Labor under the NRA

Carroll R. Daugherty

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This pamphlet has been prepared to meet the demand for materials which will provide college students with authoritative discussions of economic problems under the "New Deal." It is recommended for class use in courses in the principles of economics and in labor problems as a supplement to the basal text. These pamphlets may be obtained in quantity at 25¢ per copy.
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terials providing authoritative, critical
discussions of the effect of the New Deal
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in clear, concise form the purposes and
provisions of the N.R.A., and shows exactly
how and to what extent the position of
labor has been affected by the application
of this program.

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LABOR UNDER THE
NATIONAL INDUSTRIAL RECOVERY ACT

The status of labor under the National Industrial Recovery Act is a matter of the greatest importance. It brings to the fore certain problems which have kept recurring during the past century of American industrial history and which, although in different settings, have been brought into sharp relief by the events of the last two decades in certain European countries. These problems, which are too fundamental to be ignored, have to do with the ultimate and immediate goals of all productive activity, the control and direction of industry, and the division of industry's product among the groups which participate in the productive activities. More specifically, the National Industrial Recovery Act raises such questions as these: How much control shall the Federal Government exercise over the profit-seeking activities of business enterprisers? Shall the Government set certain limits for profits in its efforts to improve the economic position of wage-earners or shall the right to private profits be abrogated entirely? Shall the Government encourage or foster the organization of wage-earners in independent unions so as to enable labor to help itself or shall the Government attempt to raise the workers' plane of living by putting pressure on employers directly? Shall the Government interfere with and dictate the organizational and functional aspects of unionism or shall organized labor be left free to work out its own salvation? Is it possible to retain the capitalistic, profits-motivated economy under a régime of planning and social control — that is to say, can the Federal Government continue to act as a benevolent neutral agency, attempting to secure balance and co-operation among and between employers, labor, and consumers, or will it, because of its interference with the operation of the "natural economic laws" which govern the market activities of free business enterprise, be compelled, sooner or later, by the alleged impossibility of attaining stabilization and balance and co-operation in a rapidly changing and dynamic world of self-interest, to move "right" and favor employers or go "left" and side with labor?

These questions are not merely academic and theoretical. They keep coming up in all but the most superficial discussions of the status of labor under the National Industrial Recovery Act. They have arisen in Russia, Germany, and Italy, and the governments of these
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countries have answered them either in a socialistic or fascist manner. Conditions, beliefs, and customs are different in the United States, but not enough different to justify ignoring the possibility that one or the other of these answers may ultimately have to be given, even though in a form "peculiarly American."

In order to appraise the well-being of labor since June, 1933, the reader should undertake to get a "before-and-after" picture — that is, he should keep in mind the problems and status of labor and unions before the passage and administration of the Recovery Act, both during the post-War prosperity decade and the 1929–1933 depression. Only then will the significance of the changes that have occurred from June to November, 1933, be fully apparent. In retrospect, what happened to labor after the War is fairly clear, although unfortunately limitations of space do not permit here a review of the facts.¹ What the National Industrial Recovery Act and the National Recovery Administration have done for labor in providing a greater degree of economic well-being and security is the general subject of this paper. The specific labor questions which we shall try to answer include the following: (1) Has the N.R.A. provided a greater measure of economic well-being for wage-earners, both absolutely by themselves and relative to other income-receiving groups — that is, has the N.R.A. raised wages so as to allow workers to live on a plane of health and decency and has it raised wages faster than the cost of living and more than the incomes of enterprisers? (2) Has the N.R.A. made more jobs and increased the security of job tenure? (3) Has it reduced the length of the work day and week? (4) Has it eliminated sweatshop conditions for weak, sub-standard groups of workers? (5) Has it effected any substantial change in employers' attitudes and tactics? (6) Has it lessened the extent of industrial conflict? (7) Has it produced any difference in court decisions, and does it itself indicate a new or altered attitude on the part of legislators? (8) Has it helped unions to organize non-union workers — has it led unions to surmount their external obstacles and overcome their internal weaknesses and shortcomings?

1. Labor provisions of the Recovery Act. The banking crisis, which came to a head the very week Roosevelt was inaugurated into office, put the nation in a bad financial plight and brought business to a condition of virtual stagnation. Although the public state of mind was not exactly panicky, it was assuredly most receptive to any definite,

¹ For a complete review and an authoritative and comprehensive analysis of the problems and status of labor from the World War to 1933, see Labor Problems in American Industry, by C. R. Daugherty, Houghton Mifflin Company, 1933. (Editor's note.)
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forthright program which gave promise of ending the long years of downward drift and uncertainty. The stage, in short, was set for “recovery” legislation, and the President was quick to realize also that Congress would be responsive and tractable enough to pass laws which aimed, not only at recovery, but also at reconstruction (or a “New Deal”).

The National Industrial Recovery Act, approved by President Roosevelt on June 16, 1933, was undoubtedly the most important piece of legislation turned out by the Seventy-Third Congress. Aimed primarily at recovery, it was passed as an emergency measure giving the President broad emergency powers for two years at the most, but its provisions contain much that may in the end work a partial reconstruction of the economic order, because, as some wag has said, “it is impossible to unscramble an omelet.”

There are three main parts or titles in the Act. Title I deals directly with the codification of industry and is the most important and far-reaching because of its labor passages. Title II provides for an emergency public works program and Title III amends the administration of direct federal relief to unemployed indigents.

a. The public works administration. Because of space limits, the provisions and operation of Title II cannot be reviewed in any detail here. A number of important points should be noted, however. The purpose was to use Government money and credit to stimulate private business enterprise. The deflationary influences of the depression had almost paralyzed normal private initiative. The “capital-goods” industries (such as those making iron and steel, cement, and machinery) had been generally operating at less than a fourth of capacity by the end of 1932, and private building and construction had fallen off 85 per cent. Private construction enterprisers were either unwilling to begin new projects because of the lack of any prospects of profit or they were unable to do so because banks were hesitant about financing new undertakings. The idea, then, was for the Federal Government, as an agency not immediately subject to the restrictions of a profit-and-loss enterprise, to use its money and credit to initiate public construction and to finance self-liquidating, semi-private building so that the contractors whose bids were accepted would be able to provide new jobs and wages for unemployed workmen and give orders to the basic capital-goods industries for materials, thus beginning an upward spiral of jobs, purchasing power, orders, and more jobs, purchasing power, and orders, and so on.

An appropriation of $3.3 billion was provided to carry out this ob-
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jective; the sum might be financed through bond issues and retired through taxes enumerated in the Act. The public works might include roads, harbor and river improvements, parks, slum clearance and low-cost housing, and many other public-benefit projects. Not only was the Federal Government to begin construction itself directly; grants might also be made to states, cities, and other public bodies up to 30 per cent of the cost of labor and materials.

Title II contained certain specific labor provisions. (a) All contracts and bids for road-building based on federal aid had to include minimum wage provisions for skilled and unskilled labor, and these rates were to be predetermined by the state highway departments (Section 204 c). (b) No convict labor was to be used on any project (Section 206). (c) No worker was to labor more than thirty hours a week (Section 206). (d) The wages had to be “just and reasonable” and allow the maintenance of a “standard of living in decency and comfort” (Section 206). (e) Where qualified, certain workers were to be given hiring preference, in the following order: Ex-service men with dependents; United States citizens (and aliens who had declared their intention of becoming naturalized) who were “bona-fide residents of the political subdivision and/or county” in which the work was to be performed; United States citizens (and aliens declared for citizenship) who were “bona-fide residents of the State, Territory, or District” where the work was to be done (Section 206). (f) The “maximum of human labor” was to be used “in lieu of machinery wherever practicable and consistent with sound economy and public advantage” (Section 206).

To make this part of the Recovery Act effective, a Public Works Administration (P.W.A.) was created, with Secretary of the Interior Ickes as head administrator. Secretary Ickes worked out a rather elaborate set of rules and requirements which were to be followed by those in charge of federal projects and by states and cities that wished to take advantage of federal assistance. These regulations were aimed partly at removing any possible taint of pork-barrel politics, but they also had the effect of slowing up the applications for and the approval of many construction projects, especially those which might have been submitted by states and cities. In September, 1933, public accusations of “red tape” began to be hurled at the Administrator, but he stuck to his guns, to a large extent, and tried to speed up the program by bringing additional pressure to bear upon potential applicants. Nevertheless, by the first of December, when practically all of the $3.3 billion had been allocated, only about $330 million had been given or lent to states and municipal agencies, and the great bulk of the money
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was therefore set aside for federal works. Among the latter, the largest allotment (contingent upon how much would be contributed by states and cities) amounted to $400 million for the Civil Works Administration (C.W.A.), a relief organization headed by the Federal Relief Administrator, Harry L. Hopkins, and designed to take four million employable men (and their families) off the dole relief by giving them work arranged by local authorities for certain types of local public improvements. Minimum wages were to range from $12 to $15 per week for unskilled labor, and the length of the week was to be limited to 30 hours. With a possible additional $200 million from the regular federal unemployment relief funds, it was hoped to have the four million men at work by December 20 and to keep them on the payroll for two months, after which new allotments might be made if Congress provided the money.

Other large P.W.A. allotments for federal projects included $100 million for the Tennessee Valley development (Muscle Shoals and similar works), $25 million for subsistence homestead loans and grants, $238 million for some 30 warships, and about $150 million for some 350,000 men enrolled, at $30 a month, in the Civilian Conservation Corps (C.C.C.) for reforestation and other work on natural resources.

