Labor's New Era—Whither?

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TWO CONGRESSIONAL enactments of current vital importance to labor are the National Labor Relations Act and the Social Security Act, both of which were passed in 1935 and have since been under question of constitutionality. The doubt with respect to the National Labor Relations Act (known also as the "Wagner Act" after its principal author, Senator Robert F. Wagner) seems to have been fairly well dissolved through five momentous decisions handed down by the United States Supreme Court on April 12. On May 24 the United States Supreme Court upheld the constitutionality of the federal Social Security Act's provisions for old-age pensions, unemployment taxes, and cooperating state unemployment laws.

● *What occupational changes, if any, may result from the Supreme Court decisions on the Wagner Act, and on the Social Security Act? A former staff member of* Occupations *gives a nutshell review of the objectives and provisions of the two Congressional enactments that are of paramount interest at the present time. Some of the uncertainties are discussed. Readers will find the commentary helpful in following developments resulting from these important labor measures.*

The larger significance of the National Labor Relations Act decisions seems to be that the meaning of "interstate commerce," under the constitutional clause pertaining thereto, has been broadened—or clarified, if you prefer—and that Congress is definitely enabled to pass laws regulating labor relations in manufacturing industries where strife between employers and workers would be a burden or obstruction to the free flow of such interstate commerce. Thus in the cases of the automobile, steel, and clothing manufacturers involved in three of the five decisions, the fact that their employees did purely local work was held not to prevent the Act from applying, since these manufacturers were engaged in interstate activities through the purchase of raw materials and the disposal of their finished products. Furthermore, by implication, these three decisions permit a similar application of the Act generally to the three industries they represent, and by extended implication —not so certain—to virtually all the manufacturing industries. Whether the decisions authorize federal regulation of other matters than labor relations, such as prices, wages, and labor conditions generally, is still unsettled.

Newspaper discussions and interpretations of the Wagner Act decisions leave a sense of some confusion and uncertainty because of misapprehensions in many quarters of what the Wagner Act itself actually provides. Accordingly we are presenting herewith a summary of the provisions of this Act, reprinted by permission from the *New York Times*. Assuming as we now must that in all essentials the Act is constitutionally valid, what are its primary purposes? They are: Establishment *in*

law of the principle of collective bargaining; compulsory recognition by employers of labor organizations approved by the majority of the workers in a given situation for the purposes of collective bargaining; prohibition of "unfair practices" on the part of employers designed in any way to control labor organizations or interfere with union membership or activities; authority on the part of the National Labor Relations Board to determine the agency or organization entitled to bargain for the workers in a given situation, and otherwise to perform quasi-judicial functions in the enforcement of the provisions of the Act.

The Wagner Act does not mean, and therefore the Supreme Court decisions do not mean, that the National Labor Relations Board can insure industrial peace or settle strikes. One cause of strikes is removed. The cause of strikes for union recognition is removed. If negotiations between employers and the labor representatives approved by the Board should fail, there may be a strike. Strikes are not outlawed. The Act gives the Labor Relations Board no functions of conciliation or arbitration. These are still reserved to the United States Department of Labor.

The right of labor to collective bargaining, with representatives of labor's own choosing, and the right of unions to obtain in the courts enforcement of laws enacted to this end, were upheld in a Supreme Court decision concerning the Railway Labor Act. One of the new questions before the Court in the Wagner cases was the prohibition of unfair practices, covering such matters as employer-controlled "company unions," "yellow dog contracts," and the kind of espionage and intimidation of workers that has lately been uncovered by the LaFollette investigating committee. The Court did not specifically say that "company unions" are out, but only that employers must not do anything to influence or aid the workers in forming labor organizations or contribute to their support; and that they must not discriminate against workers or punish them for joining unions. Also before the Court was the authority of the Labor Relations Board: its power to determine the particular group of workers to be dealt with by the employer, in case of dispute on that point; and its power to hold hearings, subpoena witnesses, and issue orders where charges of unfair practices have been brought. The decisions and orders of the Board are subject to review in the Federal courts.

