From Wagner to Taft-Hartley, Revisited

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ABSTRACT

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This dissertation is guided by two questions: why was the right to collective, abrupt cessation of work and production sharply truncated at the height of labor’s power during the New Deal; and, further, what does this mean for our polity? The extant laws governing workplace protest have gone unchanged since the 1947 Taft-Hartley amendments to the 1935 Wagner Act. This dissertation revisits the Wagner to Taft-Hartley period - 1935 to 1947 - to identify commonalities in the politics surrounding state adoption of Taft-Hartley precursor laws, particularly those pertaining to the right to strike.

In the first chapter, I outline the motivation for revisiting the New Deal period and the specific importance of union militancy for realizing working-class programmatic aspirations on the shop floor and beyond. I also outline the key empirical puzzle of my dissertation: why did some states adopt anti-strike laws while others did not?

In the second chapter, I analyze the volume and content of the newspaper coverage of labor militance during the New Deal period through Reconversion with a particular focus on landmark historical episodes. In general, I find that coverage of strikes mirrored their incidence. However, the content of the coverage of strikes tended to carry more negative source-messages than positive. Further, the coverage tended to decontextualize the class conflict wrought by strikes. These content analyses suggest that the apparent lack of class consciousness on the part of the unemployed or the industrial workers was buttressed by the media. Given the prevalence of anti-strike messaging, the scope for rallying a majority to forestall retrenchment in the mass polity was greatly limited.
In the third chapter, I assess the evidence for parallel publics in the late 1930s and the limits of public tolerance for industrial militance. Based on Gallup surveys, I find that the mass public, across regional and class lines, had limited tolerance for industrial militance well before the Reconversion strikes, which are traditionally considered the proximate cause for the move to Taft-Hartley. This tandem subgroup variation in opinion is suggestive of an anti-labor bulwark in pre-War mass opinion. This implies that at the height of its power, and in light of the president's advocacy in the court-packing episode, organized labor did not command substantial popular support.

In the fourth chapter, I directly analyze the states and ask why did states adopt anti-strike laws and why did states retrench against protective laws they had? I find support for the claim that the laws were adopted swiftly to contain strikes. Furthermore, I find that the 1938 elections in the North as well as the South ensured the decline of the right to strike. Partisan changeover is an important variable but is the intermediary to backlash against the Congress of Industrial Organizations. The backlash toward the Congress of Industrial Organizations chiefly took the form of American Federation of Labor resistance and agriculture opposition. The seats controlled by agriculture in the state chambers turned against the Congress of Industrial Organizations in the elections of 1938 and sought laws to contain the Congress of Industrial Organizations. In this chapter and throughout the dissertation, I chiefly attend to the cases of New York, Wisconsin, and Utah because they vary on the dependent variable from full retrenchment to no retrenchment until Taft-Hartley. The method of difference indicates that disruption-backlash is the best single explanation for the emergent pattern of United States labor relations. Furthermore, the experience of these states exemplified the difficulties the union militants faced in the electorate and mass polity.
The fifth and final chapter observes that the American people more or less got what they wanted from New Deal labor law development and asks whether the abridgments of worker liberty implied by broadly de-legitimized rights to strike are normatively sustainable (i.e. were the proponents of Wagner reform correct in their insistence that collective bargaining rights were essential to freedom?) and draws upon work in history and political theory to advance the proposition that even a minimal conception of citizenship freedom requires a usable right to strike. Moreover, I suggest that the latter-day trend to oligarchic politics is best understood with reference to shop floor quiescence arising from the decades-old strike restrictions.
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Dedication

To the memory of:

Althea Kelly
Woodrow Kelly
Patricia Daniel
Theodis Daniel
Chapter 1

Introduction

Motivation

"I think our freedom depends upon maintaining the free right to strike," said Senator Robert Taft (R-OH) in concurrence with President Truman’s veto message regarding the Labor-Management Relations Act of 1947 (Legislative History of the Labor Management Relations Act, 1653). This claim is a central motivation for my dissertation. And, in light of this, I pose three central questions: Why did the United States adopt laws to hamper worker protest despite the fact that worker protest ostensibly serves the interest of the majority of citizens? Further, were citizens broadly in favor or opposed to these restrictions? Finally, what would explain these quick policy shifts during the 1930s that stand as extant law? Throughout I will refer to cases of states that adopted Wagner-style (protective) laws and then contemplated retrenching (restrictive) amendments. Attention to these cases brings the mechanisms of disruption-backlash into sharp relief. These will show that alternate political strategies for labor would have failed to forestall Taft-Hartley (i.e. could labor have coalesced with the farmers; or, should labor have been non-compliant with Taft-
Table 1.1: Restrictive Laws Adopted by the States

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<th>No Law Adopted</th>
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<td>PA (MA) (NY) WI</td>
<td>UT</td>
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<tr>
<td>Restrictive</td>
<td>AL AR AZ CA CO, DE FL GA IA ID, LA KS NE MD ME MI, MN MO MS ND OH, OR SD TN TX VA VT</td>
<td>CT IL IN, KY MT NC, NH NJ NM, NV OK RI SC, WA WV WY</td>
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Hartley as capital was with Wagner before it?); further, I will argue that Senator Taft’s, and, before him, Senator Wagner’s, use of the word ‘freedom’ is accidentally illuminating. In the present chapter, I will explain the motivation for revisiting the New Deal and the topical emphasis on strikes and then I will outline the plan for the remainder of the dissertation.

Perhaps chief among the motivations for this dissertation is the imbalance of scholarly attention paid to the states during the New Deal, and particularly from 1937-1947. (More on the periodization in a moment.) The literature, mirroring the CIO itself, has overwhelmingly focused on the federal level. Theories animated by or developed in the APD and labor history literature (Greenstone 1977 [1969]; Hacker and Pierson 2002; Plotke 1996; Katznelson et al. 1993; Farhang and Katzenelson 2005; Schickler and Caughey 2011; Skocpol and Finegold 1982; Skocpol et al. 1990), critical legal studies literature (Forbath 1991; Gross 1974; Gross 1981; Stone 1981; Tomlins 1985), the class power and class-disruption literature (Domhoff 1990; Domhoff and Webber 2011; Goldfield 1987; Goldfield 1989; Piven and Cloward 1977; Rubin, Griffin, and Wallace 1983; Swenson 2004), and the organized labor history literature (Davis 1986; Lichtenstein 2003[1982]; Zieger 1994; Zieger 1995) do not understand the shift from Wagner to Taft-Hartley as a unitary process - that is, not as a backlash to the growing power of the industrial unions. Though there is a growing APD literature
that takes the states seriously as an object of analysis during the formative 1930s and 1940s (Orren and Skowronek 2004; Weir 2005; Chen 2007; Baylor 2013), the field of labor relations has been overlooked.

This imbalance in scholarly attention has also privileged top-down as opposed to bottom-up causal theorizing (cf. Shapiro 2015). The literature does not refute the pleas of observers that had labor acted differently in other respects, then it would have gotten a less restrictive labor law regime; contemporary observers and subsequent students of American political development took labor to task for failing to oppose segregation, for auto-retrenching against militance, for abandoning the third-party option too quickly (Milton 1982; Lichtenstein 1998; Moody 1988) among other errors. This investigation of media, public opinion and state-level lawmaking suggests that the limits of liberalism might be found in the mass public as opposed to the preferences of state officials or corporate liberals. A top-down theory of the New Deal would suggest that the Wagner Act might have led to corporatism in the United States as the Labor Boards promised a ‘politicized bargaining’ that would have engendered state-backed corporatism had Taft-Hartley not been enacted (cf. Lichtenstein 2002). A bottom-up theory asks whether the public had a great deal of tolerance for a muscular labor movement; attending to the states asks why were the Taft-Hartley reforms adopted in the states so quickly after Wagner. In addressing these two questions, I will point to an understanding of the New Deal as a period where the scope for a pro-labor revision of the labor relations order was not much greater than it is at present. Here I am assuming that public opinion plays two roles in a democracy: at once an object of contestation and as an actor pressing demands.

This investigation of political behavior at the turning point begins by showing that citizens’ shared an information environment in common that was characterized
by framing strikes in opposition to lawful rule. This, in turn, contributed to the widely-shared public opposition to union militance. The public antipathy toward strikes generated an electoral backlash at the state level that preceded the Taft-Hartley backlash. This argument proceeds via a series of tests that are suggestive, though not decisive. That is, the chapters do not stand alone; but, taken together, the chapters strongly support the claim that a usable right to strike had been truncated as a direct result of its having been exercised.

My dissertation exploits the interlude between the adoption of Wagner to the adoption of the Taft-Hartley amendments in order to explore the origins of the United States labor relations order. Using this temporal gap, my approach leverages multiple comparisons to explain the origins of today’s labor laws, rather than relying on the narrative of one peculiar nation. This is to say that bringing the states into the discussion increases the $N$ of New Deal labor law outcomes. The structure of this study enables a broader test regarding the promise of worker and union protest at its height. And because industrial unions pursued a variety of strategies in different states arriving at the same result and because workers faced retrenchment in largely white states, race can be held constant as well, not having been concretized in economic arrangements outside the South. In other words, heterogeneous states arrived at the same result in the absence of labor market segmentation by race.