Although practically all of the $3.3 billion had been allotted before Christmas, by no means all of the contracts had been actually let nor the money actually spent. By December 1 only about $600 million had been expended, and it was not believed that the entire sum would be combating the depression until well into the warm months of 1934. The additional direct employment afforded by the P.W.A. probably amounted to about 600,000 on December first. Furthermore, there were 350,000 men enrolled at the C.C.C. camps and 1,200,000 given work under the C.W.A., making a grand total of 2,150,000 jobs provided by the operation of Title II of the Act.

b. The industrial recovery part of the Act. As stated above, it is Title I of the Act, with its provisions for the codification of industries and for wages, hours, and collective bargaining, which is of overwhelming importance to all students of labor relations. Never before — not even during periods of war emergency — had any governmental agency in

2 See Press Release of Secretary Perkins's radio address, National Recovery Administration, Washington, December 11, 1933, p. 2. If we may make the usual assumption — that every new public works job provides for at least two more new jobs in the general process of producing, manufacturing, and transporting the newly demanded goods — it may be that about 1.2 million more workers would in time secure employment in this indirect manner. It is dangerous, however, to resort to such statistical projection: the student will be on much safer ground if he simply holds to the direct increase.
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the United States undertaken such a fundamental abrogation of the traditional doctrine of freedom of labor contract. Never before had the State attempted such a broad interference with the right of employers to operate their businesses as they pleased.

The general purposes or objectives of Congress in framing the Recovery Act are to be found in Section 1, which is a "Declaration of Policy," quoted herewith:

**Section 1.** A national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people, is hereby declared to exist. It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of co-operative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.¹

Congress wanted, in short, to do three main things for labor: (1) to raise wages, shorten hours, and improve working conditions; (2) to provide more jobs; and (3) to encourage collective bargaining. To compensate for this unprecedented interference in the labor relations, Congress proposed to help employers stabilize and increase their profits (over what they had been in recent years) by permitting them to organize in industrial or trade associations so as (1) to regulate production and (2) to eliminate unfair or cut-throat methods of competition. Section 1, without directly saying so, seems to indicate that Congress believed an increase in purchasing power, brought about by the operation of the labor provisions, would itself help enterprisers to make more profits.

The "declaration of policy" also mentions the "general welfare," and this term presumably embraces the consuming public. Evidently Congress believed that the public was to be helped by the labor and employer provisions. However, three phrases of Section 1 may be interpreted as being directly in the public interest — namely, those mentioning "fullest possible utilization of productive capacity," avoidance of restriction of production, and conservation of natural resources.

¹ Author's italics.
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A reading of Title I in its entirety and a study of the public expressions of President Roosevelt and his aides and advisers seem to reveal an even more basic philosophy or set of economic and social beliefs underlying the more or less specific purposes stated in Section 1. Those who had most to do with the framing of the Act were apparently motivated by the following beliefs: (1) It is possible for man to exercise conscious control over economic forces and activities, and this control can be effected without fundamentally altering the main features of modern capitalism. (2) In modern economic society, severe depressions are caused in large part by lack of balance between productive capacity and mass purchasing power, and the way to recover from depressions, as well as the way to maintain prosperity, is to increase purchasing power relative to producing capacity. (3) The control of economic activities necessary to bring buying and producing capacity into balance can be secured, under governmental supervision (or "partnership"), by winning and maintaining co-operation between "capital" (or employers) and organized labor.

So much for the philosophy behind the Act and the objectives to be aimed at. What do the other sections of Title I contain that is of importance to labor? Section 2 authorizes and empowers the President, who is the central authority and administrator of the Act, to appoint such individuals and create such agencies and delegate to them such powers as he may find necessary to accomplish the purposes and make effective the provisions of the Act. Section 3 empowers the President to approve codes of fair competition for industries upon application of any trade or industrial group, provided the proposed code is not designed to promote monopoly and provided other groups are given a chance to be heard with regard to it. In such codes, which are to become standards of fair competition, the President may, as a condition of his approval, impose such conditions (including provisions for uniform accounting and reports) as he thinks necessary for the protection of employees, consumers, competitors, and the public interest. If any industry fails to adopt a code voluntarily and if abuses contrary to the public interest exist therein, the President may on his own motion prescribe a code for the industry. Violation of the codes in interstate commerce is punishable by a fine of $500, and each day of violation constitutes a separate offense. Enforcement of codes lies with the United States courts and the Attorney General, assisted by the Federal Trade Commission, if necessary.

The important features of Section 4 are two. First, the President may approve agreements voluntarily arrived at between industrial or
trade associations and labor organizations if such arrangements are not monopolistic. Second, the President may, whenever he finds "destructive wage- or price-cutting" within an industry and after public hearings have been held, require revocable licenses for firms in the industry without which no establishment is permitted to operate. Violation of the code-license provisions or operation without one is punishable by $500 fine and/or six months' imprisonment. This part of the Act is to expire in one year (i.e., on June 16, 1934), while the remainder of the Act runs for two years.

Section 5 exempts firms operating under codes or licenses from the federal anti-trust laws while the code or license is in effect and for sixty days thereafter.

Section 6 says that no trade association "or group" may receive the benefits of the Act unless it gives the President such information regarding its activities as he may require. Moreover, the President is authorized to prescribe regulations in order to ensure that any organization benefiting from the Act shall be truly representative of the trade or industry. Violation of any such regulation removes an organization from the benefits of the Act.

Section 7 contains the widely heralded collective bargaining provisions. They are quoted in full herewith.

SECTION 7. (a) Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(b) The President shall, so far as practicable, afford every opportunity to employers and employees in any trade or industry or subdivision thereof with respect to which the conditions referred to in clauses (1) and (2) of subsection (a) prevail, to establish by mutual agreement, the standards as to the maximum hours of labor, minimum rates of pay, and such other conditions of employment as may be necessary in such trade or industry or subdivision thereof to effectuate the policy of this title; and the standards established in such agreements, when approved by the President, shall have the same effect as a code of fair competition, approved by the President under subsection (a) of section 3.

(c) Where no such mutual agreement has been approved by the President he
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may investigate the labor practices, policies, wages, hours of labor, and conditions of employment in such trade or industry or subdivision thereof; and upon the basis of such investigations, and after such hearings as the President finds advisable, he is authorized to prescribe a limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment in the trade or industry or subdivision thereof investigated as he finds to be necessary to effectuate the policy of this title, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of section 3. The President may differentiate according to experience and skill of the employees affected and according to the locality of employment; but no attempt shall be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

Sections 8 and 9 of Title I deal with the agricultural and oil industries and represent special problems which are not directly pertinent to the present discussion. Section 10 authorizes the President to issue whatever regulations and to set whatever code and license fees he thinks necessary to accomplish the Title's purpose. A fine of $500 and/or imprisonment for six months is fixed for violation of these regulations. Furthermore, the President is permitted, from time to time, to cancel or modify any order, approval, license, or regulation previously issued.

These, then, are the important provisions of Title I affecting labor. Before going on to a discussion of the operation and effects of the Title under actual administration, it seems desirable to point out certain things which come to mind after a careful reading of the text in Sections 3, 4, 6, 7, and 10.

The language of Section 3, paragraph (a), seems to indicate the following: (1) Labor or consumer groups, just as well as employers' groups, may work out and submit codes for trades and industries. So far as is known, however, this has never happened in actual practice, except in the case of certain branches of the clothing industries, when the President approved codes which were largely the result of previous collective bargaining between employers' associations and unions, and in the case of the bituminous coal code hearings, when twenty-nine codes were submitted, some by unions and joint union-employer groups. Ordinarily the codes are threshed out only by employers' associations (often with governmental assistance). It is true that this is partly due to the fact that, in addition to provisions for wages and hours, codes contain numerous technical provisions regarding competitive trade practices with which labor and consumer groups would not usually be familiar unless they hired industrial experts. It is also true that one reason for the situation has been the need for speed —
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the Act was an emergency measure. Nevertheless, it is claimed that, because labor and consumers are not on the "inside" in code drafting and pruning, they are reduced to the rôle of special pleaders at the public hearings, instead of being "partners" under the Act. (2) Labor organizations, as well as employers' groups, may not impose unfair restrictions on admission to membership nor act in a monopolistic manner. This undoubtedly means that the Government could, if it wished, compel certain unions still guilty of such practices to relinquish their rigid, exclusive membership, apprenticeship, and output limitations and rules. Although possible under the Title, such action has not as yet been taken.

Section 4 (a) appears to make it plain, as does Section 7 (b), that agreements developed by collective bargaining between employers' and union organizations may be approved as codes for the industries in question. As already stated, this has actually happened in the clothing industries, and, after a general "minimum" code had been worked out, it occurred also in the commercial part of the bituminous coal industry.

Section 6 (a) and (b) apparently empowers the President (or his agents, on his approval) to do the following: (1) To require any labor group to file with him any information concerning its activities that he may wish and (2) to prescribe such regulations as will ensure that the union is truly representative of its trade or industry. It is true that this Section (as well as Section 3) uses the words "trade or industrial association or group" and that thus far these words have been interpreted, in accordance with the common usage, to mean groups or associations of employers only. But, in the opinion of certain students, it would not be stretching probability too far to say that the Government, through a change in administrative policy, might or could broaden the interpretation so as to cover labor associations or groups in a given trade or industry. Such a change in current practice could (and undoubtedly would) be called fascism, for it would mean a large measure of federal control over union organization and activities. It may be argued, however, that a government which had reached that stage would not be compelled (nor would it bother) to resort to any such legalistic justification or basis for its control of organized labor. Fascism proceeds de facto, not de jure.

The language of Section 7 (a) should be closely scrutinized, for it has produced more argument and disputation, more industrial conflict and even bloodshed, and more varied interpretation than all the other Sections of the Title put together. It is worth noting, to begin with, that item (1) in paragraph (a) employs practically the same language as
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that contained in the "declaration of policy" (Section 2) of the federal Norris-LaGuardia "anti-injunction" Act of 1932. This means, among other things, that this part of Section 7 (a) becomes important because of the codification of almost all business under the national emergency; in other words, this language did not amount to much, practically, until given force by the "New Deal." It is also worth noting that, while the Recovery Act was still at hearing in Congressional committees, certain employers' associations like the National Association of Manufacturers, realizing that this Section would furnish a decided impetus to unionization of non-union workers, tried to have a qualifying clause appended to item (1), the sense of which was that where satisfactory labor relations already existed between employers and individual workers or company unions, these should not be disturbed by anything in the Act. The friends of labor, however, voted the proposal down.

