs.

unions generally adhere to the requirement of free election seems to have been undertaken, hence, no judgment can be made in this respect. The right to demand and accounting of union affairs is now protected by the Taft-Hartley Act. However, there is insufficient evidence to determine the extent to which unions were meeting this essential requirement prior to 1947.

The conclusion is that there is a substantial lack of evidence to support any definitive judgment on the extent to which a majority of U. S. unions protected the right to participate in union affairs.

The Right to Fair and Equal Treatment

Participation provides self-government through the free operation of majority will, but democracy also demands that the power of the majority be limited for the protection of the minority. Even though a worker's right to participate in union affairs is recognized, the full measure of democracy may not be met. Runaway majorities must not be allowed to discriminate arbitrarily against minority groups and obtain benefits for themselves at the expense of those who lack the political strength to resist. Workers, like citizens, are entitled to fair and equal treatment by their government (Summers, 11).

The danger of discrimination is most acute, it seems, when the union in bargaining helps determine who shall be entitled to the jobs available. Seniority clauses govern the individuals' right to work. They are an accepted and valuable part of our industrial pattern, but they can be manipulated by the majority to obtain job preference at the expense of the minority. Thus, a railroad brotherhood negotiated a contract which virtually destroyed the seniority rights of Negro firemen and insured their ultimate elimination from the work (Northrup, 5).

A cruder device of job allocation is combining the closed shop with a restriction concerning admission to the union. When a union excludes Negroes, it enforces a job preference based on race. When it admits only sons of members, then job rights are based on ancestry. And when the union excludes women it is discriminating in job rights on the basis of sex. These standards of preference are a direct denial of the right to fair and equal treatment.

Since the evil is not that unions determine who shall work, but that their determination is arbitrary, the test is not necessarily whether union membership is closed, but why it is closed. In the building trades workers shift frequently from job to job, so customary seniority clauses are meaningless. A closed shop with a closed union may at times mean simply that newcomers are excluded until older workers are employed. If more men are needed temporarily, new workers are granted work permits, but when jobs become scarce they are bumped by union members (A. C. L. U., 2). The closed union may thus provide in some situations a rough form of industrial seniority. During the depression a number of unions informally closed their membership because large numbers of their members were out of work, and at least two unions provided in their constitutions that no new member could be admitted by a local when any of its members were unemployed (A. C. L. U., 2).

The right to equal treatment cannot mean that a member is entitled to perfect equality, for complete equality is impossible of either definition or achievement. The union must retain enough freedom to surrender some demands to achieve power, even though the final bargain benefits some workers more than others. But the majority ought not compromise the claims of the minority only to achieve benefits for themselves.

Discrimination may take many forms, and it may be extremely subtle. In one instance, when two companies consolidated, the employees of the large

company used their majority control to place the employees of the smaller company at the bottom of the seniority list (A. C. L. U., 2). In another case, a union obtained a retroactive wage increase based on inequities in job classification. When it was discovered that the bulk of the back pay would go to a relatively small group of employees, the majority voted that the total amount should be divided equally among all employees (A. C. L. U., 2). The railroad brotherhoods frequently refused to process grievances of Negroes, or have withdrawn grievances in return for favorable settlement on grievances of white members (Northrup, 5). In many situations it is impossible to determine whether the union has acted in good faith or whether it has deliberately bartered away the rights of the minorities for majority gains.

The danger of discrimination is obviously greater where individuals are excluded from the union, and are therefore unable to exercise influence through the political process within the union. However, the right to participate in union affairs does not guarantee equal treatment, for the majority may ride roughshod over the minority. Union democracy requires that the union's power over the worker must not be used arbitrarily, and that each worker must be given fair and equal treatment.

Concern has been mostly with why the right to fair and equal treatment should be met, and very little with whether or not it has been. There is no evidence available to reach a definite conclusion on the extent to which a majority of unions have met this requirement.

The Right to a Fair Trial

Trials and appeals have been established by unions to compel obedience or to impose punishment if members are found guilty of violating their obligations. The trial hearing is seldom held by the union as a whole, but by a trial committee which reports its findings and recommendations to the local for its approval; 106 unions have provisions for such a trial committee. In 46 unions, the elected officers act as the hearing board; five unions provide for a permanent committee which shall hear all discipline cases during its term of office; and 55 unions provide for the naming of a temporary committee to hear each case as it arises (Summers, 10).