The core puzzle confronting this dissertation is how to explain why state governments quickly reversed the strike rights that were fostered by the Wagner Act. Given that the states that adopted anti-strike laws were heterogeneous, this dissertation begins by asking what kinds of information citizens had about strikes and then turns to the opinions expressed by citizens before turning to the states themselves. People consumed news reports that conditioned their views on strikes which in turn
conditioned the policy activity of public officials. In order to assess the tenor of news coverage, I begin with an analysis of the content and volume of strike coverage in big-city daily newspapers. In order to assess patterns of public opinion, I turn to an analysis of responses to national surveys.¹ And, then, finally, I turn to the states themselves and draw the link between strikes and retrenching laws.

If the content of newspaper coverage could be construed as favorable, or if there existed meaningful regional or class conflict in mass opinion, then this argument would not hold. Further, if the strikes in a given state were not clearly linked to the adoption of anti-strike laws, the argument in this dissertation would not hold. The argument in this dissertation stands in tension with received explanations for the sources and timing of the New Deal reaching the limits of liberalism. If the mass public largely agreed with restricting the right to strike absent manipulation, then a top-down account would be incomplete; if states without effectual ethnic cleavages behaved the same as those with effectual cleavages, then race-based explanations would be likewise incomplete. The New Deal was not limited by the US entry into the Second World War; rather, strike rights had been vitiated before then.

This dissertation, then, sets out with the thesis that backlash to the labor militance explained the adoption of restrictive strike laws at the state level. These laws would then form the core of the union-hampering provisions that characterize the extant US laws. This thesis will be supported by the statistical linkage between strike volume and restrictive law adoption as well as CIO density and Republican seat gains in the state legislatures. Despite the fact that the CIO was launching

¹The tractability of these data are due to the survey response weights devised by Berinsky (2006) and employed in Berinsky and Schickler (2011). The weighted public opinion is reflective of what mass opinion would have been, given scientifically valid sampling techniques. Nevertheless, because the surveys were not conducted in accordance with sound sampling procedures, our analysis cannot hinge upon a specific result.
strikes that assailed the capitalist structural domination of politics, citizens were not supportive of that militance. The experience of the states that revised their little Wagner Acts suggests that the militance alienated essential coalition partners in the state legislatures. These states adopted provisions that served to placate the coalition partners disrupted by the CIO. Further, this dissertation sets out with the argument that the union movement could not have plausibly achieved a better result than the one it currently enjoys, despite its comparatively weak position. If we include opportunistic state-level comparisons, we will see that the multiple paths taken at the state level suggest that alternate courses of action by the organized labor would not have achieved their aim. This results in two contributions that would elude the present scholarship on the New Deal: first, attention to the Northern states exposes a conservative reaction to strikes that created a genealogy for Taft-Hartley; second, there was no plausible strategy for labor to forestall the onset of restrictive laws.

The Laws

The Wagner Act was the first national law that enshrined workers’ right to bargain collectively, but was not preemptive legislation so there was space left open for the states to enact their own policies. The states were able to erect policies of their own as long as they did not contradict the Wagner Act. The variations among the states enable the researcher to observe an historical laboratory in the politics of industrial society. The passage of the Taft-Hartley amendments, though not preemptive in the technical sense, brought a decisive national answer to the labor question by divorcing militance from the unions, and by extension, divorcing labor protest from social or economic protest generally. The swift change in policy did not apparently run contrary to the wishes of public opinion but the secondary boycott, hot cargo, and sympathy strike laws raise a tension between freedom and liberty that
is normatively ineluctable. But the Wagner Act was not only revolutionary in terms of enshrining the right to bargain collectively, it also was a most complete intervention into labor law, which had largely been the province of judicial interpretation guided by the English common law tradition (cf. Cohen 1948).

Here, I distinguish between labor relations acts and narrower acts as well as protective and restrictive acts. The labor relations acts are those that established rules for union recognition and protected the unions from employer interference in a broad fashion - these are the protective laws; the narrower acts were those that enumerated specific unfair labor practices, typically on the part of employees (particularly laws against sit-down, secondary and public employee strikes, strikes in violation of contract, and use of force during strikes) and jurisdictional battles between unions as well as their internal affairs. Here I put the anti-strike laws into one category despite their distinctive features. It should be noted, though, that these anti-strike provisions were often adopted alongside other measures that anticipated union-hampering Taft-Hartley provisions (such as provisions prohibiting union political contributions, right-to-work laws, and limitation on strike funds).

A note on the chronology and geography of the laws. The initial wave of laws in 1937 was pro-union and largely inspired by the Wagner Act. As a result of the statute and favorable case law, union strength increased and the CIO growth disrupted extant relations in farm industries as well as old craft unions. Moreover, the sit-down strikes that brought US Steel and General Motors to the bargaining table seemed to affirm the belief that the new unions were a potent force. Thus in 1939 demand for laws on the part of those who lost as a result of union militance to curb union power increased and the restrictive wave began. And the focus of the laws shifted from equalizing relations between employees and owners to an emphasis on restricting union activity
in support of the rights of the public. The early War years saw no restrictive laws adopted but, in 1943, a new wave began, particularly in the South, characterized by laws designed to restrict the internal affairs of unions and new organizing. The attempts on the part of the CIO to use the war as an impetus for new industrial organizing in the South were the evident cause for this activity. It is worth noting, however, that this logic would not explain the persistence of Utah’s protective law, race notwithstanding. That is, war-related industrial growth affected the South and Southwest states alike but the Utah laws remained relatively more favorable to the unions.

The New Deal period was crucial in the development of the administrative state (Skocpol and Finegold 1982; Schiller 2016). And the growth of the labor relations bureaucracy is one of the defining features of the New Deal program. The statutory changes in Norris-LaGuardia (the anti-injunction Act) and Wagner (the National Labor Relations Act) spurred new organizing, particularly in auto, steel, rubber, and garment unions (Bernstein 1964; Zieger 1994). When these laws were adopted the industrial unions - the CIO unions - grew. And when the CIO grew it caused the fracture of the political coalitions that adopted the laws in the first place. But, importantly, the unions relied on friendly party control of government for the laws to function: the complaining union in a Board matter controlled neither the decision to prosecute nor the actual prosecution of the case. Because the state was assigned the duty of preventing unfair labor practices, the board’s own attorney presented the evidence in support of the complaint. Also, it is worth noting that the National Board and the state Boards routinely sought to redress grievances without hearings.

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2It should be noted that no labor relations act passed during this period defined the term ‘public.’ Distinguishing citizen qua citizen from citizen qua worker bedevils politicians and students of politics alike.
or sanctions (cf. Herzog 1942).

The laws varied across the regions but the different regional circumstances implied different forms of government relief. That is, the more agricultural and rural south and west were situated in opposition to the industrial north. And this sectionalism did not escape the notice of legislators at the state level (Patterson 1969; Fink 1974).

The labor relations statutes contained many of the provisions of the later Taft-Hartley, including bans on sit-down strikes, strikes by force, limitations on peaceful picketing, jurisdictional strikes, sympathy strikes, strikes in violation of agreements, refusal to transport 'hot' cargo, coercion, and closed shops. Sit-down strikes were defined by the peaceful occupation and seizure of industrial work sites by the CIO unions in steel, auto, and rubber (Bernstein 1969; Fine 1969; Zieger 1997). These were particularly disruptive because they made the use of replacement workers impossible without inciting violence. Sympathy strikes are straightforward and 'hot cargo' strikes are a particular kind of sympathy strike used by transportation unions (Teamsters) who refused to deliver goods produced by firms in labor disputes (Interestingly, the subsequent Teamster leadership would consider sympathy strikes too costly; Ahlquist and Levi 2013, 55-68 provide a useful summary). Prohibiting jurisdictional strikes was designed to curb CIO inroads into AFL unions (Millis 1950, 471-4) because the prohibition served to maintain existing AFL unions in plants and sites where the CIO might have made further gains. The right-to-work laws compel the unions to deliver collective benefits to free-riders thus undoing the logic of collective organizing. The general labor relations acts of the restrictive variety usually combine some or all of these features into a larger bill, not infrequently with open shop provisions, which made it illegal for employment to be conditional on union membership.
Importantly, the sit-down strike constituted a direct offensive against the owner. Not only is labor being withheld but also the site of labor is being occupied. Moreover, the workers in a defensive position on the shop-floor were much more difficult to disperse, and attempts at forcible dispersion would entail further capital goods losses on the part of the owners. The sit-down strike became a tactic used to decisive effect by CIO unions in steel, auto, and rubber recognition strikes (Fine 1969). Statutory prohibitions on strikes by force and peaceful picketing follow a similar logic. The sympathy strike and 'hot' cargo prohibitions keep unions that represent 'unaffected' bargaining units from using outside disputes as a reason for militancy. That is, while capital was a firm-level actor, labor was a site-level actor. And, indeed, labor leaders might well have traded Wagner protections for the right of secondary boycott were they given the choice (cf. Compa 2015, note 5). These kinds of strikes were powerful because they enabled workers in other areas of the supply chain or geographically adjacent unions to join in solidaristic resistance to employer directives and capitalist rule. Though Senator Ives (R-NY) described the secondary boycott as a "concerted attempt on the part of a strong union to compel employers to deal with them, even though the employees of that employer desire to be represented by other unions, or not to be represented at all" (Legislative History, 1056) In the United States, labor unions had to strike to organize prior to Norris-LaGuardia and Wagner, so that it might strike and organize under the law; but prosecuting these strikes for purposes other than union recognition was politically costly unless, perhaps, the strike might have been married to broader group claims.