It thus seems reasonable to believe that the intent of those who put the Act through Congress was to encourage the growth and development of independent labor organizations in industry. Industry was to be organized into associations and given certain unaccustomed privileges of group action under the codes. Not only would it be morally fair to promote an equal organization among workers — it would also be economically and socially necessary, for three main reasons: (1) The success of the whole recovery program depends a great deal upon the continued, enthusiastic, wholehearted, and sincere support of the masses; (2) a greater increase in purchasing power can be secured if strong unions can compel employers to pay wages higher than the minima contained in the codes; and (3) the problem of broad and thorough enforcement of the codes cannot be met efficiently, swiftly, and alertly by Government alone, acting with employers — effective policing requires also the help of organized workers who have first-hand contacts as producers and consumers.

The "spirit" of this part of the law, then, was that of real reconstruction. But it must be remembered that the Act was also passed for recovery, and that, according to one of the basic notions behind the Act, recovery could be won through co-operation of employers. If employers were to come out vigorously against this "spirit" interpretation, it might be necessary to soft-pedal it because the need for recovery would be more pressing than the need for reconstruction,¹ and the co-operation of employers with the Government would be more immediately essential.

¹ Walter Lippmann has made this distinction in a number of his newspaper articles since September, 1933.
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for recovery than that of labor or consumers. It would then be desirable to make a more legalistic or "letter-of-the-law" interpretation.

As a matter of record, things actually did work out that way. Employers were not slow to express their opposition and objections to a liberal, "spirit-of-the-law" reading of the collective bargaining section, and the Administration was soon led to adopt an attitude that was slightly "right" of neutrality — that is to say, the Government fell back perforce on a legalistic interpretation. Before reviewing what happened, however, it will be well to look at Section 7 (a) carefully and form our own opinion of what it requires, and what it does not, from a legalistic standpoint.

First, workers have the "right" to organize and bargain collectively, but if they do not choose to do so or if employers in one way or another can persuade them not to do so, they do not have to, according to the words of the Section. In other words, they also have the right to deal or to continue dealing with their employers as individuals. Second, if they do choose to organize and bargain collectively, they must be free to select whatever representatives they want, and no employer or his agent is permitted to interfere with, restrain, or coerce his workers in making such selection or in carrying on their collective activities. But the language of the passage clearly does not compel workers to choose as their representatives members or officers of any outside, independent union. They may select fellow wage-earners from their own plant, and employers are within their legal rights if they (the employers) urge their workers (without interference, restraint, or coercion) to elect such representatives for a company union or if they inform the workers that they do not have to elect outside representatives. Third, no employer is allowed to require any existing employee, as a condition of retaining his job, or any applicant for work as a condition of obtaining a vacant job, to join a company union or to refrain from joining, organizing, or assisting an independent union. The meaning of this passage is plain — the use of anti-union or "yellow-dog" contracts is not permitted to employers under any conditions. This goes a considerable distance farther than the Norris-LaGuardia Act, which did not prohibit the use of such contracts, but merely forbade federal court judges from issuing injunctions or granting damages in case an employer sued in court because union organizers had induced his employees to break the anti-union contracts they had signed. In other words, this part — item (2) of Section 7 (a) — is a real infringement of the employer's traditional and constitutional right to hire and fire at his own discretion and "for any or no reason."

It is impossible not to conclude that, although anti-union contracts
are definitely banned, employers are within the letter of the law if they make coercionless, non-interfering efforts to keep their workers out of independent unions and in company unions or individual non-union relationships. In other words, labor stands to make a real gain under Section 7 (a) only in so far as the Government actually enforces the prohibition against employers' use of anti-union contracts and coercive anti-union measures. Such a conclusion may border on sophistry from the viewpoint of the spirit behind the Act, but it seems warranted from the legalistic viewpoint unless the Government should interpret the word "interference" to cover any anti-union activity of employers, no matter how peaceable, negative, and indirect, and this is very unlikely to happen because the co-operation of employers is needed for recovery.

Why was not item (1) stated as unequivocally by the framers of the Act as item (2), if they wished to encourage independent unionism? The answer is simple: We are still living under a constitutional government, and Amendment V to the Constitution still guards against infringement of freedom of contract (including labor contracts) without due process of law. Clearly the Government could not constitutionally ask or make employees join unions against their wills or compel employers to recognize such unions if they did not want to. It will not do to argue that the Act elsewhere oversteps the bounds of rigid constitutionality; nowhere does it go so far as this step would take it. At any rate, there would probably be no co-operation whatever from employers for recovery if such compulsion were exercised.

To return now to what has happened to Section 7 (a): All codes must contain items (1) and (2). Iron and steel was the second great industry to be codified. The hearings which began in the Washington "goldfish bowl" on July 31 were highly dramatic because of the contrast between the testimonies of such representatives of the New Deal as Secretary of Labor Frances Perkins and the executives of an industry which has pursued a policy of anti-unionism longer and more consistently than perhaps any other business group in the country. The events of the hearings cannot, of course, be recorded here, but it should be noted that the code originally proposed by the Iron and Steel Institute (the employers' association) contained several paragraphs, following the verbatim Section 7 (a), which explained that to the steel industry collective

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1 Employers, realizing how unequivocal the words of the Act on this point are, have not argued the matter with the N.R.A. at all, for the N.R.A. has no choice of interpretation and of course would not disobey the statute. Employers would therefore have to go to federal courts for relief.

2 The reader is referred to the excellent article by John Fitch on "Steel and the N.R.A.," in the October, 1933, Survey Graphic.
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bargaining meant employee representation (i.e., company unionism). A brief of the plans recently set up in the industry was included. The government administrator suggested, however, that such material would unduly "qualify" the language of the Section, and the Institute agreed to strike it out. Although newspapers spoke of this as a victory for union labor, it was not, of course, because the steel companies, holding to their legalistic interpretation of the Section, have continued to foster company unionism, and the fact that their views on labor relations are not formally included in the steel code makes no practical difference.

Only one industry — the automobile manufacturing industry — has been able to get into an approved code any special language qualifying Section 7 (a). The automobile employers succeeded in securing the permission of the Chairman of the Labor Advisory Board, the legal counsel, and head administrator of the Recovery Act, and the President himself, to include the now famous "merit clause," which in the code, as approved on August 26, 1933, uses these words in a paragraph following the required verbatim Section 7 (a):

Without in any way attempting to qualify or modify, by interpretation, the foregoing requirements of the National Industrial Recovery Act, employers in this industry may exercise their right to select, retain, or advance employees on the basis of individual merit, without regard to their membership or non-membership in any organization.

Whatever were the real reasons for allowing this clause to stay in the automobile code,¹ the fact remains that no other groups of employers have been allowed to keep such statements in their codes. A great wave of protest billowed up from labor, who saw in the merit clause a nullification, under government approval, of the liberal spirit of the Act. Union organizers had been following this spirit of the Act in trying to bring non-union workers into the ranks of organized labor; they had in many cases been telling the workers that independent unionism was the only kind sanctioned under Section 7 (a), and that the only way workers could realize the benefits of the Act was to join outside unions. Now here was the Government supporting a group of employers who had for years been as successfully anti-union as any in the country.

The Recovery Administration evidently saw that it had veered too far to the "right." The co-operation of labor was also necessary for the success of the program. Henceforth, the Government decided, there

¹ A number of reasons have been advanced by outsiders; e.g., temporary nervous exhaustion of governmental officials from the strain of code-making and employer-mollifying; the likelihood that communist unions were more successful than conservative A. F. of L. unions in organizing automobile workers; and the fact that a legalistic interpretation of Section 7 (a) enables employers to fight unionism in practice, anyway.
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would be no "whittling away" of labor's rights by "weasel words." Head Administrator General Johnson and Counsel Richberg issued a joint statement soon after the automobile episode in which they said that "the plain meaning of Section 7 (a) cannot be changed by any interpretation by anyone"; that "it is the function of the administrator and the courts to apply and interpret the law" and no one else may write his own interpretation into any code; that "the words 'open shop' and 'closed shop' are not used in the law and cannot be written into the law," these words having "no agreed meaning" and having no place in the "dictionary of the N.R.A."; that employees are allowed to join independent or company unions as they may wish, free of employers' interference and coercion; and that "if there is any dispute in a particular case over who are the representatives of the employees' own choosing, the N.R.A. will offer its services to conduct an impartial investigation and, if necessary, a secret ballot to settle the question."

The developments just traced show how the Recovery Administration was moved to make the legalistic interpretation summarized in the last paragraph, an interpretation quite similar to the one at which we arrived independently. It was perhaps the best compromise possible for an administration trying to move neither "left" nor "right" and for a program based on the co-operation of both capital and labor. General Johnson had repeatedly said that it was not his job to organize labor into unions, but merely to see that the law giving labor its own chance should be obeyed.

The bituminous commercial coal operators were the only other important group of employers who tried to include an interpretation of Section 7 (a) in their code. They put in the text of the Johnson-Richberg statement, but the President deleted it and indicated that all such "clarifications" would, from then on, be unacceptable. Later on, in a letter to General Johnson dated October 19, 1933, he set forth clearly his views on the matter. The President's letter said:

Following our recent discussion of various misunderstandings and misinterpretations of Section 7 (a) of the National Industrial Recovery Act, I wish to advise you of my position.

Because it is evident that the insertion of any interpretation of Section 7 (a) in a code of fair competition leads only to further controversy and confusion, no such interpretation should be incorporated in any code. While there is nothing in the provisions of Section 7 (a) to interfere with the bona-fide exercise of the right of an employer to select, retain, or advance employees on the basis of individual merit, Section 7 (a) does clearly prohibit the pretended exercise of this right by an employer simply as a device for compelling employees to refrain from

1 See above, p. 12.
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exercising the rights of self-organization, designation of representatives and collective bargaining, which are guaranteed to all employees in said Section 7 (a).