The hearing board usually consists of from five to seven members, although the Boilermakers has only three members, and the Stone Workers has fifteen. Where the hearing board consists of a special committee, various methods are provided for choosing that committee. In 28 unions it is appointed by the President or the executive committee; in 19 unions it is elected by the membership; while in six it is chosen from the membership by lot (Summers, 10). The Granite Cutters allow the defendent to choose three members of the trial committee, the local elects three, and these agree on a seventh. A relatively small number of unions attempt to protect against biased members sitting on the trial committee; 21 unions exclude the ones filing the charges or anyone directly or indirectly interested in the case. In addition, 10 unions permit the accused to challenge the board members, but in some, like the Packinghouse Workers, the number of challenges is limited to three, while in others, like the Stagehands, the challenges may be denied by the executive committee which acts as the trial board (Summers, 10).

Constitutional provisions regulating the conduct of the hearings are scarce and incomplete. Many have no provisions whatever, or merely require a fair and impartial hearing. The right of counsel is guaranteed by about half of the unions. Distrust of outsiders in general, and lawyers in particular, is reflected in the almost uniform requirement that counsel must be chosen from the membership, and the Painters provide specifically that "the member selected shall not be a lawyer." Only the Inland Boatmen and the Auto Workers allow legal counsel, and 79 unions provided that the defendant shall have counsel; 74 of these specifically provide that he shall be a member in good standing, three do not state who he shall be, and two expressly permit lawyers (Summers, 10).

Although the right of the defendant to hear the evidence against himself and to cross-examine witnesses is implicit in the more general provisions, only 22 unions explicitly give this right. Nine unions require that the trial shall be a closed hearing, but the Locomotive Engineers provide that it shall be held at the union meeting, with the trial committee sitting as jury. Ten unions require that a complete record must be made of all the evidence in the case, but 15 require that only a summary of the evidence must be made. Uniformly, the constitutions provide that if the accused fails to appear for the hearing, without a reasonable excuse, the trial may proceed in his absence (Summers, 10).

The function of a trial committee is to hold a hearing, collect the evidence, and report its findings to the local for action. The findings almost always include recommendations as to guilt or innocence and as to the penalty to be inflicted. Although this is the most common procedure, there are two substantial variations. In 30 unions, such as the Building Service Employees, the findings of the trial committee are final and no ratification

by the local is required. In 15 unions the trial committee is eliminated and the trial is held before the local itself, which hears the evidence first hand then votes the verdict.

The procedure at the ratification stage usually consists of a presentation of the findings of the committee, with a summary of the evidence on which it is based; 15 unions provide that the accused shall have an opportunity at this stage to present arguments in his behalf denying his guilt or justifying his conduct, but three, such as the Machinists, expressly prohibit any argument or debate on the trial committees recommendations, and require that the local shall immediately vote. The vote on guilt or innocence is frequently separated from the vote on the penalty to be inflicted. In the great majority of unions, guilt is determined by a simple majority vote. Only 17 unions require as much as a two-thirds vote on the question of guilt, but 16 others require at least a two-thirds vote before a member can be expelled. The Hodcarriers provide that the recommendations of the trial committee shall be upheld unless rejected by a two-thirds vote (Summers, 10).

The usual appeals available are, in succession, to the international president, to the international executive board, and to the international convention. A few unions, such as the Electrical Workers and the United Mine Workers, provide that the first appeal shall be to the District Council, and the Amalgamated Clothing Workers similarly provide for an appeal to the Joint Board (Summers, 10).

The procedure used by a local in a discipline case may occasionally ignore that prescribed by the international constitution, and fail to give the accused member a fair trial. However, the great importance which union officials normally place on the constitution as a guide in difficult situations,

and the danger of being rebuked on appeal, tend to keep abuses of discipline procedure at a minimum. A study of 218 reported cases tended to confirm this conclusion (Summers, 10). Although failure to use proper procedure seems to be a well-accepted basis for legal relief, no procedural defect was claimed in 42 of these cases. In 37 others, in which defects were claimed, the court explicity stated that the defect was not substantial. In only 73 cases did the court indicate that there was sufficient defect to amount to a denial of a fair trial. In the 66 remaining cases the report did not indicate whether any defects were claimed or whether they found them to be substantial (Summers, 10). These cases included only those instances in which union discipline was most subject to criticism, yet in less than half of them did the court find any real violations of procedural fairness. This relatively small proportion of miscarriage in the most questionable cases seems to indicate that union practices were, on the whole, reasonably fair.

FEDERAL AND STATE REGULATION OF INTERNAL UNION AFFAIRS

Federal Regulation

The enactment of the Taft-Hartley amendments to the National Labor Relations Act marked the first Congressional attempt to regulate the internal affairs of labor unions.[1] It is the purpose of this chapter to note the most important of these regulatory provisions and to attempt to assess their significance.