The metamorphosis of labor law from being protective and integral to being restrictive and contractual\(^3\) is a process that occurs in multiple political units simul-

\(^3\)By 'integral,' it is meant that the law must shield bargaining rights, because those rights are integrated with individual rights; by 'contractual,' it is meant that the wage bargain, however struck,
taneously. There was less emphasis on the importance of establishing equal bargaining power as a first condition of industrial peace, and more on the need to protect the community against possible excesses by both sides to an existing controversy.

A substantive interest in latter-day economic and political inequality turns my attention to the New Deal when the extant laws governing private workplace governance were adopted. The chief goal of the resultant legal regime as codified in the 1947 Labor Management Relations Act (informally, the Taft-Hartley Act) was the containment of disruptive militance. And since the adoption of Taft-Hartley, union membership and coverage has diminished and, importantly, strikes have diminished while income and wealth inequality has grown in the United States (Rosenfeld 2014, Chapter 4). The decline in strikes is the result of the distinctive laws of the United States with respect to hiring replacement workers (Ibid 87-9). This work, though reliant on Jacob Rosenfeld’s insights, is distinctive in that I understand that the decline of strikes was not purely the result of the increased use of replacement workers - or organizing tactics, generally; all the successful employer resistance tactics were effective because the unions cannot engage in sympathy or secondary strikes. Ultimately, though, the retrenchment against worker protest was a democratic result and, indeed, was a fairly popular result across the nation.

Why did some states adopt laws that restricted unions’ right to strike while others did not? Why were citizens unwilling to ratify radical worker protest? These related questions expose the distinctive character of United States labor relations order. In the United States, the workplace is the domain of the employer and workers are meant to obey the dictates of owners and managers. Workers can be fired for any reason, and, therefore are in an insecure position. Unions tend to increase the

is an agreement between free equals.
security of workers (Freeman and Medoff 1983, Ch. 2). However, strike rights, not union membership, is the focus of this dissertation because the right to strike is more important than the right to organize. To wit, France has an even lower union density than the United States; yet more robust statutory and regulatory protections exist for workers in France than the United States because of the legal capacity for worker protest and strikes in public, and more importantly, at the site of production.

Definitions and Guiding Assumptions

Following Karen Orren (1995, 387), I define labor relations as the pattern(s) of human interaction – characterized by compensation, subjugation, and discharge – by which a society organizes purposeful activity of any notable scope. The labor relations laws are those that govern the relations of unions, workers, and employers in the workplace and the spaces adjacent to it. The extant laws are largely intact from the 1947 Taft-Hartley amendments to the 1937 Wagner Act – the first national level labor relations law. The Wagner Act, the informal name for the National Labor Relations Act, was the first of its kind and was under a cloud of constitutional suspicion from its adoption. (Indeed, the Supreme Court ruling the collective bargaining provisions of the National Industrial Recovery Act as unconstitutional precipitated its adoption.) These laws were themselves adopted because of disruptive militance on the part of the CIO. Throughout the empirical chapters, we will explore three industrial states to lend historical basis to the proffered mechanism of union-backlash.

The adoption of the restrictive amendments to the National Labor Relations Act was connected to the subsequent decline of the American (private-sector) unions. And it is possible that the states were decisive contributors to the canalization of the American labor movement; indeed, the manifold provisions of the Taft-Hartley amendments are drawn from state laws. The Taft-Hartley amendment to Section
8(b)(4)(B) banning 'hot cargo' strikes was borrowed from several state legislatures including Delaware, Florida, California and Minnesota (12 total). State-level provisions, including Louisiana, Pennsylvania and Iowa (10 total), antedated the amendment to Section 8(d)(4) that bans strikes in violation of contract. And, of course, Section 14(b), appended to the Wagner Act, which allows states to enact right-to-work laws (7 total), was enacted after several states had already enacted them - all Southern states (Alabama, Arkansas, Florida and Texas) save Arizona, Nebraska, and South Dakota. To wit, Taft intervened on the Senate floor: "I should like to call attention to the fact that the [prohibition on picketing] amendment is practically contained in the Wisconsin Labor Relations Act and has been used in Wisconsin as a means not only of preventing the coercion of employees but also of attempting bringing such action as can be brought by administrative law, to end mass picketing [...] it seems the simplest matter to use the same words in this law..." (*Legislative History*, 1032).

I use the states to evaluate counterfactuals because inference in historical social science faces an obstacle in that

> History is not rule governed and it knows no sufficient causes [...] The historians of the future, who will know how things turned out, will have a powerful aid to understanding, not why they had to turn out in that way, but why in fact they did: that is, they will observe in the laboratory of events the evidence of determination, not in its sense as a rule-governed law but in its sense of the *setting of limits* and the *exerting of pressures*. For historical explanation discloses not how history must have eventuated but why it eventuated in this way and not in other ways; that process is not arbitrary but has its own regularity and rationality...characterized by determinate relations and by a particular logic of process (EP Thompson 2001 [1978], 457-8 emphasis his).

This dissertation takes up Thompson’s challenge in two ways: first, by generalizing the politics of retrenchment against organized labor at its apogee; second, by exploring the limits of liberalism aside from those identified by the literature on
national elites and examining the contours of public opinion alongside contemporaneous newspaper coverage. Ultimately, the limits of New Deal liberalism were met in the legislative chambers, and, therefore, the electoral and attitudinal connection is relevant. This dissertation will examine states with muted ethnic segmentation and varying levels of militance as well as an exemplar context wherein the labor unions sought to forge a partisan coalition outside the Democratic Party and, therefore, point toward the conclusion that the unions could not have forestalled the present-day anti-strike regime.

Taking this counterfactual seriously does not imply the researcher is being seduced by 'the false promises of hard times' (Gourevitch 1986); namely the belief that the short term weakness of typically dominant actors and the 'hard times' coalitions that form will endure after the subsequent recovery. Combined membership of the CIO and AFL was never an impressive figure when compared to the total employable in the United States. However, it was important to note that the heavy manufacturing industries and the core industries of the economy - motors, electrical equipment, steel, coal, rubber, glass, and textiles - were all bowing to union control in the opinion of business observers (Witte Papers 1937, Box 116, Folder 2).

Though the labor movement has been pacified in numerous ways by the Taft-Hartley amendments, the withholding of labor is paramount. Because the coercive apparatus will be applied against unions that strike illegally, the only legitimate strikes are those that concern wages and shopfloor conditions and must be limited to that site. Capital operates across many firms while labor is only allowed to operate in one firm at a time. Thus, the site-level division of labor combined with the industry-level division of firms resulted in a labor law regime wherein labor could not operate solidaristically while owners could (Tomlins 1985, Ch. 7; Lambert 2005, 122-4).
It would be tempting to situate counterfactuals\(^4\) in the rich drama of the Taft-Hartley veto override in the Senate. Had Wagner (D-NY) made it off his deathbed and Thomas (D-UT) taken a steamboat back from Europe, the veto would have only been five votes shy of sustention. Hatch (D-NM) was the only non-Southern Democrat to vote for Wagner and vote to override Truman’s veto; White (R-ME) voted for both Wagner and the veto override. The remaining seats were in the hands of alarmed Dixiecrats or hostile Republicans, so positing a world where the veto would have been sustained is mistaken. But, even if it were not a mistake to imagine Taft-Hartley being repudiated by the Senate (the House was out of reach for the pro-labor side), it would be less inferentially fruitful to use one historical narrative than to use several concurrent, commensurable narratives.

The history of labor relations before the Great Depression was one of private warfare marked by employer repression and law enforcement intervention. Before the 1930s, the federal government tended to act as a strikebreaker if it intervened. The 1935 Wagner Act constituted a sharp, though temporary, reversal in policy and institutional behavior. And, importantly, it seemed to indicate an increase in the power of unions and the working class generally. But this was a chimera: labor unions and their liberal allies were engaged in a race against time, seeking to construct a durable political-economic place for organized labor before the capitalist opposition reorganized and retrenched (Schickler and Caughey 2011, 146). The attempt to win the race was doomed because labor could not form a majority on its own, and the only likely ally with the capacity for efficacy in the political space was the farm bloc. Although they could form transient legislative majorities on the state level, the

\(^{4}\)A key principle of counterfactual analysis is that as little of the world should change as possible in the alternate case under comparison (Weber 1949; Lewis 1973; Fearon 1991). My approach here structures the counterfactuals without resort to a conception of an alternate non-existent world, for the states themselves offer comparisons wherein the causal antecedent is absent or different.
farmer-labor capacity to form a national alliance as John L. Lewis had wanted, was limited by the antagonism wrought by labor stoppages. These were the selfsame reasons that the farmer-labor alliance was transient at the state level, as we will see in Wisconsin.