Immediate effects of the Supreme Court's Wagner Act decisions are the increased activity by both the American Federation of Labor and the Committee on Industrial Organization in pushing the organization of workers. It seems likely that all the important mass production industries will be organized, and that most of the larger employers, for the present at any rate, will drop the fight against recognition of unions and the practice of collective bargaining. However, it is possible that further cases will come before the Supreme Court until the meaning of "interstate commerce" under the National Labor Relations Act is still further clarified, and the application of the Act to particular industries is cleared up. Moreover, it should be remembered that the critical decisions were rendered by five-to-four majorities, of the kind sometimes found to be impermanent.

The direct consequences, the particular advantages and benefits, which may come to labor through such legislation as the National Labor Relations Act and the Social Security Act are of great importance. The ultimate effects on the patterns

of occupational life are difficult to predict. It is perhaps too early to discuss them. Will they tend toward increasing stratification of classes, according to the nature of employment, whether industrial or white-collar, whether skilled or unskilled, and so on? Will these classes, as in the Old World, tend in greater degree to become hereditary social as well as occupational classes? If so, they will merely strengthen certain tendencies which were observable in this country before their enactment. The disappearance of geographical frontiers had much to do with them. Are the occupational frontiers, the opportunities of the individual readily to change from one occupational class to another, to be still further narrowed as an after-effect of legislation which gives increased security within one's occupational class? What will happen from these larger, farther-reaching viewpoints is still on the knees of the gods.

It is fairly clear that there will be some effects on occupational change in the not distant future. The industries excluded from the Social Security Act will doubtless find it more difficult to recruit labor. Thus people might be expected to move still farther away from agricultural employment and domestic service. Possibly organization of industrial labor in new and powerful unions, with consequent raising of wages, will at least slighty diminish the attractiveness of unorganized white-collar occupations. But these are superficial speculations. Various factors will play a part in the changing occupational scene.

Since the Wagner decisions, several states have adopted labor relations acts to cover *intrastate* commerce. In Congress a labor practices bill, based on the interstate commerce clause and affecting hours, wages, and child labor, has been introduced.

Provisions of the Wagner Act

The Wagner National Labor Relations Act of 1935, which is essentially a continuation of Section 7 (a) of the National Industrial Recovery Act of 1933, was preceded in Federal statutes by only two similar enactments: the War Labor Board Act, regulating labor relations under the emergency conditions, and the Railway Labor Act, regulating labor relations affecting interstate transportation.

The policy declared in Section 1 of the Wagner Act follows:

"To remove unnecessary obstructions to the free flow of commerce, to encourage the establishment of uniform labor standards, and to provide for the general welfare by establishing agencies for the peaceful settlement of labor disputes, and by protecting the exercise by the worker of complete freedom of association, self-organization and designation of representatives of his own choosing for the purpose of negotiating the terms and conditions of his employment or other mutual aid or protection."

The act asserts the right of employes to self-organization, to form and join labor organizations, and to bargain collectively through representatives of their own choosing. To protect these rights it is declared to be an unfair labor practice for an employer:

1. To interfere with, restrain, or coerce employes in the exercise of the rights set forth;
2. To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it;
3. By discrimination in regard to hire or tenure or any term or condition of employment, to encourage or discourage membership in any labor organization,

but nothing in the act or any other Federal statute is to preclude the making of a closed-shop agreement with a labor organization not dominated by the employer;

4. To discriminate against employes for giving testimony under the act.
5. To refuse to bargain collectively with the representatives of his employes.

The act provides majority rule, under which representatives designated by a majority of the employes shall be the exclusive representatives of all the employes in the appropriate unit.

A board of three members receives power to decide the appropriate unit, to investigate controversies, certify representatives, prevent unfair labor practices, carry on proceedings, issue "cease and desist" orders and petition the Circuit Courts for enforcement.—*The New York Times*, April 13, 1937.

Social Security Act in Brief

Objectives of the Social Security Act (as summarized by Eveline M. Burns) are: "To guarantee a measure of security to people who are without income through no fault of their own, in a way that is more adequate and less humiliating than relief; to protect the rest of society against supporting malingerers; and to distribute the costs of these minimum guarantees in an orderly and controllable manner."