The major interest of Congress in the area of union administration seemed to be the preservation of the individual's right to work as a non-union man. Aaron and Komaroff (1). As amended, Section 7 guarantees the right of

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[1] 61 Statute, 146, 1947; 29 U.S.C.A., 141.

employees to refrain from any or all union activities. This general guarantee is qualified by Section 8 (a) (3), which permits the making of union-shop or maintenance-of-membership agreements in certain cases; such an agreement is legal if, (1) it is made with an undominated, unassisted union which has been certified as the bargaining representative of employees in the unit covered by the agreement made; and (2) the majority of employees in the unit eligible to vote have authorized the union to make such an agreement.[1] But the following proviso adds further qualifications:

> Provided further, that no employer shall justify any discrimination against an employee for non-membership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.[2]

The corresponding provision in the amendments applicable to unions is Section 8 (b) (2), which makes it an unfair practice for a union:

> to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) (3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.[3]

With respect to initiation fees, the amendments provide further, in Section 8 (b) (5), that it is an unfair practice for a union to require of employees covered by a valid union-security agreement an initiation fee which the National Labor Relations Board finds "excessive or discriminatory under all circumstances."[4]

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[1]This provision was deleted in 1951; Public Law 189.
[2]Labor Management Relations Act, 1947, Public Law 101, Section 8 (a) (3).
[3]Ibid, Section 8 (b) (2).
[4]Ibid, Section 8 (b) (5).

Section 8 (b) (1) of the Act makes it an unfair practice for a union to "restrain or coerce employees in the exercise of the rights guaranteed in Section 7;" but to this is added the following significant proviso:

> Provided, that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein.[1]

This means, although employees are guaranteed the right to refrain from any or all union activities, unions can prescribe any rules for admission into the organization, such as racial requirements, which it believes necessary.

Two other indirect forms of control over internal union affairs were initiated by the Taft-Hartley Act. Section 9 (f) and 9 (g) provide that no union may have access to the National Labor Relations Board unless it files with the Secretary of Labor, a detailed and current statement containing information regarding its officers, the procedures for their selection, salaries, dues and initiation fees, qualifications for membership, and other related data.[2] In addition, financial reports must be filed in the form prescribed by the Secretary of Labor each year, and copies of such reports must be furnished to the union membership. Section 9 (h) similarly denies access to the Board to any union unless each of its officers has executed currently or within the preceding twelve-month period and filed with the Board an affidavit concerning his membership with the Communist Party.

It appears that the restrictions of Section 8 (b) (1) of the Taft-Hartley Act have no effect upon the policies of unions which neither possess nor desire union-security agreements; and even in cases in which such agreements exist, the statute seems to protect employment rather than union membership. Congress

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[1] Ibid., Section 8 (b) (5).
[2] Ibid., Sections 9 (f) and 9 (g).

apparently felt that arbitrary restrictions upon admission to union membership and undemocratic expulsions of union members are matters of public concern only if the direct and immediate result of such practices is loss of employment. It either overlooked or disregarded the fact that the arbitrary denial of admission to membership can work to the serious detriment of employees, without actually costing them their jobs; and that arbitrary expulsion from union membership, even if it does not occasion the discharge of the expelled member, can undermine the democratic structure of the union.

The filing requirements of Sections 9 (f), (g), and (h) of the Taft-Hartley Act are not compulsory, but most unions comply with these requirements in order to file representation or complaint cases with the Board.

Although it seems that fewer workers than formerly are now being discharged as a consequence of their expulsion from a union which has a union-security agreement with the employer, there is no way of knowing how many of the workers expelled for valid reasons still hold their jobs by virtue of the restrictions in the Act dealing with unfair practices of both the employer and the union.

And despite all the hue and cry over allegedly exorbitant initiation fees, not a single case charging a union with violating the "excessive initiation fees" section of the Act has been reported (Aaron and Komaroff, 1). There is no indication, moreover, that the few unions known to require excessive initiation fees have altered their policies since passage of the Taft-Hartley Act (Aaron and Komaroff, 1).

State Regulation

Twenty-two states and the territory of Hawaii have adapted legislation regulating, directly or indirectly, the internal affairs of labor unions.[1] The other twenty-six states and the territories of Alaska and Puerto Rico have no statues of this type. Included in this list are three major industrial states, California, Illinois, and Ohio. Michigan may be put in this category because its only law purporting to regulate the internal affairs of unions requires registration with the Attorney General of the state by any labor union "controlled by agencies serving the objects and purposes of a foreign power." (Aaron and Komaroff, 1).