The transition from protection to restriction turns out to be an unintended consequence of purposeful behavior. The present-day labor laws are the residue of New Deal struggle and backlash; the same militance that won the Wagner gains ensured the Taft-Hartley losses. Social, particularly political, inquiry struggles with such outcomes, as it is difficult to explain them beyond noting that an actor or group made a miscalculation or suffered from a misperception. As Jervis (1997, 128) puts it, “one change leads to others, but these neither reinforce nor dampen the initial one. They move the system sideways, so to speak.” The CIO strikes led to a negative reaction in the mass public and among liberal coalition members, which led to the reaction of restrictive law adoption, the provisions of which structure the extant labor relations order, which is itself quite distinct from the prevailing ex ante order. This dissertation, then, does not call the policy feedback and retrenchment literature into question directly, because actors in those theories are typically motivated by a previous result at a later juncture (Skocpol 1979, for example) or are conditioned within institutional structures and historical paths (as in Pierson 1996, for example). In the period under study, the backlash was immediate and politicians immune to institutional forces in labor relations enacted the retrenchment.

Implicit in the backlash concept is the notion that the mass polity held unions in disfavor. This empirical question will be explored as it has been in previous efforts (Bok and Dunlop 1970; Parenti 1986; Schmidt 1993; Flynn 2000; Martin 2004; Carreiro 2005; Amenta et al. 2009, for example). Distinct from these efforts, this
dissertation connects the mass intolerance toward worker protest buttressed by media coverage to the origins of the labor relations institutional framework. Anticipating a theme of the civil rights movement and the women’s rights movements, the mass public had little sympathy for disruptive or unconventional protest tactics. This is necessarily connected to the media coverage of union militance, because mass opinion is, subject to exposure assumptions, mediated (Iyengar and Kinder 1987; Zaller 1992; Kellstedt 2003, for example). Put another way, people did not form opinions about strikes solely from their direct experience of labor stoppages; they relied more upon news coverage. The linkages between media, opinion, and state-level policymaking are not drawn directly here, particularly that between media and opinion. Rather, this dissertation is guided by the assumption that the observed mass antipathy to strikes was informed by the prevailing unfavorable coverage of strike actions.

In going from Wagner to Taft-Hartley, the United States foreclosed the possibility of an effectual labor-left movement in politics. The limited construction of legitimate union militance under restrictive laws – laws that inhibit union or worker militance or organizing – is directly connected to the rise of concession bargaining and the decline of unions in the latter part of the twentieth century (Rubin et al. 1983; Lambert 2005; Rosenfeld 2014). Without the broad power to strike, the workers cannot resist being denuded: militance that ensnares the site of production is essential to compel intransigent ownership to engage in bargaining. In principle, the union without the ability to withhold labor is unable to threaten the owners’ equity stake; moreover, as a general principle, to the extent that the scope of legitimate militance is limited, the impact of work stoppage is limited. As Estlund points out

5More subtly, the strike power is essential to the capacity for unions to provide a value-added service to members. Thus, restraining strikes rightly diminishes the worker’s rational commitment to or willingness to join the union (cf. Moore and Newman 1985).
Unions cannot thrive if their employers do not. But employers can thrive without unions and many would prefer to see unions die out [...] While organized labor has mounted several major efforts at labor law reform in the past thirty years, employers have made almost no such efforts since 1959. For the most part, employers who oppose unions and collective bargaining are willing to bide their time in the political process, batting down periodic reform proposals that might tip the scales in unions’ favor and watching union strength ebb away (2002, 1543-4).

Scope

Some states adopted laws that were akin to the Wagner Act in 1937, shortly after the Supreme Court decided in favor of its constitutionality. Most of those states in addition to states that had no labor relations statutes then adopted retrenching laws akin and prior to Taft-Hartley after the 1938 elections. That is, some states adopted Taft-Hartley precursors without a 'baby Wagner' law, whilst some states passed no labor relations statute. The Taft-Hartley Act draws its anti-strike provisions from state laws adopted in the preceding decade. As several states adopted protective laws modeled after Wagner and then quickly retrenched with restrictive statues, a closer look at the states is indicated.

Table 1.1 depicts the states aligned on the key dependent variable of the dissertation: whether a restrictive strike law was adopted in a given state; and whether the states that adopted protective laws patterned after the Wagner Act adopted amending laws anticipating Taft-Hartley restrictions. The inferential leveraged gained from these multiple comparisons allows an exploration of all credible counterfactuals: by taking seriously the possibility of a third-party farmer-labor coalition (Zieger 1988, Chapter 4); or by taking seriously the call for non-compliance issued by the left-led unions (Rosswurm 1992; Stepan-Norris and Zeitlin 1995; Zeitlin and Weyher 2001); or by taking seriously the spatial unevenness of militance (i.e. might labor have been
more determined in their resistance to owners?\textsuperscript{6}

So much for the spatial scope. The temporal scope is bounded by the Supreme Court upholding the Wagner Act in 1937 and the adoption of Taft-Hartley in 1947 which signaled the crystallizing of the United States labor relations order, which has been intact on a federal level since the Eisenhower administration (Orren 1995; Weatherford 2014). Moreover, since the laws governing the spaces and time where most citizens spend most of their lives enable tyranny, the tyranny they endure is necessarily of substantive interest to students of politics (Doellgast 2013, for a recent example). The unquestioned prerogative of management to control the American shopfloor (which nowadays is more often a nursery of cubicles than a mass production enterprise) lays the foundation for the ills confronting American democracy (Winters and Page 2009; Frymer 2010). Under the aegis of the law, agents for corporate shareholders oversee a demoralized and insecure workforce; a workforce that translates into an insecure mass overseen by an ensconced elite (Estlund 2002; Doellgast 2013). The cowed workforce of the present stands in sharp contrast to the resistance offered by the workers of the young Committee for Industrial Organizing.

More so than ever before, the years from the New Deal through Reconversion (converting the war economy to peacetime, chiefly by lifting wage and price controls) constituted an enduring shift in authority in labor relations (Orren and Skowronek 2004, Chapter 4). Moreover, this period is critical because the Depression and World

\textsuperscript{6}An alternate potential counterfactual concerns the South: many lamented the failure of Operation Dixie and historians have aptly noted that the early civil rights demanders were activated by the CIO’s efforts to organize the South in the mid-1940s (Griffith 1988; Honey 1993, 1-44, for example). But, a crucial lesson from this dissertation is that US organized labor would have failed even if there were not a racial segmentation in market and society. Wisconsin, among others, was a lily-white state that adopted restrictive legislation. Moreover, the confluence of newspaper coverage and the convergence of subgroup opinion observed later in this dissertation suggests that the prospects for laws that would allow labor to flourish were unlikely to sustain popularity.
War II spurs raised union membership to unprecedented levels - and this pattern might have led an observer to conclude that unions would become a permanently influential socio-political actor. However the laws arising from the selfsame period foreclosed this outcome (Freeman 1997, 15).

The present focus on the strike laws stands in contrast to canonical work on United States organized labor which has focused on organizing defeats (Freeman and Medoff 1984; Goldfield 1987; Farber and Western 2001). I argue strikes are more important for understanding the efficacy of unions in light of the logic of industrial bargaining and historical experience; that is, without the capacity to collectively withhold labor, the workers are in a weak bargaining position. More pointedly, the right to withhold labor is an essential component of effectual collective bargaining. If workers can be replaced for striking - or must wait years for legal remedy - then their bargaining position is untenable. Prior to Wagner, the strikers were met with violence; after Wagner, the strikers were met with replacement (Klare 1978; Rogers 1990; Estlund 2002; Rosenfeld 2014). Though the lot of the wage-earner has improved; the bargaining power, and, by extension, the political power of the wage-earner has not.

If bargaining is contentious, then the resolve of the contestants is a crucial determinant of success, and, more subtly, the expectations of resolve are determinative of strategy. A relevant condition that affects the resolve of the contestants is the political outlook of the statehouse. Sympathetic governance directly strengthens resolve. And partisanship does not explain much in this respect. Democrat Herbert Lehman and Democrat George Earle, governors of New York and Pennsylvania respectively in 1937 took opposite tacks toward industrial union mobilization during the New Deal. Governor Earle was willing to call out the National Guard as strikebreakers while
Governor Lehman repeatedly refused employer appeals (Davin 2000, 278-80; Kim 2006, 31).

Though the Taft-Hartley provisions did not amount to being the "slave labor law" that then CIO president Philip Murray prophesied (cf. Lichtenstein 1997), it did suffice to narrow the scope of militance to when contracts were up and could only be about wage-and-hour or shop floor conditions. This is in stark contrast to the multifarious causes for workplace stoppages during the New Deal. During the 1930s, the industrial unions struck in furtherance of recognition; having won recognition in the late 1930s the unions struck in furtherance of bargaining gains; during the 1940s, particularly after the war, the preponderance of strikes were related to control of the shop floor and in furtherance of racial segmentation of labor. Despite the heterogeneity of motivations, we can be confident that the unionists won whatever they won because they fought resolutely and confronted repression in a solidaristic fashion. And, crucially, the efficacy of the strikes was dependent on the coercive apparatus not having been readily deployed against them, whether before or during the Second World War.

The result of the New Deal was the erosion of union bargaining power and, consequently, political power. Because the threat of the stoppage is the origin of bargaining leverage for the worker, then the threat must have some credibility. The laws inherited from this period that narrowly circumscribed the right to strike minimized the cost of a workplace stoppage to the owner. The resultant strike weapon was too predictable and was nearly toothless because the employer could anticipate strikes effectively and maintain production; consequently, workers were left with little

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7 Though it should be noted that there was incidence of National Guard insubordination; to wit, guardsmen had alerted unionists and radicals to the troop movements (Vallely 1989, 112-3).
in the way of positive means to advance programmatic goals within the workplace and beyond.