Provision is made for:

A Federal Old-Age Annuity Benefit System

A Federal-State System of Unemployment Compensation

Security for Children through Grants to States to Assist in Meeting the Costs of—
- a. Aid to dependent children
- b. Maternal and child health services
- c. Services for crippled children
- d. Child welfare services

Programs of Financial Assistance to the States for the Purposes of—
- a. Aiding the needy aged
- b. Aiding the needy blind
- c. Vocational rehabilitation of the physically handicapped
- d. Extension of public health services

Grants-in-aid are conditional on the acceptability of State plans, and the amount is proportionate to the amount expended by the benefitting State. The Federal Government's role is that of giving the States necessary financial assistance in performing a State function. The actual administration of the job to be done remains in State hands.

General administrative responsibility under the Act is lodged in the Social Security Board of three members appointed by the President for six-year terms. This Board, through one of its bureaus, directly and exclusively administers the Old-Age Annuity Benefits; and through another bureau, administers the grants-in-aid for dependent children, the needy aged, and the needy blind. The United States Children's Bureau administers the provisions of the Act relating to maternal and child health services, services for crippled children, and child welfare services; the United States Public Health Service, those relating to extension of public health work; the United States Office of Education, those relating to vocational rehabilitation. In cooperation with State agencies the Social Security Board shares in the administration of the Unemployment Compensation provisions of the Act, but not in the actual administration of State laws on this subject.

To meet the expenses and carry out the purposes of the Act, money is derived by means of Congressional appropriations from the general treasury and of three separate and distinct taxes, the proceeds of which are paid into the general treas-

ury. For the purposes of Old-Age Annuity Benefits, an income tax on employees and an excise tax on employers are levied. Until 1940 each workman under the age of 65 pays one per cent of his wages; his employer, an equal amount. The percentage is gradually increased until, beginning with 1949, both workman and employer pay three per cent a year. For Unemployment Compensation, employers of eight or more persons are subject to a payroll tax of one per cent in 1936, two per cent in 1937, and three per cent for each calendar year thereafter. Certain types of service are exempted from the operation of these taxes: agricultural labor, domestic service in a private home, certain forms of maritime employment, governmental employment, and employment by religious, charitable, and educational institutions of a non-profit nature. Self-employment is excluded.

Security for Wage-Earners

The two parts of the Social Security program of chief concern to wage-earners are those relating to Old Age Benefits and to Unemployment Compensation. These, generally speaking, exemplify the insurance principle of protection, in spite of the fact that the three taxes imposed by the Act are paid into the general treasury of the United States just like other taxes, and are considered a part of the general revenue from which Congress may make appropriations.

Federal Old-Age Benefits. These differ from Public Assistance to the Needy Aged, under the same Act, in that they are paid by the Federal Government directly to the individual, and instead of being dependent on establishment of need are based on his work and wage record. A person will be entitled to monthly retirement benefits if he has been engaged in commercial or industrial employment in at least five different calendar years after December 31, 1936, and before his 65th birthday, and his wages from such employment have totalled at least $2,000.

These benefits will run from $10 a month to $85 a month for life, depending on the amount of wages earned in the included employments. It is roughly estimated that $6,000,000 will be paid out in lump-sum and death benefits in 1937, the first year in which these two forms of benefit are payable, and that 1,500,000 persons will receive $90,000,000 before January 1, 1942, when the first monthly retirement benefits become available. Congress has already made appropriations to the Old-Age Reserve Account established in the United States Treasury.

Unemployment Compensation. The Social Security Act confines the rôle of the Federal Government to three separate functions:

1. It sets up safeguards for the State unemployment compensation funds by providing that payments made under a State law be deposited in an unemployment trust fund in the U. S. Treasury;
2. It agrees to aid the States by paying all proper administrative expenses of their unemployment compensation systems, but leaves to the States the responsibility for selecting the type of laws they pass;
3. It levies a uniform excise tax on employers (payroll tax), against which employers in States with laws approved by the Social Security Board may credit the amount of their contributions under the State unemployment compensation law, such credits not to exceed 90 per cent of the Federal tax.