This, and the official Johnson–Richberg interpretation, was all the employers needed, however. The two large general associations of employers in the United States — the Chamber of Commerce of the United States and the National Association of Manufacturers — soon used it to influence public opinion and to stiffen the backbone of their members in resisting unionization. What is more, these associations have been insisting that the closed union shop — i.e., an agreement between an employer or group of employers and a single union — is in violation of Section 7 (a) so long as there is a single employee in a given company who does not want to join the union voluntarily. For example, the Act does not really permit such an agreement as was finally signed by most of the commercial coal employers with the United Mine Workers’ Union. The United States Steel Corporation, it is said, was obeying the law to the very letter when it refused to deal with the Mine Workers’ Union in its “captive” mines. Even though all the miners should happen to choose the national and district union officers as their representatives, the Corporation stated that it would deal with these officers, not as union leaders, but as individuals speaking for the miners in those particular mines. Furthermore, if any single miner or any minority of miners in those mines happened not to choose these union officials, but chose no one or chose a fellow employee as representative, the Corporation would recognize such selections also.

Employers in other industries, such as cotton textiles, hosiery, and automobiles, have taken the same stand, and it must be admitted that, charges of obscuration and sabotage of the purpose of the Act notwithstanding, they are within the law and in accordance with the official, narrow interpretation.

The Johnson–Richberg statement, it will be remembered, ended with an offer of the N.R.A., in cases of disputes over collective bargaining, to hold elections among employees for the purpose of getting a definite expression on worker representatives. The agency which has performed this function is the National Labor Board, created on August 5, 1933, to mediate labor disputes, such as strikes and lockouts, arising under the Act and composed of three employers, three labor men, and a chairman (Senator Robert F. Wagner of New York). The usual procedure is as follows: The company is asked to take back all workers and the employees are asked to return to work, pending an election to be held within several weeks. All workers (below the rank
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of supervisor) who were on the company payroll before the beginning of the strike or dispute are allowed to choose, by secret ballot, between or among representatives put up by local union members (these representatives are invariably national and local union offices) and representatives put up by company union men. The actual balloting is supervised by Labor Board officials, and there are usually two local union and two company union "watchers" at each polling place to guard their interests and protest whatever votes seem unlawful under the election agreement. The votes are then tabulated, and the results, together with the ballots, are sent to Washington for possible recount and decision.

Up to December 10, about 25 such elections had been conducted. The most important of these were among the hosiery workers at Reading (Berks County), Pennsylvania, where 37 out of 45 mills and 95 per cent of the workers voted for the Hosiery Workers' Union, and among the coal miners in the captive mines owned by the great iron and steel companies in southwestern Pennsylvania, where 20 out of 29 mines and 71 per cent of the miners voted for the United Mine Workers' Union. In each case, however, the employers refused to recognize the union as such, and although the Labor Board is said to have won over the hosiery manufacturers to what amounts to union recognition, the steel-mining companies have remained adamantly and labor relations are still thoroughly unsettled.

The most overt opposition to the Labor Board came from the Weirton Steel Company which, after agreeing to have the Board hold an election in December to determine labor representatives (the agreement was made following an October strike called by the Amalgamated Association of Iron, Steel, and Tin Workers), refused to allow the Board to supervise the election in any way and went ahead with its company union which, it claimed, had been chosen by 8000 of its 11,000 employees. For this defiance the Weirton Company faced the prospect of federal court action (not yet begun at this writing). This case, much more important than the muddled one arising out of the disorganized strikes at the Chester (Pennsylvania) and Edgewater (New Jersey) plants of the Ford Motor Company, was thus the first to bring a direct and powerful challenge to the labor authority of the N.R.A., the first to focus sharply the collective bargaining issue, and the first to promise a definite, specific governmental stand thereon.

Our discussion of the meaning and interpretation of the first part of

1 Out of the 14 mines of the H. C. Frick Company, subsidiary of the United States Steel Corporation, however, nine mines and about half the miners voted for the company union.
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Section 7 (a) has brought us a long way. The collective bargaining clauses are at the very heart of the Recovery Act, so far as labor is concerned with recovery and reconstruction. The present situation may be summarized as follows: (1) In order to obtain employers’ cooperation the Recovery Administration had to make a legalistic compromise interpretation of the collective bargaining language. (2) This maintains, largely, the status quo in labor relations, except that employers are forbidden to use anti-union contracts and restraint or coercion in fostering company unionism or individual employer-worker relationships. (3) Labor must nevertheless be organized, not only to protect its own interests — i.e., to secure greater income than that provided by the code minimum wages — but also to help the Government win its objectives of increased purchasing power and adequate code enforcement. The truth of this conclusion is borne out by the fact that only where strong unions exist — e.g., in the clothing and coal industries — has labor won and held substantially more than the usual code minima.

Let us return to our discussion of the meaning of the labor provisions of Title I. The meaning of item (3) in Section 7 (a) is clear, and it is probably true that, with the exception of certain subterfuges developed by hard-pressed small competitors in certain industries, the maximum hour and minimum wage requirements of the various codes have been pretty well followed.

Section 7 (b), permitting union-employer agreements on terms of employment to have the force of the customary minimum provisions in government-developed codes of fair competition, encourages union collective bargaining, but, as has been noted above, things have not actually worked out that way except in certain industries like clothing and coal.

Section 7 (c) authorizes the President to prescribe labor terms for industries where no mutual agreement has been worked out through collective bargaining. In practice, the President and his administrator have imposed no codes of their own; the labor sections have been the result of compromise between employers and the Government, after hearings during which labor and other groups presented objections, changes, or amendments.

Section 10 has no obvious relation to labor problems, but paragraph (a) is broad enough to permit the Government, if it wished, to regulate

1 The oil industry may be a possible exception, but it is believed that the labor provisions were generally agreed to by the employers, and only the fair practice provisions caused dissension.
the activities of labor organizations as well as those of employers' associations in their labor relations. Paragraph (b) gives the President and his agents the power to change all provisions of codes and regulations, including the labor sections. This, of course, means that as business conditions change, for better or worse, the items, and rulings relating to wages and hours may be altered correspondingly.

2. The organization of the Recovery Administration. An organization had to be set up by the President to carry out the functions given him under the Act. Final authority rests in the President, but it is obvious that most of his duties and powers must be delegated to others. General Hugh S. Johnson, a former army officer and industrial executive who was connected with the economic planning done by the War Industries Board in 1918, was appointed by him to head the National Recovery Administration. To assist him in conducting hearings on proposed codes, General Johnson appointed a number of deputy administrators; these were mostly industrial executives familiar with the technicalities of certain branches of industry. A legal division was created to advise on matters of constitutionality and to rule on various legal questions at the code hearings; it was headed by Donald Richberg, a former defender of the public interest in certain Chicago public utility cases and lately an attorney for the railroad labor organizations. To provide industrial and labor data for the hearings, a research and statistical division was set up. To acquaint the public with what was happening and to enlist mass support behind the Act, the Public Relations Division was developed. Three special advisory boards were formed to help protect the interests of the three groups most vitally concerned — an Industrial Advisory Board composed of a group of employers or industrialists; a Labor Advisory Board made up of union leaders and labor representatives; and a Consumers' Advisory Board made up of individuals who were interested in the protection of the great mass of the buying public.

Some knowledge of the N.R.A. set-up is essential to an understanding of certain labor issues. Organized labor claims that the deputy administrators, having just left industrial executive positions, lean too much to the employer side of labor questions during the hearings. Employers claim that the N.R.A. legal head, having formerly been associated with independent unions, leans too much the other way. Consumer groups claim that in the general mêlée over labor relations and competitive practices, the consumer's interest has been forgotten by both sides. Both labor and consumers hold that, because they usually have no voice in the drafting of codes before the formal hearings, they
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are both reduced to the rôle of special pleaders or meddling spectators. The answer is sometimes made to these groups that the place for them to do their pleading is outside in the field of economic pressure — that only then can they, like the clothing and coal-mining unions, get a respectful hearing.

The outbreak of strikes, which from July to September threatened to disrupt the program and discredit the operation of the N.R.A. in certain places, led to the formation of the National Labor Board already mentioned. The plan is now for the Board itself to handle only the big, crucial labor disputes, leaving the minor ones to Regional Labor Boards which have been set up in some fifteen large cities. These will be co-ordinated by the National Board. Up to November 1, Senator Wagner reported that the Board had settled 110 disputes and put 250,000 wage-earners back to work through mediation.¹

In certain industries (such as bituminous coal and cotton textiles), however, the amended codes provide that before disputes reach either the Regional Boards or the National Labor Board, they are to come up for settlement before industrial relations committees composed of employers and labor representatives chosen from within the industry.

The problem of code compliance and policing is of great moment. To handle it, two types of organization have been created — first, Regional Compliance Boards which, under national co-ordination and direction, are to hear individual consumer and employer (but not labor) complaints and effect settlement on matters of local import; and second, Code Authorities, which are national employer groups selected from among the employers covered by each code and entrusted with the duty of hearing complaints, from within or without the industry, and of attempting to bring recalcitrant executives into line. One or more N.R.A. officials, with certain veto powers, are also members of the Authorities. Originally, no representatives of labor were included, but a storm of protest from unions and labor sympathizers caused the administrator to yield the "principle" of labor representation.

The conclusion, concerning the position of labor in the N.R.A. organization, which appears to be justified by the course of events, is this: The partnership thus far is, in the great majority of industries, between the Government and industry, and labor will cease being an outsider only when it becomes strongly organized and possesses real economic power.

3. The labor results of the National Industrial Recovery Act. It is now proper to appraise the results of the N.I.R.A. in terms of labor and social welfare. What steps toward the "solution" of these problems has the

¹ New York Times, October 30, 1933.
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Recovery Administration taken? What are the prospects for fundamental betterment in labor's position?