**Grounding Examples**

Throughout the dissertation, I apply the overarching argument to specific selected industrial states (see Table 1.2) that vary in whether and how much retrenchment there was. These states vary along important axes of comparison though the absence of Jim Crow laws is common among them. These parentheses indicate variation along the dependent variable that is not quite as far as the full turn to restriction; that is, New York and Massachusetts adopted restrictive laws that limited jurisdictional strikes but did not restrict many effective strike tactics. So then, Pennsylvania and Wisconsin retrenched, New York and Massachusetts partially retrenched and Utah did not retrench. I do not select on the dependent variable because Utah’s adoption of a retrenching law was adopted after the preemptive retrenching law was passed by the Congress. The political mechanics of disruption-backlash are exemplified by the states and common among the retrenching states, aside from New York, were electoral rules that dictate a two-party system. That is, the rules of the game are evidently the dominant reason that organized worker resistance was and remains stifled. There did remain one potential avenue for labor to influence politics without having to be mediated through the Democratic party: namely, through the construction of a farmer-labor coalition on a national level.

I focus separately on the cases of New York, Wisconsin, and Utah because these states form the closest analogues to the federal transition from Wagner to Taft-Hartley. An assumption of equivalence among the actors within the states relied upon here is based on a formal conception of class interest and formation that identifies the shared utility function of individuals in similar straits as the definitional feature of
class membership. To the extent that the utility is maximized by the same strategies, those individuals are in the same class. For the theoretical purposes of this project, I treat classes as exclusive categories.

Different sectors were predominant in the cases: the building and meatpacking trades dominated in Wisconsin and the garment trade was predominant in New York (WLRB Report 1937; NYS Annual Report 1937). In Utah, the mining industry was ascendant (McCormick and Silito 2011; Powell 1977). There were important institutional variations: particularly in terms of the lack of party discipline in the Wisconsin legislature and in terms of the deep connection between FDR’s administration and the American Labor Party in New York. And, importantly, the Wagner Act preceded the adoption the 'little Wagner Acts.'

The labor relations activities of New York, Wisconsin and Utah help frame an analysis of labor law adoption in the states during the New Deal. An important goal is to point the way toward a conceptual understanding of disruption-backlash. This study looks to these states because they are heterogeneous along the axes of comparison introduced in the above and because they are directly analogous to the nation. Further, these cases are selected because the union security laws created the most active Labor Boards in the nation; thus, these were crucial battlegrounds during the late 1930s. More subtly, both New York and Wisconsin had professional legislatures. Implicit in the logic of comparison is an assumption of equivalence among the cases. The actors in the cases need to be commensurable and the realm of contestation needs to be comparable. These states are useful for framing the discussion because they traveled the road from Wagner to Taft-Hartley before the rest of the nation.

The labor relations acts provided a machinery for so-called employer unfair labor practices through administrative review. The Massachusetts, New York, Pennsylva-
nia, Wisconsin, and Utah laws of 1937 and the Rhode Island law of 1941 established 'little Wagner' Acts. In the cases of the early protective laws, the states formed Labor Boards to make the legislative policy effective. The New York Board was, by far, the most active, handling as many cases per annum as the other Boards combined (Killingsworth 1948, 26).

The New York Labor Relations Act passed in April 1937 was the product of a Democratic governorship lead by FDR’s lieutenant, Herbert Lehman. The Doyle-Neustein bill passed the Assembly 101-46 and the Senate 46-2. As Governor Lehman recalls, 1936 was the only year that brought a unified government in New York during his tenure (Oral History Project). The wave of Depression strikes that swept the nation were similarly widespread in New York. But these strikes were largely in the garment industry.

The Wisconsin Labor Relations act was adopted in May during the 1937 legislative session shortly after the 'switch in time that saved nine.' The bill, though, was first introduced during the 1935 legislative session after years of violent strikes. The bill failed in the upper chamber of the state legislature and this became an issue in the 1936 elections (Blue Book 1937, 17-70). The bill passed the Assembly 66-30 but only passed in the Senate by two votes 29-27. Once adopted, it established a state labor relations board which actively promoted collective bargaining through imposing fines on employers found to engage in unfair labor practices. And, like the Wagner Act, the unfair labor practices of employers were the only ones defined by statute and regulation.

Utah adopted its baby Wagner law in April 1937, having passed the Assembly 43-2 and the Senate 21-8, and was signed into law by the Democratic Governor Henry Blood. It did not adopt a restrictive statute until 1947 after the federal government
had adopted the national law. Interestingly, it was Herbert Maw, a liberal Democrat, who signed the retrenchment bill. Perhaps it was an attempt to stave off defeat in his rematch with the Republican, Bracken Lee (more on this later).

In a formal historical narrative analysis, causal process tracing would be used to compare the adoption of the State Labor Relations Acts (SLRAs) and the conservative amendments in subsequent legislative sessions. For the purposes of this dissertation, it will be sufficient to note the stated positions of unions and politicians while accounting for the immediate upshots of the SLRAs. That is, an examination of the passage of the bills and their later amendment suggests the unifying theme of CIO disruption as being determinative as against economic factors or alternate political theories; however, a more detailed tracing of historical events would be necessary to examine the political behavior results of the AFL/CIO rivalry.

The method of difference, though, is sufficient to rule out competing theories: herein I compare cases that differ on variables on concern but are similar on others. In this approach, the key is to find an explanatory variable along which the cases differ that is itself congruent with the dependent variable (cf. Brady and Collier 2010, 337-8). There were strikes before and after the constitutionality of Wagner or the adoption of SLRAs, which militates against class-disruption theory. Economic variables were heterogeneous across the cases; though the Depression ravaged every political unit, Wisconsin, New York, and the nation as a whole had variable industry composition and factors of production. In Wisconsin, for example, land was a more important factor than in New York or the nation generally. Yet, in the face of this heterogeneity, the same kinds of statutes were adopted and then amended in similar ways; so this militates against a chiefly economic basis for policy change.

In Table 1.2 above, it is evident that the count of owned farm homes distin-
Table 1.2: Summary of the Cases

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Protective Law</td>
<td>1937</td>
<td>1937</td>
<td>1937</td>
<td>1937</td>
<td>1937</td>
</tr>
<tr>
<td>Restrictive Law</td>
<td>1939</td>
<td>(1940)</td>
<td>1939</td>
<td>1947</td>
<td>(1941)</td>
</tr>
<tr>
<td>Change to GOP</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Strike Volume Rank</td>
<td>8</td>
<td>6</td>
<td>4</td>
<td>41</td>
<td>23</td>
</tr>
<tr>
<td>Farm Owner Rank</td>
<td>14</td>
<td>27</td>
<td>28</td>
<td>13</td>
<td>15</td>
</tr>
</tbody>
</table>

guishes Wisconsin and Pennsylvania. However, consonant with the statistical results from the fourth chapter, the rural delegations in the statehouses were the main blocs in retrenching legislation. Because the farmer-labor possibility was a threatening one to the status quo this dissertation will focus on Wisconsin and treat Pennsylvania as a site for opportunist comparison.

The farmer-labor divide was historically constructed; the farmers had a history of policy success in the US during the latter part of the 19th century (Prasad 2012, Chs. 1-2). This meant that labor growth politically constituted a force that diminished the preeminence of agricultural interests. This served as a stiff barrier to cooperation in itself. The American state was non-interventionist for labor but was not for farm interests (Boudreaux and DiLorenzo 1993; Prasad 2012). And, more subtly, the American farmer who owned his enterprise was more inclined to view himself as a capitalist than as a laborer. In any event, agricultural interests were given to viewing wage gains warily; for example, Milo Swanton, a leader and organizer of farm owners concluded that: "It is true in a country like ours, with surplus farm production, that, when the farmers are prosperous the rest of society is prosperous. This is true because a surplus of farm product cannot be sold at good prices to unprosperous customers. The converse of this statement is not, however, equally true.” (Swanton 1936, ”Mutual Relations of Agriculture, Labor, and Industry” WCAC Files, Box 8, Folder 1). That is, many might well prosper when the farmer does not, but the agri-
culture interest cannot prosper when others do not. In a separate address, "Butter is the same in price as twenty-five years ago, while the wages of skilled workmen are, roughly, fifty percent higher. Can the farmer help to boost wages which he has to pay, while his own income stagnates, or goes lower?" (Ibid 1937, "Address to Milwaukee Chamber of Commerce" WCAC Files, Box 8, Folder 5).

A notion of the unions as invader figured prominently in the descriptions of John L. Lewis' attempts to unionize the dairy industry after his break with the CIO (WSHS, Milo Swanton Papers). Lewis had an ambition to put a national farmer-labor majority together that was frustrated from the outset. For example, "Control of the food supply is a weapon. John L. Lewis knows that if he controls the nation’s milk supply, he controls the destiny of the people" (Milo Swanton Papers, "Hoard’s Dairyman" June, 1942). Because the farmer is historically prior to the laborer, agriculture concerns were unwilling to join with labor unions as a junior partner. Upon winning in the 1936 elections, the farmer-labor majority in Wisconsin saw its role as concentrating "on pursuing legislation to the left of the New Deal [...] Farm tenancy must be attacked by a resettlement program. It is important we support civil liberties as a means of opposing fascism. Finally, we must press for cooperative ownership on a wider scale than otherwise attempted" (Amlie Papers, "Joint Meeting of Wisconsin and Minnesota Farmer-Labor Parties"). The socialistic and statesmanlike vision of the progressive leadership was at odds with the interests of the owners of dairies.