Sixteen states have statutes regulating, directly or indirectly, union rules relating to the admission, discipline, or activities of union members.[2] The largest single group consists of the 12 states having so-called F. E. P. C. statutes, which are applicable to employers and employment agencies, as well as to unions.[3] These statutes are designed to prevent and eliminate discrimination in employment based on race, creed, color, or national origin. Four of the 12 states, Indiana, Kansas Nebraska, and Wisconsin, have established only a policy against such discrimination in employment, without providing any means of enforcing it. The remaining eight states have provided a variety of sanctions, ranging from cease and desist orders to fines and imprisonment. The first of these statutes, the New York State Law Against Discrimination, was enacted in March, 1945. This law provides, in part, that it shall be unlawful:

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[1] Alabama, Colorado, Connecticut, Florida, Idaho, Kansas, Massachusetts, Minnesota, Nebraska, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Washington and Wisconsin.

[2] Colorado, Connecticut, Florida, Indiana, Kansas, Massachusetts, Nebraska, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Texas, Washington, and Wisconsin.

[3] Connecticut, Indiana, Kansas, Massachusetts, Nebraska, New Jersey, New Mexico, New York, Oregon, Rhode Island, Washington, and Wisconsin.

> For a labor organization, because of race, creed, color, or national origin of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.[1]

Eight states have enacted other laws either in place of, or in addition to, the types already mentioned.[2] The declaration of policy in the Colorado Labor Peace Act states, in part, as follows:

> All rights of persons to join labor organizations or unions and their rights and privileges as members thereof, should be recognized, safeguarded, and protected. No person shall be denied membership in a labor organization or union on account of race, color, religion, sex, or by any unfair or unjust discrimination...(Aaron and Komaroff, 1).

The Kansas and Nebraska laws are the same in all material respects, except that the former specifically excluded employers and employees covered by the Railway Labor Act. The Florida law makes it unlawful for any person:

> To interfere with or prevent the right of franchise of any member of a labor organization. The right of franchise shall include the right of an employee to make complaint, file charges, give information or testimony concerning the violations of this chapter, or the petitioning to his union regarding any grievance he may have concerning his membership or employment, or the making known facts concerning such grievances or violations of law to any public officials, and his right of free speech (Aaron and Komaroff, 1).

Violations of the above law are punishable by fine and imprisonment.

Massachusetts has directed particular attention to the rights of union members employed under union-security agreements. Its State Labor Relations Law provides that any employee who is required, as a condition of employment, to become or remain a union member, may appeal to the Labor Relations Commission for any alleged unfair denial of admission to, or suspension or expulsion from, the union. A hearing before the Commission is provided for,

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[1]Similar Laws may be found in the laws of Connecticut, Massachusetts, New Jersey, New Mexico, Oregon, Rhode Island, and Washington.

[2]Colorado, Florida, Kansas, Massachusetts, Nebraska, Pennsylvania, Texas, and Wisconsin.

and if the Commission finds that the employee was unfairly denied admission to membership in the union, or that the discipline complained of:

> (1) Was imposed by the labor organization in violation of its constitution and by-laws; or (2) Was imposed without a fair trial, including an adequate hearing and opportunity to defend; or (3) Was not warranted by the offense, if any, committed by the employee against the labor organization; or (4) Is not consistent with the established public policy of the commonwealth; (Aaron and Komaroff, 1).

then the Commission can order the labor union to admit or restore the employee to membership, or to refrain from seeking to procure his discharge.

The Colorado, Pennsylvania, and Wisconsin statutes approach this particular regulatory problem indirectly, by making it an unfair labor practice for an employer to enter into a union-security agreement which does not meet specified conditions. The Pennsylvania Labor Relations Act, while permitting union-security agreements under conditions similar to those prescribed in Section 8 (3) of the Wagner Act, adds the following proviso:

> ...if such labor organization does not deny membership in its organization to a person or persons who are employees of the employer at the time of the making of such agreement, provided, such employee was not employed in violation of any previously existing agreement with said labor organization (Aaron and Komaroff, 1)

The Wisconsin Employment Peace Act permits all union agreements under certain circumstances, but adds the following requirement:

> The (Employment Relations) Board shall declare any such all-union agreements terminated whenever it finds that the labor organization involved has unreasonably refused to receive as a member any employee of such employer, and each such all-union agreement shall be made subject to this duty of the Board (Aaron and Komaroff, 1).

Identical language is used in the Colorado Peace Act.