In trying to answer these questions, it should be pointed out that distinction must be made between "labor as a whole" and "organized labor," and, if space permitted, between labor as a producer and labor as a consumer.

a. Wages, income, and hours. The table on page 22 shows what happened to total wage payments (i.e., payrolls), employment, production, average hourly earnings, average weekly earnings, average hours worked per week, and the cost of living from March until October, the latest month for which data are available at this writing (December 9). The first and fifth columns of the table are particularly significant, because they divide the months since the financial breakdown in March into two periods — pre-code and code. July is taken as the dividing month because "permanent" codes began to go into effect then (or employers had anticipated that they would, at least). Moreover, the so-called blanket code, or President's Re-Employment Agreement (P.R.A.), was promulgated in that month, and employers began to sign and observe it soon thereafter, even though it was officially to go into effect not before September 1.

The code provisions which helped produce the changes shown in the table (both the March–July and the July–August changes) were those setting minimum wages and maximum hours. Wages are handled on either a weekly or hourly basis, weekly minimum wages ranging from $12 to $15 (according to the industry and geographic position) and hourly rates varying from 23 to 52 cents (most of them 35 or 40 cents). The great majority of codes set a 40-hour week — 70 out of the first 110 codes; three go as low as 35 weekly hours and five provide for 36. No code permits an average 48-hour week, but about twenty allow six weeks or more of such length provided the average over a longer period (such as three months) is 40. Ten codes permit a 40–44 hour seasonal variation and about five grant peaks of 54 or 56; here again, however, the average must be 40.¹

A number of significant things are evident from the table. We shall confine our attention chiefly to the manufacturing industries. (1) From March to July the amount of employment (number of jobs) rose 22.1 per cent, payrolls or total wages rose 39.2 per cent, and average weekly

¹Labor leaders were not the only ones who claimed that an average 35-hour week was the very highest that should have been permitted in the codes if sizable re-employment was to be provided. This claim was based on the fact that in factories the average actual hours worked in, say, November, 1932, were only a little over 38 per week; in March, 1933, only 36.6, and in June only 42.6.

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earnings rose 14.5 per cent, not because of an advance in hourly earnings (which dropped 2.3 per cent) but because of a 7.2 per cent increase in average number of hours worked per week, at the same time that production went up over 80 per cent. (2) From July to October, employment rose only 9.9 per cent; payrolls only 15.5 per cent; and average weekly earnings only 4.3 per cent, because although average weekly hours dropped 15.4 per cent, average hourly earnings went up 22.9 per cent, at the same time that production fell off 23.8 per cent.

BUSINESS, EMPLOYMENT, AND WAGES BEFORE AND AFTER THE PASSAGE OF THE RECOVERY ACT

<table>
<thead>
<tr>
<th>Percentage Increase or Decrease</th>
<th>March to July</th>
<th>July to August</th>
<th>August to September</th>
<th>September to October</th>
<th>July to October</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employment a</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td>+22.1</td>
<td>+6.4</td>
<td>+3.2</td>
<td>+0.1</td>
<td>+9.9</td>
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<tr>
<td>Bituminous coal mining</td>
<td>-6.5</td>
<td>+8.5</td>
<td>+4.7</td>
<td>-5.3</td>
<td>+7.6</td>
</tr>
<tr>
<td>Crude petroleum production</td>
<td>+5.3</td>
<td>+2.2</td>
<td>+8.8</td>
<td>+6.7</td>
<td>+18.7</td>
</tr>
<tr>
<td>Retail trade</td>
<td>+4.5</td>
<td>+4.7</td>
<td>+10.1</td>
<td>+4.2</td>
<td>+20.1</td>
</tr>
<tr>
<td><strong>Payrolls a</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td>+39.2</td>
<td>+11.6</td>
<td>+2.7</td>
<td>+0.6</td>
<td>+15.5</td>
</tr>
<tr>
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<td>+28.9</td>
<td>+1.8</td>
<td>-0.1</td>
<td>+31.3</td>
</tr>
<tr>
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<td>+0.7</td>
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<td>+12.8</td>
<td>+18.7</td>
</tr>
<tr>
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<td>+7.9</td>
<td>+10.4</td>
<td>+4.4</td>
<td>+24.4</td>
</tr>
<tr>
<td><strong>Production b</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>-7.2</td>
<td>-23.8</td>
</tr>
<tr>
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<td>-1.3</td>
<td>-13.4</td>
<td>-6.1</td>
<td>-19.7</td>
</tr>
<tr>
<td>Crude petroleum production</td>
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<td>+1.5</td>
<td>-7.5</td>
<td>-4.1</td>
<td>-10.0</td>
</tr>
<tr>
<td>Department store sales</td>
<td>+22.8</td>
<td>+10.0</td>
<td>-9.1</td>
<td>-1.4</td>
<td>-1.4</td>
</tr>
<tr>
<td>Average hourly earnings, manufacturing c</td>
<td>-2.3</td>
<td>+14.7</td>
<td>+6.4</td>
<td>+2.1</td>
<td>+22.9</td>
</tr>
<tr>
<td>Average weekly earnings, manufacturing c</td>
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<td>+4.9</td>
<td>-1.4</td>
<td>+0.8</td>
<td>+4.3</td>
</tr>
<tr>
<td>Average hours per week, manufacturing c</td>
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<td>-8.8</td>
<td>-6.4</td>
<td>-0.8</td>
<td>-15.4</td>
</tr>
<tr>
<td>Cost of living d</td>
<td>+4.7</td>
<td>+2.3</td>
<td>+1.3</td>
<td>+0.1</td>
<td>+3.7</td>
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<tr>
<td>Real payrolls, manufacturing e</td>
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<td>+1.9</td>
<td>+0.5</td>
<td>+11.4</td>
</tr>
<tr>
<td>Real average weekly earnings, manufacturing e</td>
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<td>+2.5</td>
<td>-2.7</td>
<td>+0.7</td>
<td>+0.6</td>
</tr>
</tbody>
</table>

\[ Data based on indexes of Federal Reserve Board, as reported in United States Department of Commerce, Survey of Current Business, November, 1933, pp. 22-26. The figures are adjusted for seasonality. \\
\[ Monthly Labor Review, May–December, 1933. \\
\[ Data based on index of National Industrial Conference Board, Service Letter, November 30, 1933, p. 86. \\
\[ Money figures corrected for changes in the cost of living. \]}
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What do these two sets of increases and decreases mean? (1) Production rose very high from March to July, probably because manufacturers were hastening to use labor and raw materials at the prevailing low prices, before codification should raise wages and shorten hours, thus increasing labor costs, and before speculation and codes should raise the prices of materials. They hoped to sell their products later on at high code prices. The fact that production fell off so much from July to October partly proves this point. That employers' anticipations of profit were well founded may be seen from the fact that a sample of 205 industrial corporations reported on by the National City Bank had combined profits of $129,576,000 in the third quarter of 1933, compared with a total profit of $86,878,000 in the second quarter, a net deficit of $14,831,000 in the first quarter, and a deficit of $11,583,000 in the third quarter of 1932.1 (2) While this "beat-the-gun" activity was going on from March to July, about 1.9 million workers got jobs in all lines of activity, including a 22 per cent rise in manufacturing, but factory payrolls increased even faster because of the rise in hours.2 (3) The real effects of codification are visible in the July-October percentages. Because employers had filled their warehouses with low-cost March-July goods and hesitated to continue producing under the higher costs imposed by the codes, production fell off by almost one fourth. Yet at the same time employment increased by 1.7 millions, including a 10 per cent rise in manufacturing, and factory payrolls rose even more — over 15 per cent or about $5.5 million per week during the 13-week period. The effects of the codes may also be seen in the decline in average hours and the rise in average hourly wages. (4) Average weekly money earnings increased over three times as fast from March to July as from July to October, chiefly because of the large decrease in average hours during the latter period. (5) The cost of living was rising throughout the March-October period, but its March-July increase was one per cent greater than the July-October rise. (6) Nevertheless, real average weekly earnings went up almost 10 per cent from March to July, whereas the July-October rise was only 0.6 per cent. (7) The individual man who had a factory job from July to October was thus very little better off in October than in July. But it must not be forgotten that in October many more individuals had jobs than in July.5

3 Factory payrolls went up about $7.5 million per week during the 17 weeks of the period.
5 The student is of course at liberty to use August as the dividing line between "pre-code" and "code" times, if he prefers. In that case, of course, the labor gains under the N.R.A. appear less impressive.
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This statistical story for manufacturing as a whole could of course be told also for a good many of the individual manufacturing industries. There can be little doubt that, up to and including October, the N.R.A. was at least partly achieving its goal of more employment and purchasing power, even though individual job-holders were not appreciably better off. But the table also indicates that the rates of improvement were leveling off decidedly in October. Possibly by December the trends will have been reversed. At any rate, it should be remembered that the Administration has been trying to change the "natural" course which business recovery has always hitherto taken in an economic system of private enterprise, free markets, and profits. Usually, as the market expands from depression, selling prices rise first, and after a while wages and other costs rise also. The lag in respective times of rises means profits, and it is the prospect of profits which leads to business enterprise. Now for the past few months, the Government, working on the theory that an expanded purchasing power is needed for recovery, has been trying to raise wages (or labor costs) ahead of selling prices while retaining the profits economy. Employers have been asked — openly in the case of the blanket code and tacitly in the permanent codes — to be unselfish (or far-sightedly selfish) and give up a measure of profits by handing over a larger share of income to labor now, with the promise that, as buying power increases, higher profits will be possible later on. There are two questions that come up: a general one — how long can enterprises be unselfish in a competitive system? — and a specific one arising out of this one — how long can the increase in individual and total wages be kept ahead of the rise in prices? Neither question can be given definite answer now.

There are no data which might indicate the relative total shares taken out of the productive process by employers and wage-earners during the March–July and July–October periods. No conclusions can as yet be made regarding the effect of the N.R.A. on the distribution of income.