**Plan of the Dissertation**

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8In the 1930s, more than a third of the population of Wisconsin lived on farms; about a fifth of Utah’s residents lived on farms; and about a tenth of New York’s population did (Statistical Abstract 1937, Table 10).

9Alternately, perhaps agriculture went to war with the Axis alongside the national government. That is, in the same way that patriotic concerns influenced unionists’ compliance with no-strike pledges (cf. Gerstle 1991), farmers may well have been willing to subsume their concerns to the war effort.

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27
These multiple comparisons lend insight into the political dynamics of public choice during the New Deal, holding racial segmentation constant while envisioning the process of legal change as a bottom-up as well as top-down process. The legal outcome of strike restriction was a product of mass opinion (as measured by ballots and surveys) which in turn was embedded in a media context. In short, the prevailing coverage of strikes facilitated citizens’ unfavorable opinions of strikers and strikes; this, in turn, led to anti-strike laws being adopted. This dissertation unravels the connection in the following chapters. Conceptually, these chapters proceed from an examination of the information people had to an examination of people’s attitudes and then an examination of policy outcomes in the states. Insight from case studies of New York, Utah, and Wisconsin will be interspersed throughout.

The next chapter, "What Did People Read About Strikes," I ask when Americans consumed news about strikes, what did they ingest? How in terms of quantity and tenor did the news portray strikes? I will provide counts of strike and related articles as measures of salience; examine the frames of coverage of strikes as disruption; I shall examine the framing of unions as racketeering organizations as opposed to welfare organizations; and I shall examine the framing of John L. Lewis, the CIO labor leader. These frames are chosen in light of the lines of attack chosen by union adversaries. These frames stand in contrast to those employed by the CIO, which tended to emphasize shopfloor hazards and wage and hour disputes.

I argue that the media coverage of major strikes in newspapers with wide circulation consistently emphasized the inconvenience or disorder resulting from strikes without considering the basis for worker demands. Indeed, the use of the word 'demand' as opposed to 'grievance' or 'plea,' suggests that the striking unions are a positive threat. Widespread negative coverage of strikes was connected to the backlash
against industrial union growth, which was impossible without militance. Moreover, the growing substitution of the word 'management' for 'capital' or 'owners' served to foster the impression that class interests were not at stake in labor relations. I am not the first to focus on the content of media coverage of strikes (Parenti 1986; Rondinone 2010, for example) or successful business efforts to frame labor relations in a fashion that obscures class conflict (Fones-Wolf 1994; Phillips-Fein 2011, for example), but the marriage of studies of the several states and empirical study of media and surveys during the New Deal in order to incorporate mass opinion into the study of the limits of liberalism is original.

In the third chapter, "What Did People Think of Strikes?" I turn to the public who defined the boundaries of acceptable militance. The elections of 1938 and then 1946 returned majorities to legislative chambers for retrenching laws. The mass public, generally speaking, had (and still does have) little tolerance for opinion leadership from radical militants (Page, Shapiro and Dempsey 1987, 37). Implicit in describing the speedy retrenchment as a 'backlash,' is the sense that public opinion indicated disfavor for unions, or at least union militance. Works in the interest group canon (Key 1964; Truman 1971) emphasize that the esteem in which the mass public holds interest groups is directly related to their capacity for political efficacy. The public opinion literature that utilizes relevant polling from the period (Verba and Schlozman 1977; Berinsky and Schickler 2006; Panagopoulos and Francia 2008; Schickler and Caughey 2011) has broadly covered this ground before, but the aggregate stability of opinion is left unconnected to the development of the labor relations framework. In contrast to other works which emphasize the 1940s retrenchment, my dissertation emphasizes the importance of the 1938 elections in the decline of New Deal liberalism; in contrast to work that emphasizes the importance of the 1938 elections in the elec-
tion of conservatives (Patterson 1968; Katzenelson and collaborators), my dissertation finds the limits of liberalism in the North and in overwhelmingly white states.

In the fourth chapter, "State-level Origins of Anti-strike Laws" describes the labor laws and proceeds to draw a clear link between union militance and the adoption of laws designed to neuter resistance. This section will introduce a data set of state-years from 1937 and 1947, for the reasons noted above. The structured comparison between the states that adopted protective statutes and amended them and the states that did not adopt a state law inform the case studies. Furthermore, placing the origins of the backlash in 1937 casts the 1938 elections in a significant light and this motivates a turn to studying mass opinion during this period. The viability of the disruption-backlash explanation is contingent on its place in the 1938 elections, for the retrenchment against the Wagner Act began at the state-level enacted by politicians elected in the wake of militance. I find a clear relationship between state-level militance and Republican seat gains in 1938 statehouses outside the South. The cases referred to throughout are treated in this chapter in order to exemplify the logic of political backlash to strikes.

The fifth and concluding chapter takes the findings and non-findings together and contemplates the implications for union revival alongside managerial domination of the workplace. The death of the American labor stoppage was an ineluctable, if delayed, result of the anti-strike laws passed in the 1930s and 40s. Public opinion, arguably against its own interest, generally favored pro-business strike laws. Interests are a treacherous topic in terms of imputing them onto individuals on the basis of supposed commonality. However, observers at least since Freeman and Medoff (1984, 251), have seen that the decline of unions and workers as counterpoised groups versus business would carry implications for wealth inequality and political oligarchy.
A distinctive benefit of the mixture of methods deployed in this dissertation is the resultant insight into whether a different historical path might have been taken and why those alternate paths were occluded. Building off the literature that identifies US laws as the best explanation for its distinctively commoditized labor force and small welfare state (Esping-Andersen 1990; Pierson 1996; Western 1997; Hall and Soskice 2001; Hall and Thelen 2009, for example), and the decline of labor stoppages as the chief source of labor decline (cf. Rosenfeld 2014), I investigate the causes of restrictive law adoption at their historical origin revealing the proximate cause to be a reaction to disruptive strikes. The logic of this claim, investigated in the cases, reveals that organized labor needed coalition partners in order to secure a majority but this was unrealistic. Labor could not form a majority coalition centered on its interest in broad socio-political reform because there were bulwarks in mass opinion against worker radicalism and militance that were buttressed by news media. Over the course of US industrial and post-industrial society, the political power of unions has been minimal compared to their own programmatic aspirations or their counterparts in other affluent polities. Their decline has been decades long but it can be traced back to labor laws adopted during the turbulent 1930s.
Table 1.3: Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1935</td>
<td>Textile organizing strikes across the nation</td>
</tr>
<tr>
<td>May 1935</td>
<td>Norris-LaGuardia collective bargaining ruled unconstitutional</td>
</tr>
<tr>
<td>June 1935</td>
<td>Wagner Act adopted</td>
</tr>
<tr>
<td>October 1935</td>
<td>Congress for Industrial Organization leaves AFL</td>
</tr>
<tr>
<td>November 1935 - March 1936</td>
<td>Rubber Workers Organizing Committee Akron sit-down strikes</td>
</tr>
<tr>
<td>April 1936</td>
<td>Goodyear accepts RWOC demands save recognition</td>
</tr>
<tr>
<td>December 1936-February 1937</td>
<td>United Auto Workers-CIO Flint sit-down strike</td>
</tr>
<tr>
<td>February 1937</td>
<td>General Motors recognizes the UAW</td>
</tr>
<tr>
<td>February 1937</td>
<td>Supreme Court Enlargement Bill introduced in Senate</td>
</tr>
<tr>
<td>March 1937</td>
<td>US Steel recognizes the CIO</td>
</tr>
<tr>
<td>April 1937</td>
<td>Supreme Court upholds Wagner Act</td>
</tr>
<tr>
<td>April 1937</td>
<td>Utah adopts 'little Wagner Act'</td>
</tr>
<tr>
<td>April 1937</td>
<td>Wisconsin 'little Wagner Act' adopted</td>
</tr>
<tr>
<td>May 1937</td>
<td>New York 'little Wagner Act' adopted</td>
</tr>
<tr>
<td>June 1937</td>
<td>Pennsylvania 'little Wagner Act' adopted</td>
</tr>
<tr>
<td>August 1937</td>
<td>Massachusetts 'little Wagner Act' adopted</td>
</tr>
<tr>
<td>November 1937</td>
<td>CIO becomes Congress of Industrial Organizations</td>
</tr>
<tr>
<td>April 1937</td>
<td>CIO organizes dairy cooperatives in Wisconsin and across Midwest</td>
</tr>
<tr>
<td>January 1938</td>
<td>Onset of 'Roosevelt recession’</td>
</tr>
<tr>
<td>November 1938</td>
<td>Republicans gain in mid-term election</td>
</tr>
<tr>
<td>May 1939</td>
<td>Wisconsin 'Labor Peace' Act adopted</td>
</tr>
<tr>
<td>June 1939</td>
<td>Pennsylvania 'Labor Peace’ Act adopted</td>
</tr>
<tr>
<td>March 1940</td>
<td>Smith Committee hearings</td>
</tr>
<tr>
<td>November 1940</td>
<td>John L. Lewis resigns CIO presidency</td>
</tr>
<tr>
<td>April 1941</td>
<td>Westbrook Pegler wins Pulitzer for racketeering coverage</td>
</tr>
<tr>
<td>September 1941 - December 1941</td>
<td>Captive Mines Dispute</td>
</tr>
<tr>
<td>December 1941</td>
<td>US enters Second World War</td>
</tr>
<tr>
<td>December 1942</td>
<td>Lewis Announces Drive to Organize Dairies</td>
</tr>
<tr>
<td>June 1945-June 1947</td>
<td>Reconversion strikes</td>
</tr>
<tr>
<td>June 1945</td>
<td>Ball-Burton-Hatch Bill introduced in Senate</td>
</tr>
<tr>
<td>September 1945</td>
<td>CIO launches Operation Dixie</td>
</tr>
<tr>
<td>March 1947</td>
<td>Taft-Hartley introduced in House</td>
</tr>
<tr>
<td>March 1947</td>
<td>Utah adopts its 'little Taft-Hartley’</td>
</tr>
<tr>
<td>June 1947</td>
<td>Taft-Hartley veto override</td>
</tr>
</tbody>
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Chapter 2

What Did the Public Read About Strikes?