Six states impose some kind of statutory regulation upon union initiation fees, dues, and assessments.[1] The Alabama law outlaws collections for work permits. Colorado prohibits arbitrary or excessive initiation fees and dues,

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[1]Alabama, Colorado, Florida, Kansas, Massachusetts, and Texas.

as well as excessive, unwarranted, arbitrary, or oppressive fines, penalties, or forfeitures. In Florida, it is unlawful for any person to charge, receive or retain any dues, assessments or other charges in excess of, or not authorized by the constitution or by-laws of any labor organization. Kansas has identical provisions. The Massachusetts law forbids a labor union to require any person, as a condition of securing or continuing employment, to pay any fee or assessment other than that required by the constitution and by-laws. Violations of this provision are punishable by fine (Aaron and Komaroff, 1). The Texas statute dealing with the subject is more specific and detailed than corresponding laws in any other of the states. The most controversial part of the statute, it seems, made it unlawful for any union or its representatives to make any charges, or to receive money for any pecuniary exactions, "which will create a fund in excess of the reasonable requirements of such union, in carrying out its lawful purpose or activities, if...such pecuniary exactions create, or will create an undue hardship on the applicant for intiation...or upon the union members" (Aaron and Komaroff, 1). The trial court ruled, without further elucidation, that this provision contravened "the provisions of the Constitution of the State of Texas and the Constitution of the United States."[1]

Eleven states have enacted laws requiring some type of union report on financial or other internal union affairs.[2] The Alabama Labor Act requires all labor unions who have more than 25 members to file annualy with every member and with the Department of Labor, a sworn statement containing the following information: (1) the names and addresses of its officers and business

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[1]American Federation of Labor v. Mann. Eight C.C.H. Labor Cases, Texas District Court, 1944, Paragraph 62,009.

[2]Alabama, Colorado, Florida, Idaho, Kansas, Massachusetts, Minnesota, North Dakota, South Dakota, Texas, and Wisconsin.

agents, together with the salaries and other remunerations paid each; (2) the name of the union and the location of its offices within the state; (3) the date of the regular election of officers, and the number of paid-up members; (4) a complete financial statement of all fees, dues, fines, and assessments levied and received during the preceding twelve months; and (5) a complete statement of all property owned by the union. Violations of the statute are punishable civilly by fine, and criminally by fine and imprisonment.

The Florida statute provides that every union operating within the state must make an annual written report to the Secretary of State showing the name of the union and its office location and the names and addresses of the officers and business agent. This provision was held unconstitutional to the extent that it is applied to enjoin a labor union from functioning for failure to comply with the statutory requirement. Like Alabama, Texas passed a law requiring unions to submit an annual report covering a number of matters, including a financial report of all fees, dues, fines, and assessments levied or received during the preceding twelve months. However, this provision was struck out on the ground that it is an unwarranted and unreasonable requirement imposing an undue burden upon unions not demanded by the public interest.[1] The statutory regulations of union reports enacted by Colorado and Idaho were declared unconstitutional for reasons not directly related to those specific regulations. The Colorado provisions were held to be "so inseparably intertwined with and predicated upon the unconstitutional compulsory union incorporation requirement of the Labor Peace Act they they could not stand with it.[2] The Idaho statute, which sought to regulate a variety of union activities,

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[1] 188, S.W. (2d), 276,282, Texas Civil App., 1945.

[2] A.F.L. v. Reilly, 113 Colorado, 90, 100, 155, paragraph (2d), 145, 1944.

including picketing, and boycotting, fell afoul a state constitutional provision that each act must embrace but one subject, expressed in the title.[1] The corresponding provisions in the Kansas, Massachusetts, Minnesota, North Dakota, South Dakota, and Wisconsin statutes contain no novel features (Aaron and Komaroff, 1).

Four states have laws regulating the election of union officers and representatives, those being Colorado, Florida, Minnesota, and Texas. The most sweeping of these is the Minnesota Labor Union Democracy Act. It provides that no union officers shall be elected for a term exceeding four years, and that elections of such officers shall be by secret ballot. Reasonable notice of elections of officers must be given to all eligible voters, and no election is valid unless a plurality of those eligible to vote do so. A union failing to conform to these requirements is subject to disqualification, in which event it may no longer act as the bargaining representative of the employees. The Florida law declares it to be unlawful for any person to prevent elections of labor organizations. And like so many other provisions of the Texas statute, the one regulating union elections, which required officers to be elected by majority vote of the members present and participating, has been declared unconstitutional.[2] The relevant provision in the Colorado Labor Peace Act provided that union officers should be elected annually and by secret ballot; that any member in good standing should be eligible for office on giving proper notice; and that thirty days' notice of the annual meeting should be given to all members, together with a list of candidates for office and an agenda of all other business to come before the meeting. This provision