It is also of course too early to obtain data on average annual incomes

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1 See, for example, General Johnson's November report to the President on the operations of the steel industry under its code — text printed in full in New York Times, November 19, 1933. While production declined from 46 to 41 per cent of ingot capacity from June to September, the number of employees went up by 73,000, or 22 per cent, and the total wages by $6,500,000 per month, or 21 per cent for the whole period. The total number of wage-earners in the 208 companies in September was 380,000 compared with a census average for the industry of 420,000 in 1929, a prosperity year. Average hours decreased from 39.2 in June to 32.8 in September, or 16 per cent, while average hourly earnings changed from 47.2 cents to 56.7 cents, or 20 per cent. Cotton textiles is another codified industry with a similar record — see New York Times, November 28, 1933. Detailed statistics for 89 manufacturing industries and 14 non-manufacturing industries can be obtained from various issues of the Monthly Labor Review.
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of workers’ families under the N.R.A. No definite conclusion, therefore, can be drawn with regard to whether or not the N.R.A. is helping the average wage-earner to live on a health-and-decency plane. Skilled workers, who are fortunate enough to have full-time employment, are doubtless receiving health-and-decency annual wages under the codes, as they were before the depression. But, allowing for part-time employment and remembering that the code minimum wages are admittedly only a first step up from sweatshop to health-and-decency levels, one may feel safe in concluding that the average worker’s family is still an appreciable distance from the desired standard.

b. Security of job. The attitude or policy of the N.R.A. toward taking definite steps to provide greater security of job tenure, or some money compensation in lieu of such security, is not yet clear. Certain industrial advisers, for example, Gerard Swope, have advocated including in each code a system of unemployment reserves for the workers in each industry. It is not impossible that this will in time be done. The unions in the cigar and metal-working industries have argued, at code hearings, for a plan whereby the workers might receive some share in the increased profits made possible by the introduction of labor-displacing machinery, this share to be paid out as a “dismissal wage” to the permanently laid-off men. Nothing like this, however, has been put into any code as yet.

At least two definite results affecting unemployment may be expected to happen in time from the wage and hour provisions of the codes. In so far as employers’ labor costs are raised and their margins of profits threatened, they will attempt to reduce these costs — especially if unable to raise prices because of elastic demand for their products — either by using new labor-saving machines or by moving to smaller towns where minimum wages are lower. Both moves produce temporary unemployment and hardships for workers. Emphasizing the need for making more jobs in the immediate emergency and recognizing that in the cotton textile industry the “stretch-out” system had often been used to make workers operate more looms and dispense with other workers, General Johnson appointed a special committee to make a study of the matter and suggest a method of control. Meanwhile the industry was to preserve the status quo. The “stretch-out” committee recommended that a Cotton Textile National Industrial Relations Board of three members (representing employers, labor, and the N.R.A.), together with state boards similarly constituted, should be organized to co-operate with local employers’ and workers’ councils for the settle-

1 See New York Times, Section 2, November 12, 1933.
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ment of labor disputes, particularly disagreements over the stretch-out. This recommendation was approved and became a part of the code, for a host of complaints had been received at Washington over alleged stretch-out operations.¹

The cotton textile industry also pioneered in the matter of limiting the installation of new machinery. On October 18, 1933, the Administration approved a recommendation made by the industry itself that during the emergency no new machines should be installed, except for purposes of replacement and plant balance, without a certificate from the Administrator. Other industries with a similar excess of productive capacity have not as yet emulated the example set by the cotton textile employers.

Thus far, nothing has been put into the codes, nor has any plan been definitely and seriously suggested at hearings, on the matter of old-age protection for workers. Nor has anything been done about removing the “old-age-at-forty” hiring limits that are known to exist in many companies. The “Swope plan,” of course, if introduced into the codes later on, would provide industry-wide pension or retirement systems.

Unemployment as a whole has declined considerably since industrial codification began. The estimates of the American Federation of Labor² for total unemployment in the United States are as follows: March, 13,689,000; July, 11,793,000; October, 10,076,000. Thus, from March to July there was an unemployment decrease of 1,896,000 persons, or 13.9 per cent; and from July to October there was a drop of 1,717,000 individuals, or 14.6 per cent.

The prevention of mass cyclical or depression unemployment is a tremendous problem of achieving proper balance and control between and among productive marketing, consuming, and financial elements of modern economic society. Undoubtedly the codification of industry and trade, with provisions for wages, hours, and collective bargaining, is a significant step toward such control and balance. But it is only part of the entire reconstruction scheme which requires regulation of investment and commercial banking and carefully co-ordinated planning for the whole economic system. A number of students have insisted that one of the major requisites is not monopolistic curtailment of production but unlimited production with more equal distribution of the products among the whole population.

c. Sub-standard workers. Has the N.R.A. done anything for the sub-standard groups of wage-earners? The answer is “yes,” and doubtless

¹ The other textile industries’ codes have similar stretch-out provisions.
more will be done in the future as the codes are re-cast. The establishment of minimum wages and maximum hours has done much to eliminate the worst phases of "sweating," and the regulation of unfair competitive practices will help to control cut-throat, sweatshop competition which works its greatest hardships on wage-earners.

There is one effect of raising the conditions of sub-standard workers through the codes that is often overlooked. This is the likelihood that employers will cease using such workers in their plants. It is undoubtedly a good thing to set wage minima, for women and Negroes, for example, but it is also possible that many women and Negro workers may lose their jobs because certain employers in our competitive system, believing that such workers are relatively inefficient, may decide that their services are not worth the higher wages and that it would be better to use white males.

In the great majority of codes women appear to have been treated as the economic equals of men. Before the operation of the N.R.A., women had been receiving, on the average, from 55 to 75 per cent of men's wages, not only because they were doing mostly unskilled labor, but also because employers generally failed to give them "equal pay for equal work." Under the codes the principle of "equal pay for equal work" seems to have been rather generally followed, for female workers are, as a rule, subject to the same wage minima and hours maxima as males. Out of 110 codes in effect on November 15, 1933, 7 contained the "equal pay" provision without qualification, and 24 provided for it wherever women might be performing "men's work"; but these 24 codes permitted men to receive higher wages than women on "women's work" or set general wage-rate differentials making women's wages from 75 to 90 per cent of men's, depending on the industry. The rest of the codes said nothing about wage differentials or equal pay; presumably "equal pay" was to be observed. In the code for the throwing industry (textiles), women are barred from night work, but probably only ardent feminists would consider this a bad type of discrimination. The proposed hotel and restaurant code set a work week of 48 hours for women and 54 hours for men.

The N.R.A. has done a great deal to ease the child-labor problem. This is to be expected because the setting of minimum wages tends to make children's employment unprofitable to employers; that is, as a rule the greater inefficiency of child workers can be made up only by paying lower wages to them than to adults. Nevertheless, it was thought necessary to prohibit child labor in positive fashion. Thus, out of the 110 codes in effect by November 15, 1933, all but the retail code banned
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the use of children below 16,1 while the bituminous coal code set a minimum of 17 years, and several other industries one of 18 years — a few covering all occupations in the prohibition and others including only the most hazardous jobs. The President's Re-employment Agreement allowed part-time work outside of school between the ages of 14 and 16, but not in factories.

Perhaps 75,000 children have been removed from employment thus far by the codes. This undoubtedly creates additional problems of education and family support. About 300,000 child workers have not as yet been brought under code regulation; among these, the children in street trades, commercial agriculture, and domestic service are most numerous and important.

A significant provision affecting both children and women is the prohibition, immediate or to take effect in six months, of home work in ten industries (mainly clothing).

There are no special code provisions for immigrant workers or Negroes. That is to say, these groups come under the general labor terms, and in so far as they perform the same work as native whites, they are to receive the same minimum wages and other conditions.2 This will undoubtedly be a gain for both immigrants and Negroes. Immigrants may also be helped by the prohibitions on home work; society will certainly be. The only difference permitted at present in the case of Negroes is that where industries exist in both Northern and Southern States, Southern workers, both white and colored, are to receive minima that are usually one dollar per week (or about 10 per cent) lower than the Northern level.3 But in the South there is to be no wage distinction between whites and Negroes, a fact that has elicited considerable protest, and some evasion, from Southern employers. Employers may have also tended to use whites instead of Negroes because of this wage equality.4

The convict labor problem has received some attention from the N.R.A. By November 15, it had been dealt with in three codes — farm equipment, handkerchief, and retail trade. The first forbids the sale, in interstate commerce, of prison-made farm equipment at lower prices than those of free-made equipment. The second forbids any "outside"

1 The retail code permits children between 14 and 16 years to work part time outside of school hours.
2 Before the N.R.A. the differentials in wages against immigrants and Negroes in the North seem to have been largely due to the nature of the jobs they were thought capable of doing; in the South, however, Negroes seldom received equal pay for equal work.
3 This arrangement is based mostly on an assumed difference in living costs. Some 34 out of 110 codes contain such differentials.
4 See New York Times, September 10, 1933, and December 11, 1933.
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employer to have any part of handkerchiefs manufactured in penal institutions. The retail code is the broadest and most important. It provides that no retail merchant shall "knowingly" buy or sell any prison-made goods unless the penal institutions agree not to undercut the prices of free-made goods in selling to retailers. This rule is not to be effective, "pending a compact or code between the several states to ensure the manufacture and sale of prison-made goods on a fair competitive basis."