Introduction

As emphasized in the previous chapter, the states adopted similar policies having followed similar trajectories amidst heterogeneity. A key historical challenge arising from this observation is well-encapsulated thusly: ”What we have to study to understand history is how structural forces cause people to change their notions of what kind of situation they are in, and to sustain those new notions sufficiently long to build them into institutions that in turn sustain them” (Stinchcombe 1978, 117). The media are central to this process of structuration, for the popular notions of the disruptive militance were drawn from the media, more likely than personal experience (Gilens 1999, for example). Therefore, I begin by asking what did people learn about strikes from the mass media, chiefly newspapers? Did these articles tend to foster a pro- or anti-union outlook among citizens?
A potential worry confronting the researcher is that "the concept of the media is too vaguely defined to be useful in research, given the degree of change over time in the composition of mass media" (Woolley 2000, 161). This is not unreasonable, but what is at stake in the present study is the role of newspapers - as the predominant form of news in this era - over a defined period of time. We are not evaluating a counterfactual regarding whether the formation of labor law would have turned out differently had the newspapers and its leading columnist\(^1\) taken a different tack; rather, we are evaluating the prospects for the labor movement to have avoided retrenchment.

The overall lesson of this chapter is that the framing of union militance and the indexing of official sources combined to buttress mass intolerance toward worker militancy. Baumgartner and Jones (1993, 249) point out that "in American politics, issues that are phrased in terms of class interests, or as protecting the lower classes against business interests, have little chance of success." Since society could not exist in the absence of labor relations, the cessation of labor production implied a direct threat to the social order, or equilibrium. Though the salience of strike coverage was diminished by war coverage, this does not imply that the prevailing frames were less relevant (Ibid 1993).

Paletz and Entman (cf Sexton 1991, 270) argue that the "general impact of the mass media is to socialize people into accepting the legitimacy of their country’s political system [...] direct their opinions in ways which do not undermine and often support the domestic and foreign objectives of elites [...] and deter them from active meaningful participation in politics - rendering them quiescent before the powerful."

\(^1\)Pace Lippmann. Though he was a highly regarded and longer-running syndicated columnist than Pegler, Lippmann did not occupy a partisan niche in contrast with Pegler, who was firmly on the right.
If the history of United States labor relations was a kind of private warfare, then the recognition contracts won by the young CIO in rubber, auto, textiles, and steel, were a kind of ceasefire. And the purpose of that ceasefire was for newly defensive capital to reorganize and reverse labor’s programmatic gains. As I wrote earlier, the unions gained whatever they won by means of the strike. Because the core industries were closely coupled, the gains for labor in one industry implied further gains (or losses) in others. Victories and losses in steel and coal were closely linked with the industries of auto with rubber and steel (Fine 1969; Goldfield 1989; Zieger 1995).

Consonant with the previous chapter, I will analyze the volume as well as the content of newspaper coverage of post-Wagner episodes of protracted and salient labor disputes. The two central questions of this chapter are: how much were citizens exposed to news content on strikes and the CIO; and whether there was a pro-con directional thrust to that news. I proceed in four parts below: first, I review the theoretical expectations with respect to news content and exposure assumptions; then I turn to the data and method; then, I discuss the results, and I conclude in a final section, connecting the lessons of this chapter to the study of public opinion in the next.

I will proceed by analyzing the volume and content of news and columns about strikes. This chapter begins its analysis by examining the count of articles on strikes in major newspapers against the volume of strikes during the Wagner to Taft-Hartley period. Then it turns to the content of selected articles to investigate how worker protest and organization was constructed in the popular imagination. I investigate coverage content in five ways: first, I examine the volume of strikes as covered in the press over time; second, I present counts of the volume of coverage of labor leaders;
third, I examine the volume of key descriptions of the motivations of the strikers; fourth, I study the content of coverage of key instances of salient CIO militance; fifth, I examine the columns of the then-popular syndicated columnist, Westbrook Pegler. Syndicated columns became increasingly popular during the 1930s and they facilitated homogeneous messaging across the nation. Foremost among these columnists was Westbrook Pegler, the 1941 Pulitzer Prize laureate for journalism\textsuperscript{2} wrote a column that "went out six days a week to 174 newspapers that reached an estimated 10 million subscribers" (Witwer 2005, 2).

It will be graphically apparent that the coverage of labor became less positive and less union sourced. This negative tenor in coverage was notably linked to the increase in denunciatory statements by Roosevelt administration officials. In the Flint episode, I collect more than 250 articles and for the captive mines episode, I collect 150 articles; the other episodes had received rather less front-page coverage.

However, in order to prevent an inferential bias arising from beginning the analysis after the CIO was instantiated, I take a look at the articles on the disruptive strikes that marked the decline of Norris-LaGuardia and accompanied the adoption of the Wagner Act - the 1935 textile and rubber recognition strikes. Furthermore, the newspaper coverage of these strikes serves as a baseline for the analysis of strikes later in the New Deal. Importantly, the strikes that precede the Wagner Act were essential and prior to the formation of the CIO.

**Theory and Expectations**

In his seminal work, Gans (1979, 40-1) identified 'enduring values' through which journalists construct narratives and understand events; chief among those

\textsuperscript{2}The first columnist to win the award, in fact. Though in some respects the forerunner of right-wing 'infotainers,' his work during this 1930s and early 40s was widely respected.
frames being ‘individualism’ and ‘moderatism’: ”one of the most important enduring news values is the preservation of the freedom of the individual against the encroachments of nation and society [...] the idealization of the individual could result in praise for the rebel and the deviant, but this possibility is neutralized by an enduring value that discourages excess or extremism. Individualism which violates the law, the dominant mores, and enduring values is suspect; equally important, what is valued in individuals is discouraged in groups.” That is, individuals might be hailed for taking visible stances outside the mainstream, but groups are unlikely to be lauded for analogous stances.

These values are in opposition to the deployment of disruptive labor stoppages. Interpreting strikes through the lens of moderatism and individualism paints strikes and strikers as rebellious and highlights the costs of idleness as against the costs of shop floor depredations; moreover, anti-militance messages and sources are privileged over pro-militance ones. This is resultant from the phenomenon of news indexing (Bennett 1990), meaning that the news organizations weigh their sources and frames according to a power index: who is relatively more powerful in the situation being reported. In the case of labor militance, the empirical question that arises is whether union sources or ownership sources are being relied upon and in what proportion. And, perhaps more important, it is a matter of whether public officials are delivering pro or con messages with respect to labor.

In order to investigate whether mass opinion might have been manipulated, I collect articles from the various outlets that most citizens relied upon. The condition of manipulation cannot obtain unless the editors and owners intentionally presented biased or selective information with the purpose of misleading readers (cf. Page and Shapiro 1992, 356). This condition of intentionality is difficult to demonstrate;
indeed, it is difficult to demonstrate that the information presented was itself slanted. At all events, the public did come to support policies that were inimical to their interests. I proceed under the assumption that citizens shared a common framework for understanding the disruptive strikes. Primarily, there was a shared valuation of civil order. Or, at a minimum, there was a shared evaluation of what constituted disorder.

How does a news article affect the reader? First, citizens must be exposed to the article(s). The canonical political science understanding is that political awareness is the best predictor of receiving news messages (Price and Zaller 1991). Unfortunately, these early Gallup surveys do not include political awareness items. For this reason, the subsequent analysis will focus on front page news so as to make my exposure assumption minimally heroic. If an article has an effect across people in a uniform - or at least, similar - fashion, then it must be interpreted and received in a uniform, or at least similar, fashion. In part, processing is a function of the political values elicited by the content. In their resistance, the CIO unions threw the patterns of social and economic relations into deep question, even property itself (Lichtenstein 1995). The capitalists (and the government) in their repression of strikers exposed the limits of revolutionary resolve on the part of the militant unionists.

The unionists were portrayed as a vector of social disorder by the various outlets; and, not unreasonably, the public came to see unions as an interest group. This was in part because of the personality and style of the leader of the CIO John L. Lewis. Some discussion of where he fits is in order here, as his name was a metonym for organized labor militance (Zieger 1988, Chapter 4). His opponents within and outside the labor movement used his connection to the communist militants in the CIO to try and turn mass opinion against him. Ultimately, however, the depiction of unionists as
separate interest from the commonweal was likely a partial result of Lewis being a fairly self-interested labor leader. To wit, Lewis was a proponent of essentially *laissez faire* capitalism in the 1920s (his argument for union security legislation was that it would fix labor costs among the various competitors so as to level competitive pressure within the coal industry). Moreover, Lewis’ proximate interest for the formation of the CIO was to bring recalcitrant steel owners to heel (James Wechsler Papers, Box 1, Folder 2).