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[1] A.F.L. v. Langley, 66 Idaho, 763, 168 Paragraph (2d), 831, 1946.
[2] A.F.L. v. Mann, op. cit..

was held invalid because of its close association with, and dependence upon, the compulsory incorporation provision of the statute.[1]

By way of summary, 26 states have no legislation relating to the regulation of internal union affairs. Included in this list are four of the most important industrial states: California, Illinois, Michigan and Ohio. The eight states with enforcible statutes prohibiting discrimination in employment because of race, creed, color, or national origin, by union, employers and employment agencies, have made an effective start toward industrial democracy. Yet these laws, while essential, are not sufficient; other regulations are needed to establish and maintain democracy within labor unions. Those states which have attempted to regulate the internal administration of labor unions have, it seems, enacted laws which offer insufficient protection to individual employees and, in some cases, unduly restrict union activities.

Since the federal law purports to regulate internal union affairs only indirectly, a vast area is left open to state regulation; and while state experimentation in this area seems to be desirable, the Federal Government would appear to have an obligation to enact legislation dealing specifically with the problem which can serve as a standard of comparison.

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[1]A.F.L. v. Reilly, op. cit...

SUMMARY OF FINDINGS AND CONCLUSIONS

The recognition of three basic rights of individual workers seem to represent the minimum essentials of an acceptable union democracy. First, every worker is entitled to participate, either directly or indirectly, in making decisions which affect his working life. Second, he is entitled to equal treatment with all others governed by the same union. Finally, he is entitled to a fair trial on all charges brought against him.

There seem to be at least three compelling reasons why unions should be democratic. First, a union in collective bargaining acts as the representative of every worker within the bargaining unit. The union's power is the power to govern the working lives of those for whom it bargains, and all governing should be exercised democratically. Second, in the exercise of those powers derived from the Federal Government through the passage of such laws as the Wagner Act, unions should maintain the same democratic standards as are required of government itself. Finally, unions should be democratic because the principal moral justification for their existence is that they tend to introduce an element of democracy into the government of industry. This high objective of industrial democracy can be fulfilled only if unions, which sit at the bargaining table with employers, are themselves democratic.

The Right to Participate

The right to participate in union affairs involves the whole process by which majority decisions are made. Within this process at least four elementary rights seem to be crucial: (A) the right to vote; (B) the right of free political action within the union; (C) the right of free elections; and (D) the right to demand an accounting of union affairs.

(A) It can be fairly stated as the general rule that the right to join, an obvious and necessary preliminary to the right to vote, is complete, and this right can be defined in terms of the exceptions to this general rule. Exceptions occur in those cases in which unions exclude persons within their jurisdiction because of race, political beliefs, creed, sex, or because the union has closed its membership to all workers but a chosen few. A substantial majority of unions did not exclude workers from membership because of race. Constitutional provisions denying the right to join because of certain political affiliations or beliefs were in effect in a large majority of unions. Only two unions were found that had constitutional provisions restricting admission because of creed, and there is little evidence that unions attempted to enforce such provisions. Most unions did not have provisions denying membership because of sex. And the practice of closing the union membership to all but a chosen few was relatively infrequent. The evidence seemed to indicate that the right to vote was complete and protected in a substantial majority of unions.

(B) The right to vote may be hollow unless the members of the union are free to engage in political action; that is, free to debate the policies of the union, criticize the conduct of the officers, form an organized opposition and campaign during union elections. However, nearly every constitution contained provisions which might be used to curb the right to free political action within the union. One-half of the international unions had constitutional provisions which limited union members' criticisms of union officers and fellow members. Free political action within the union appeared to be seriously limited, at least potentially, by constitutional provisions or actions of union officers.

(C) The right to belong to a union and to engage in political action

is enhanced when adequate protection is given to insure free elections. The right to free elections seems to entail at least three requirements: (1) each member is free to vote as he chooses, exemplified by the secret ballot; (2) the votes after the election must be honestly counted; and (3) qualified persons elected to positions by the membership must be allowed to serve, and not arbitrarily removed. There is a lack of evidence illustrating either instances of abuse of the right to free elections or protection of this right, and no judgement can be made as the extent to which unions in general meet this requirement.

(D) The right to participate does not end in the voting booth. If issues have been decided by direct vote, the members have a right to know what steps are being carried out to enforce those decisions. The members' right to an accounting of union affairs helps insure that decisions made through the democratic process are not frustrated, and it also greatly aids the members in making future choices of policies and leadership. Here again, there is not enough evidence available to determine the extent to which unions meet the minimum requirements.