Casual workers have been directly helped in only one code thus far—the beet sugar code—which limits the hours to 40 per week, with seasonal allowances up to 56. The minimum wage is doubtless higher than was the depression average in the industry.

d. The attitudes and policies of employers. Has the N.R.A. worked any mental revolution among employers? Does it still seem to be true that, in their efforts to make profits, employers wish to be free to operate and control their production facilities (including labor) without substantial interference from organized labor or Government? Have employers, in their efforts to be free of such interference, followed the same policies and used the same tactics as before? Have they changed their stratagems and adopted different attitudes? To secure a factual basis for answers to these questions one must search "the record," as provided by newspaper reports and expressions of opinion in employers' trade journals.¹

With regard to the practices of personnel and scientific management, the N.R.A. has had little effect as yet, except to request that the use of such labor-saving devices as the textile "stretch-out" be withheld for the duration of the unemployment emergency. Certain progressive personnel experts and industrial engineers have hailed the N.R.A. as an excellent step toward a broader, more complete, and far-reaching national economic planning program.² Other engineers of the technocratic type are more skeptical, although they believe the motivation of the N.R.A. was good.³

It has already been pointed out⁴ that the formation of company unions is entirely legal under the Recovery Act if employers do not use restraint or coercion. As a matter of fact, the threat of independent

¹ The student is urged to read, for example, the editorial and other columns of the Iron Age, Steel, the Textile World, the Commercial and Financial Chronicle, and the bulletins of the National Association of Manufacturers and the National Industrial Conference Board.
² Consult issues of the Taylor Society Bulletin, and see New York Times, November 5, 1933, and December 7, 1933, for expressions of such men as H. S. Persons, Ordway Tead, and C. E. Stuart.
³ New York Times, August 14, 1933.
⁴ See p. 12.
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unionism under Section 7 (a) has stimulated the organization of a considerable number of company unions since May and June, 1933, especially in the automobile and steel industries, both of which had maintained anti-union, "open-shop," individualistic labor relations for decades.¹

Among the many forms of anti-union tactics which have been used in the past, only anti-union contracts have been directly and universally banned by the N.R.A. Although numerous other methods — such as the use of police, deputies, spies, strike-breakers, and the blacklist or discrimination — might be considered unlawful under Section 7 (a) because they often result in restraint and coercion of employees, it appears, from reports of strikes and labor disputes, that employers have not abandoned them, although they are being applied with perhaps more moderation than before. At the steel code hearings Secretary of Labor Perkins, in commenting on the companies' proposed abolition of industrial pirating and espionage, made the point that it would be equally desirable for steel corporations to agree to eliminate labor espionage. But the final code was silent on the matter.

The control which employers exercise over workers through company housing and company stores has been dealt with officially in at least three of the codes — cotton textile; bituminous coal; and crushed stone, slag, and gravel. The latter two state merely that employees shall not be compelled to live in company houses or trade at company stores as a condition of getting and keeping a job. The textile code, as modified by the President, states that the Planning Agency in the Industry shall consider plans for eventual worker ownership of mill village homes and shall make a report January 1, 1934.

The attitude of employers toward the amount of governmental interference involved in the codification of business under the N.R.A. seems hard to discover at first. On the basis of their public utterances, however, it gradually appears that the following conclusions are justified, especially since it is no longer considered unpatriotic to mention criticism of the N.R.A. The officers of large corporations approve of the N.R.A. on the whole and are willing to continue under it because (a) they have huge investments in fixed capital (plants and equipment) which require a restraint over "free" competition, and the N.R.A. has permitted a certain amount of such restraint by limiting machine operation to 70 or 80 hours per week in 27 out of 110 codes and by requiring in most of the codes that goods shall not be sold at prices less than production costs;

¹ See the text of the Chrysler plan of employee representation in Factory Management and Maintenance, November, 1933, pp. 453 ff.
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and (b) because the N.R.A., by allowing a legalistic interpretation of the collective bargaining provisions of the Act, has enabled companies to offer considerable successful opposition to independent unionization.

(2) Small business men dislike the N.R.A. on the whole because (a) the code rulings on trade practices, wages, and hours usually put them at a competitive disadvantage with the large concerns; and (b) they are not as well able to resist unionization or to take advantage of the legalistic interpretation of Section 7 (a) as are the big corporations.

In support of these conclusions there is a large amount of evidence. The National Association of Manufacturers, and other employers' associations composed on the whole of small or medium-size companies, have been much more critical of the N.R.A. than associations made up of large employers. William Randolph Hearst and Alfred E. Smith are both champions of the "little fellow." 1 Representatives of large-scale industry, however — men like Gerard Swope (General Electric Company) and Walter Teagle (Standard Oil Company of New Jersey) — believe in national economic planning and are willing to see the N.R.A. become permanent if the Government will allow a larger degree of industrial self-government. 2

1 See the Hearst advertisement-editorial, New York Times, November 2, 1933, and the Smith editorial in the New Outlook, December, 1933.
2 Herewith are quoted a few of the many comments on various phases of the N.R.A. which can be culled from the various trade journals. Thus, Mr. C. H. Hatch, in "Now You Must Control Your Labor Costs," Factory Management and Maintenance, August, 1933, pp. 305-06:

Broad-gage factorymen who back their hard-headed business sense with a knowledge of sound economic theory are not at all worried over the prospect of being required to raise wages and reduce hours of work under the N.R.A. Many of them, forced by cut-throat competition to reduce wages to sub-depression levels, welcome the prospect of raising wages materially and at the same time being protected against ignorant and predatory competitors who look on starvation wages as the sure road to profits.

In the editorial pages of the Commercial and Financial Chronicle, October 7, 1933, p. 2496, may be found a typical attitude on unionism (this statement was written following William Green's prediction that the American Federation of Labor would strive for a membership of 10 million workers):

Imagine the A.F. of L. with a membership of 10 millions! With each worker representing an average family of five, this would make the Federation representative of 50 millions or nearly half of the population of the country. And with complete domination over industrial affairs to which the Federation is all the time aspiring, this would mean the rise to power of a class which would be a menace and a danger to the State itself. We would have a class dictatorship to which all would have to submit and from the rule of which no one could escape.... No one would get anything at all except at the pleasure of organized labor... and before long the country would be subject to the rule of tyranny... We would have an organized body, or class within the State, more powerful than the State itself. That in itself would mean the extinction of freedom and independence. In the end oppression would prevail everywhere....

The greatest menace now to recovery is the way the strike movement is spreading all over the country.... It [the right to strike] means investing the Federation with additional power for maintaining its unreasonable attitudes and demands.

Again, in the Iron Age, an editorial of November 23, 1933.

Collective Bludgeoning

Collective bargaining, as the general public and majority of employers have understood it, means the amicable meeting between management and men in an industrial company for the purpose of adjusting differences and improving mutual relations. It is welcomed by most employers because management as well as men profit by this interchange of opinion based upon first-hand knowledge
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A number of employers' associations — notably those in the steel, bituminous coal, boot and shoe, and cotton textile industries — have been well enough satisfied with the operation of their codes during the ninety-day trial period to ask the N.R.A. to extend the codes for three or six months more, with little or no change in them.

e. Attitudes of courts and Government. No major court decisions have as yet been handed down on any phase of the National Industrial Recovery Act and its administration, nor will there be until the economic situation is past the emergency stage or until some large corporation or trade association decides to make a fight for the presentation of its constitutional rights. It is true that a few minor courts have upheld the Act, on the grounds of national emergency, against petty attacks, but these decisions can hardly be considered far-reaching. The big test will come when the United States Supreme Court is asked to decide whether or not the N.I.R.A. is a lawful exercise of the Federal Government's power to regulate interstate commerce.¹

It is also too early to conclude that the courts have been more favorably disposed toward organized labor and its activities since June, 1933. Although certain lower courts in Michigan and Wisconsin have granted to labor groups injunctions forbidding employers to violate the wage and hour clauses in codes, certain other courts in Pennsylvania and New Jersey have enjoined organized strike activities as before.

With regard to the attitude of the Government on labor relations of the specific conditions and problems facing the individual companies. This sort of collective bargaining brings men closer together; puts employees and employer on the same side of the fence.

Collective bargaining, as "organized labor" sees it, and as the N.R.A. seems to see it, means that management is not to talk things over with employees and thus settle differences, but must "deal" with outsiders who neither toil nor spin in the trade and who have no first-hand knowledge of company conditions. This sort of collective bargaining drives men apart; puts employer and employee on opposite sides of the fence and often with the fence gate shut. It is bludgeoning, not bargaining.

It is a mistaken notion that employers oppose collective bargaining in the sense of its true meaning. But it is equally a mistake to believe that collective bludgeoning can ever be forced upon American industry. It is not in the cards, even of the New Deal.

A few sentences from the "Washington" page of Steel, September 11, 1933:

Washington increasingly believes that industry will gain enormously through codification, provided, of course, it can maintain its open-shop position.

Hard as it is to believe at times, General Johnson may yet prove to be the bulwark of industry against organized labor.

Organized labor, revitalized by the now famous Section 7 (a), is baring its teeth. General Johnson, under less pressure, tends to become more liberal towards industry. And industry, coming out of its fright over the open-shop issue, is awakening to the possibilities for internal reorganization and house-cleaning.

Also from Steel, October 30, 1933:

Many have honest doubts whether in making good his pledge of action it was necessary for the President to become so radical and to make so many concessions to labor. There is one explanation in Washington which rings true. It is this: By birth, training, and environment the President is a patrician. His radio dictation is proof of this. His natural instinct is towards the right rather than the left. Thus he believes that from his vantage-point in the White House he sees signs of unrest not otherwise visible.

¹ During the past few months there has scarcely been a reputable magazine that has not carried an article on the constitutionality of the N.I.R.A. and the New Deal.
three important questions have been raised during the past few months. (1) Does the N.R.A. presage a permanent government paternalism toward labor as a whole? (2) Is the Federal Government trying to foster a quasi-public unionism? (3) Is the N.R.A. a forerunner of fascism in America?

No one can answer these questions with assurance now, for the whole labor situation is still in a state of flux. Nevertheless, it seems certain that in time the interplay of economic and social forces will draw the issue sharply and the Government will have to take a definite stand "right" or "left." So long as the emergency continues, the Administration can veer or tack back and forth, but a perpetual straddle seems improbable if not impossible. For the present, one can say that the President and his closest advisers have not relinquished any of their liberality or progressiveness. At times, perhaps, as when he was telling the American Federation of Labor that they should not strike and need not strike, General Johnson has sounded somewhat fascist. It seems safe, however, to conclude that nothing like true fascism is imminent in America. If one may judge from the experience of Italy and Germany, the necessary elements for fascism are not present in this country: there is no completely dispossessed, disillusioned, inferiority-complexed mass of middle-class people to whom a fanatical, nationalistic economic and political program would make strong appeal; and there is no strong, class-conscious, dangerous revolutionary organization of workers to be suppressed. Perhaps the most apt designation of the present Administration, in terms of European social politics, is "Social Democratic." But in Europe, the social democratic governments have usually been weak, unstable, and short-lived; either strong right or left groups have unseated them. If the same thing should happen in the United States, the move would almost certainly be to the right unless a new and vital labor movement were to develop under the N.R.A., and this, as will be shown in a moment, seems improbable. Whether or not the present Administration is social democratic and whether or not it will prove weak and unstable and be displaced by a vigorously conservative government, no one knows, for the emergency has not passed. Moreover, events in America do not always follow the European pattern.

1 President Roosevelt himself is apocryphally said to have referred to himself as a "Kerensky."
3 The question of American fascism has been one of great interest. For a wide variety of opinions on the N.R.A.-fascism matter, see the (union) Journal of Electrical Workers and Operators, October, 1933, pp. 395–99 ff., in which ten leading economists reply to the question, asked by the editor of the Journal.
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f. The N.R.A. and the unions themselves. The faults commonly ascribed to organized labor in America are: (1) capitalism-mindedness; (2) structural weakness of the craft form; (3) functional weakness of restrictive practices and non-partisan political policy; (4) lack of unselfish, devoted, intelligent, dynamic leaders. Has the N.R.A. thus far done anything to help unions get rid of these shortcomings?

The N.R.A. has, of course, not tried to change capitalism-mindedness in any individual or group. It is intended to save and correct the present economic order, and to that end it preaches co-operation between capital and labor, not class-consciousness and not class-warfare, which is just the opposite of co-operation. There is no evidence that labor is more or less class-conscious than before June, 1933. The A.F. of L. itself had been officially spreading the gospel of co-operation throughout the post-War decade, and it has not altered this attitude since then, if one may judge from the sentiments expressed by President Green and his subordinates in addresses and in articles appearing in the A.F. of L. Weekly and the (monthly) American Federationist.

It must be remembered, moreover, that the outbreak of strikes since June, 1933,1 where organized by A.F. of L. unions, does not necessarily portend class-consciousness or lack of co-operation. It has been said that many groups of workers were told by subordinate union leaders that by striking they would really be co-operating with the Government because the Administration needed a strongly organized labor movement to help put across the N.R.A. with the employers. Furthermore, in the past the strikes of the conservative A.F. of L. unions have not been born of class-consciousness, but of the desire to control, in true business or capitalistic fashion, the labor supply on the labor market, so as to get higher wages and shorter hours here and now. There was no thought of striking to wrest the control of industry itself from the hands of employers at some future date.

There can be no question that the Recovery Act has given great impetus to union organizing activities, to unionization of unorganized workers, and to strikes to force union recognition from employers. It is, of course, true that there has often been an increase in these things when an upturn from depression takes place, but there would hardly have been so many workers out on strike in the summer of 1933 if it had not been for the "liberating" effect of Section 7 (a). A business

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1 As regards the immediate organizing agent of these strikes, there were three: In some cases the strikes were spontaneous, "leaderless," and "unorganized," as among the hard-pressed textile and hosiery workers in the South; others were engineered by communist unions, as in part of the strikes in northern New Jersey and in Pennsylvania; the majority were led by A.F. of L. unions, however.
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upturn occurred in the summer of 1932 without any such result. Furthermore, employers' methods had been too effective for too long to justify one in a belief that workers would have staged large-scale walkouts without the N.R.A. stimulus.

Strike statistics tell part of the story. The total number of strikes occurring from July to September, 1933 (inclusive), was 545. This compares with 246 for the same period in 1932, 242 for 1931, 188 for 1930, 231 for 1929, and 157 for 1928. Indeed, one must go back to the great strike years of 1919 and 1920 to find a greater number of strikes (793 in the same three months of 1920). As regards the number of workers involved, the July–September figure for 1933 is 488,393, which is greater than the number for any entire year back to 1924. The total number of man-days lost from July to September, 1933, was 6,962,319, a figure larger than that for any entire year since 1928. Definite data are not yet obtainable, but if one may judge from the work of the National Labor Board, the overwhelming majority of the strikes since June, 1933, have been for union recognition.

Union membership statistics tell another part of the story. The total paid-up membership (not including non-dues-paying unemployed unionists, according to the A.F. of L.) of the American Federation of Labor in August, 1933, was 2,126,796, a decline of over 400,000 from 1932 and scarcely more than half of the 1920 figure. With the addition of the membership of non-A.F. of L. unions, the total pre-N.R.A. numerical strength of American labor, then, was probably not more than 2.5 million. By October, according to the Federation, the total was almost five million, of which the A.F. of L. claimed four million. This rapid rise means, if the data are accurate, that in a little more than three months union membership almost doubled and the 1920 peak figure was almost reached. Perhaps it will have been surpassed by January, 1934.

There can be little doubt about the attitude of organized labor toward the N.R.A. It has many complaints to make about certain things

1 Consult the June and November issues of the Monthly Labor Review, 1920–33, for details.
3 See Press Release, Washington, October 1, 1933.
4 The Federation total was arrived at as follows: Dues-paying members, 2,526,796; exempt from dues (i.e., unemployed, non-dues-paying unionists), 100,000; recently organized in 584 new "federal" unions, 300,000; recently organized in 2953 new locals of national A.F. of L. unions, 500,000; new recruits to existing locals of national A.F. of L. unions, 450,000; new recruits to existing federal unions, 50,000; total, 3,926,796.
5 See December 5, 1933, issue of Labor, in which it was stated that 241 new federal locals had been chartered since the 584 mentioned in the preceding footnote.
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done by the Recovery Administration and about certain alleged activities of certain employers. Its highest chieftains are often in difficult positions (theoretically at least) because they are not only union leaders with obligations to their constituents, but also, in a sense, government officials with obligations to the nation in their Labor Advisory Board and National Labor Board functions and duties. But, with the exception of the communist unions and a few socialists (who profess to see in the N.R.A. one more link in the chains of wage-slavery under capitalism), union labor appears to be rather solidly behind the Act and the Administration. This is to be expected, for there are few who would contend that labor, both organized and unorganized, has not experienced real benefits and gains from its operation. Most workers would go along with William Green’s statement in his Detroit speech.

I have no patience with those who condemn and find fault with the National Recovery Act. Labor has not fared perfectly under it. We have complaints to make — many of them. We have not gotten out of it all that we hoped for or that we were entitled to, but the friends of labor, the masses of the people, are not going to condemn the National Recovery Act because it does not bring us over night all that we think we are entitled to.

The American Federation of Labor and all its hosts, the millions of workers whom it has the honor to represent, are going to stand behind a great fighting leader, a great President of the United States, who is actually trying to do something for the masses of the people.

It is clear, then, that, on the whole, unions have gone forward under the Act and that they are appreciative of the Administration's assistance. The vital questions still remain to be answered: Are American unions properly equipped in structure, function, and leadership to consolidate their gains and go still farther? Has the N.R.A. done and will the N.R.A. do anything about the antiquated craft form, the old-fashioned antisocial and futile tactics, and the generally weak and sometimes dishonest leadership?

General Johnson, in his speech at the A.F. of L. Convention and in other utterances, has stated plainly that the N.R.A., to work in proper balance, needs the "vertical" or industrial form of union rather than the "horizontal" or craft form. In any industry, only industrial unions can be contiguous with employers’ associations, and only industrial

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1 See the discussion on provisions, interpretation, and organization under the Act, above, pp. 3–20.

2 William Green and John K. Lewis (president of the United Mine Workers) have at different times urged unionists to go slow about striking, when, as a matter of fact, striking would have been good tactics and would have enhanced their reputations as union leaders.

unions can include all workers, skilled and unskilled, so as to show "the united front" and achieve the needed balance of power. Yet a few hours before the General's speech was delivered, the delegates of the A.F. of L. had recorded, by a vote of more than two to one, their unwillingness to give up the craft form and merge into the industrial.\(^1\) An effort to (presumably) democratize the government of the Federation by enlarging the important Executive Council from 11 to 25 members was also voted down. Society is still to be burdened with jurisdictional disputes, and unionism must still suffer from craft union "scabbing" on craft union.\(^2\)

Although the N.R.A. has made some effort to change union structure, it has said little or nothing about union functions except to ask (and sometimes almost demand) that unions co-operate with the recovery program by using the National and Regional Labor Boards for mediation, instead of hindering the program by striking. Thus far, no significant development or change in union policies and practices can be discerned under the N.R.A.

One noteworthy event in October may in time have a decided effect on the future of unionism in this country. The Amalgamated Clothing Workers, for years outside the A.F. of L. because it was a "dual" union rival of the A.F. of L. affiliate (The United Garment Workers) from which it had seceded before the War, was received into the Federation at that time. This is the first instance in which the A.F. of L. has permitted two rival unions to exist within its fold. It is true that the Amalgamated's entrance was subject to the condition that it give up its craftsmen members (such as electricians and machinists) to the appropriate A.F. of L. craft unions, another example of A.F. of L. insistence on the craft form. But the fact that for fifteen years the Amalgamated has been one of the most progressive, enlightened, and militant unions in the country and has possessed some of the best labor leaders makes it entirely probable that in time the Federation itself will be stimulated to make the structural and functional adjustments so long overdue. It would be worth the "price of admission" alone if the Amalgamated could lead the other unions to a house-cleaning of racketeering and do-nothing leaders. It would be able to show them how, for on certain occasions it has cleaned its own house with efficiency and success.

\(^1\) The fact that a good many leaders' jobs and salaries would be eliminated in the consolidation process possibly had something to do with the results of the vote.

\(^2\) In Hollywood recently electrical workers filled the jobs of striking sound-men and the carpenters "scabbed" on striking studio stage-hands.
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