In regard to admissions, unions are free and open; concerning free political action, it is limited, at least potentially, by constitutional provisions or actions of union officers; with respect to free elections, no judgment can be made as to the extent to which unions meet this requirement; concerning the right to demand an accounting of union affairs, the evidence is insufficient to support a judgment as to the extent to which unions meet this requirement; and on net balance, the conclusion must be that there is a substantial lack of evidence to support a judgment as to the extent to which a majority of U. S. unions protect the right to participate.

The Right to Fair and Equal Treatment

Participation provides self-government through the operation of majority will, but democracy also demands that the power of the majority be limited for the protection of the minority.

It seems the danger of discrimination is most acute when the union helps determine who shall be entitled to the jobs available. Seniority clauses, although accepted as a valuable part of our industrial pattern, can be manipulated by the majority to obtain job preference at the expense of the minority.

Discrimination may be subtle and take many forms. In one instance, when two companies consolidated, the employees of the larger company used their majority control to place the employees of the smaller company at the bottom of the seniority list. In another case, a union obtained a retroactive wage increase based on inequities in job classification. When it was discovered that the bulk of the back pay would go to a relatively small group of employees, the majority voted that the total amount should be divided equally among all employees. In many situations it is hard to determine whether the union has acted in good faith or whether it has deliberately bartered away the rights of the minority in order to obtain gains for the majority.

Concern has been mostly with why unions should provide fair and equal treatment and very little with whether or not they have. There is not enough evidence available to reach a judgment on the extent to which a majority of U. S. unions have met this requirement.

The Right to a Fair Trial

Unions have established trials and appeals to compel obedience or to impose punishment if members are found guilty of violating their obligations. The trial hearing is normally held by a trial committee which reports its

findings and recommendations to the local for approval; 106 unions have provisions for such a trial committee. In 46 unions, the elected officers act as the hearing body; 5 unions provide for a permanent committee which shall hear all cases during its term of office; and 55 unions provide for the naming of a temporary committee to hear each case as it arises.

Although the right of the defendent to hear the evidence against himself and to cross examine witnesses is implicit in the more general provisions of union constitutions, only 22 unions explicitly give this right. Nine unions require that the trial shall be a closed hearing, but the Locomotive Engineers provide that the trial shall be held at the union meeting, with the trial committee sitting as jury. The constitutions uniformally provide that if the accused fails to appear for the hearing, without a reasonable excuse, the trial may procede in his absence.

The procedure at the ratification stage usually consists of a presentation of findings of the committee, with a summary of the evidence on which it is based; 15 unions provide at this stage that the accused shall have an opportunity to present arguments in his behalf denying his guilt or justifying his conduct; but three unions prohibit any argument or debate on the trial committee's recommendations, and require that the local shall immediately vote. In a majority of unions, guilt is determined by a simple majority vote. Only 17 unions require as much as a two-thirds vote on the question of guilt, but 16 others require at least a two-thirds vote before a member can be expelled.

The great importance which union officials normally place on the constitution as a guide in difficult situations, and the danger of being rebuked on appeal, tend to keep abuses of trial procedure at a minimum. In a study of

218 reported trial cases, no procedural defect was claimed in 42 of these cases. In 37 others, in which defects were claimed, the court ruled that the defect was not substantial. In only 73 cases did the court indicate that there was sufficient defect to amount to a denial of a fair trial. This relatively small proportion of mistrials in the most questionable cases seems to indicate that union practices were, on the whole, reasonably fair.

Federal and State Regulation

The promotion of democratic procedures in unions through the regulation of internal union affairs by the several states and the Federal Government seems to leave something to be desired. The Taft-Hartley Act protects the individual worker's right to work, but not his right to participate in union affairs. Parts of the Act have no apparent effect on the policies of unions which do not possess union-security agreements. The Act has no effect on arbitrary restrictions upon admission to union membership and undemocratic expulsions of union members where the direct effect or result is not loss of employment. Two area which the Taft-Hartley Act neglected are union trial procedures and union elections.

On the other hand, the Taft-Hartley Act prohibits discrimination against an employee who is not a member of a union. If the union possesses a union-security agreement, the Act protects the union member against excessive initiation fees. One other requirement of the Act is that unions must give an accounting of their financial affairs and these reports must be furnished to the union members.

Several states have taken action to promote democratic procedures in labor unions. Sixteen states have regulations relating to admissions, discipline or activities of union members. Twelve of these states have regulations

designed to prevent discrimination in employment based upon race, creed, color, or national origin. The regulation of excessive initiation fees, dues, and assessments is imposed by six states; eleven require some type of union reports on financial and other internal union affairs; and four states have laws regulating the election of union officers.

One of the first steps toward promoting democratic procedures in labor unions would be for the states which do not have regulations similar to the types discussed above, to enact such legislation. Additional regulations are needed in the area of fair trials for union members.

The evidence clearly indicates that unions are meeting the right to vote and the right to a fair trial; on the other requirements the evidence is not sufficient to support a judgment. More study is needed; particularly in the areas of political action and elections within the union, as well as in respect to the problem of fair and equal treatment of union members.

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DEMOCRACY IN LABOR UNIONS

by

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AN ABSTRACT OF A MASTER'S REPORT

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Although there are many articles written on the subject of union "democracy," there seems to be no consensus of opinion on what this "democracy" in labor unions is supposed to entail. It is the purpose of this report to attempt to determine the minimum requirements of an acceptable union "democracy," and then to attempt to determine whether the multitudinous studies of this question have been sufficiently exhaustive, and have ranged the field of U. S. unions sufficiently, to support a definitive judgment as to whether the majority of unions either are or are not "democratic."

Very few studies since the passage of the Labor Management Relations Act of 1947 have attempted a comprehensive assessment of the changes in internal union government occasioned by the Act. Such a study is certainly warranted, but it is outside the scope of the present effort, which is concerned with pre-1947 union "democracy."

The recognition of three basic rights of individual workers seems to represent the minimum essential of an acceptable union democracy. First, every worker is entitled to participate, directly or indirectly, in making decisions which affect him. Second, he is entitled to equal treatment with all others governed by the union. And third, he is entitled to a fair trial on all charges brought against him.

There seem to be at least three compelling reasons why unions should be democratic. First, a union in collective bargaining acts as the representative of every worker within the bargaining unit; the union has the power to govern the working lives of those for whom it bargains, and all governing should be exercised democratically. Second, in the exercise of these powers derived from the federal government through the passage of such laws as the Wagner Act, unions should maintain the same democratic standards which are required of government itself. Finally, unions should be democratic

because the principal moral justification for their existence is that they tend to introduce an element of democracy into the government of industry. This high objective of industrial democracy can be fulfilled only if unions are themselves democratic.

The right to participate in union affairs involves the whole process by which majority decisions are made. Within this process at least four elementary rights seem to be crucial: the right to vote; the right of political action within the union; the right of free elections; and the right to demand an accounting of union affairs. It can be fairly stated as the general rule that the right to vote was complete and protected in a substantial majority of unions. Moreover, the right to vote may be hollow unless the members of the union are free to engage in political action. The evidence appeared to indicate that free political action within the union was seriously limited, at least potentially, by constitutional provisions or by the coercive actions of union officials. The right to engage in political action is enhanced when adequate protection is given to insure free elections. However there is a definite lack of evidence illustrating either instances of abuse of the right of free elections or the protection of this right; and no judgment can be made on the extent to which unions protected this requirement. The right to participate does not end in the voting booth; if issues have been decided by direct vote, the members have the right to know what steps are being carried out to enforce those decisions. Here again, there is not enough evidence available to determine the extent to which unions meet the minimum required standards.

In view of the lack of evidence, no judgment can be made on the extent to which a majority of unions protect the union members' right to a fair and equal treatment.

The third minimum essential of an acceptable union democracy was the right to a fair trial. The evidence seemed to indicate that union practices in trial procedures were, on the whole, reasonably fair.

Federal and state regulation of internal union affairs seems to leave something to be desired. The Taft-Harley Act protects the individual worker's right to work, but not his right to participate in union affairs. Parts of the Act have no apparent effect on the policies of unions which neither possess nor desire to possess union-security agreements. For example, if employees are covered by a union-security agreement, it is an unfair labor practice for a union to require initiation fees which the National Labor Relations Board finds "excessive." The Taft-Hartley Act does require the union to provide an accounting of its internal affairs.

Several states have taken action to increase the democratic procedures in labor unions. There is a vast area open to state regulation of internal union affairs. State experimentation in this area seems desirable; but it would appear that the Federal Government has an obligation to enact a law dealing specifically with the problem which might serve as a standard of comparison.

The evidence clearly indicates that unions are meeting the right to vote and the right to a fair trial; on the other requirements the evidence is not sufficient to support a judgment. More study is needed particularly in the areas of political action and elections within the union as well as in respect to the problem of fair and equal treatment among all union members.