President Roosevelt expressed concern about the syndicated columns and the ways in which they seemed to be shaping opinion against him (White 1979, 27). In Graham White’s seminal study, he found that the press was in fact not particularly biased against the president (Ibid, Chapters 2-4). However, following his approach, in that I juxtapose coverage of identical events, I might weigh the relative differences in sources and directional thrust of statements.

Also, I pay attention to the rise of the use of the word ‘management’ in the place of ‘capital.’ After all, in any reasonable formulation, the antonym of capital is labor. The concept of management as a distinct entity accords the workplace a special location as a site of scientific control. This in turn reifies the ‘public interest’ as an outcome that is coterminous with industrial and shopfloor order. The scientific notion of management implies that industrial disputes have a fundamental solution that is evidently in the public interest. This concept of the public as a third party to industrial disputes was one shared by the workers themselves (Harris 1982; Rondinone 2010, 147-50). That is, the workers did not conceive of their efforts - even in the disruptive sit-own strikes - as a class force let alone fighting for industrial democracy; they were fighting for shopfloor improvements. In a nutshell, management coming to stand in for capital served to mystify economic relations. Then, management came
to be linked in the public imagination with smooth production of \textit{materiel} in a just and successful war effort. The upshot was a national perspective that was, at its core, hostile to labor militance.

What these selections will illustrate - and all these are articles in the content analyses were on the first page of the papers - is that readers were generally exposed to frames of the sit-down strikes as sites of disorder, as opposed to sites of well-motivated protest. In the previous section, I suggested that the news media was in concert with the capitalist elites. But this is a difficult proposition to sustain, particularly given that editors do not "directly take the audience into account when selecting and producing stories but instead assume what interested them would interest the audience" (Gans 1979, 229-30). That is, the fact that the newspapers produced and framed stories against the industrial unions is not enough to press the case that they were in league against them. One might well have concluded that the disorder frame was the best way to sell papers.

The journalist need not be ideologically in line with the capitalist owners in order to slant the news. Nor need the ownership of the papers be involved on a daily basis in order to maintain a pro-capitalist slant in terms of new or editorial slant. The reporter may engage in self-censorship (Gans 1979, 196) or the editors may discourage or pressure their subordinates. The tension between the profit motive and the First Amendment responsibilities of the press is laid bare in the coverage of strikes. During the episodes we will examine below, the media did not challenge the anti-labor interests of media owners or capital-holders generally.

With respect to the interest of newspaper editors, the rise of syndicated columns served their end of promoting the American tradition of union suppression. Earlier, I identified Pegler as a subject deserving of focus because of the acclaim he received
during the 1930s and 40s and, more importantly, because the widely disseminated Scripps chain featured his columns across the nations. Pegler’s reportage on union racketeering in Northern cities exposed notable corruption. Pegler was among the first to use the term ‘right to work’ and apply it to the right for workers to break a picket line - the more intuitive reading for many is as a kind of label for a full employment program. "This [the Wagner Act] is a law which drives millions into unions against their will, under the rule of unionists whose character the government disclaims any right or responsibility to investigate" (Washington Post 10/15/39). But the reactionaries were not altogether unreasonable in their branding because what was putatively at stake was citizen liberty to work for a wage in order to make a living.

**Data and Method**

The focus of this chapter will be twofold: how much news were people exposed to and what was the valence of that information. First in order to measure the overall volume of articles relating to strikes, I begin by searching the ProQuest Historical Newspapers database of twenty newspapers in large cities for articles with ‘labor’ or ‘union’ and ‘strike’ mentioned in both the headline and main text of the article. This yielded a total 54,633 articles from 1936 to 1947. The count of strike articles comprised a large proportion of the total articles regarding union activity, which was 100,978. About a sixth of the articles are drawn from the New York Times and New York Herald Tribune; the remaining proportion are roughly equally divided among the other big city newspapers (i.e. Boston, Washington, Chicago, Atlanta), and then the remaining newspapers comprise a small proportion of the overall count. Broadly speaking, the overall coverage of unions was dependent on their militance; that is, the coverage of unions was visibly related to strikes. (See Appendix for outlets and
This database relies on having archived long-running big-city US newspapers. In addition, I include newspapers targeted at the black community, though these contained only a few instances of strike coverage.

With respect to the content analysis, like Page and Shapiro (1983; 1987), my independent variable is pro-con statements made by valenced sources. Each measurement, then, is a unit of analysis in measuring aggregate newspaper content. The content analysis in this chapter will be comprised of 362 articles spanning five key episodes in the New Deal period. Though this study relies on a single-coder, an audit of the items in the Appendix will reveal that the coverage of unions was unfavorable. However, demonstrating that the coverage was unfavorable does not in itself demonstrate that the coverage was unfair. Indeed, a reader might well view that the instances in this chapter’s Appendix as instances of factual reporting. However, the way that these reports stack up over time and across contexts, doubtless redounded to labor’s detriment. There are many ways to understand a strike but the newspapers preferred to understand the strikes as being in opposition to social harmony or patriotic demands.

In this chapter, I measure pro-con source-messages in several contexts: most comprehensively, I measure the directional thrust of coverage by analyzing the content of coverage of key episodes during the Wagner to Taft-Hartley interlude. In the Appendix, the reader can find each instance of an anti-CIO or anti-worker protest item cited in the figures. The strikes were, not altogether unfairly, implicitly described as insurgent in many cases in most newspapers. The main expectation is that a lens sympathetic to the cause of worker resistance would be relatively uncommon and increasingly so during the Wagner to Taft-Hartley period.

The data are summarized in tables that depict the overall thrust of the source-
messages in the articles wherein articles are classed as favorable, unfavorable, balanced, or neutral with respect to strike actions. A favorable item was one where the balance of source-messages was supportive of labor; an unfavorable item was one where the balance of source-messages was opposed to labor; a balanced item was one where the source-messages were even; and, finally, a neutral item was one where there was no directional thrust to the source-messages.

Woolley (2000, 165-6) advises the use of a deflator to adjust for the implicit selection biases arising from the indexing process. Here 'indexing' connotes the process by which the newspaper archive arranges and classifies articles. These biases are unavoidable and can only be partially remedied by evaluating the search results by hand. Therefore, I might report counts relative to the total number of articles about strikes indexed when dealing with the issue of attention paid to unions. But, the visual juxtaposition of the article counts in Figure 1 below suggests that I need not report the counts as ratios of the total number of indexed articles because both counts move in tandem \((r=.93)\). At all events, this concern is orthogonal to the matter of news exposure.

To justify the focus on Lewis, I compare Lewis mentions to the those of other prominent labor leaders. Lewis dwarfs the other principals of the CIO in news coverage. Only the radical communist Harry Bridges of the Longshoremen’s union received nearly as much attention as John L. Lewis in any given year. This is consistent with the view that the militant workers were being brought under a disproportionate media spotlight. Lewis coverage was especially disproportionate to that of the contemporaneous head of the AFL, William Green whose newspaper count was a fraction of Lewis’. This imbalance, I argue, is a manifestation of a long-standing media bias toward conflict, following canonical works in the social science literature on the media
(Gans 1979; Iyengar and Kinder 1987, for example). Conceptually, the methodological problem of index bias does not arise when I deal with the media attention to labor leaders because I am comparing attention paid to labor leaders merely to establish Lewis' primacy among them, so any articles that were excluded by those who arranged the database should affect the various union principals equally (or at least randomly). As a contemporaneous and long-time Lewis observer, James Wechsler, pointed out,

Admittedly, [the] CIO was the creation of many anonymous men, of industrial pressures, of forces that might not have been indefinitely suppressed. But Lewis was its founding father, its emotional symbol, its commander-in-chief. And nearly all of the rollicking recruits who signed CIO card identified the movement with the name and person of John L. Lewis. So did Mr. Lewis. (James A Wechsler Papers, Box 1, Folder 2)

In order to identify pro-labor or anti-labor source-messages through content analysis in a replicable fashion, despite the interpretive nature of the exercise, I proceed by analyzing coverage of identical episodes by different outlets. I focus on several salient episodes guided by insight from the history literature: the Flint sit-down strikes of 1936-7; Lewis versus Hillman in the breakup of the original CIO in 1937-40; the captive mines dispute of 1941; and the Reconversion strikes of 1945-6 (Fine 1969; Zieger 1988; Lichtenstein 1982[2003], for example). I code an source-message as 'con' when it contains references to militance that cast aspersion upon the workers or sets the struggle as inherently in opposition to civil society, delivered by a source from ownership or a public official. And, mutatis mutandis, I code a source-message as 'pro' when the strike is contextualized within existing grievances or is delivered by

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3Lewis resigned the presidency of the CIO in after the 1940 convention because the unionists in leadership and rank-and-file supported FDR instead of demanding more concessions.

4By 'captive,' it is meant that the coal mines were vertically integrated with the steel firms that used their output. Thus, the mines were effectively captured by the steel firms.
a union source. The typical negative framings of worker militance during this period held that strikes were to be abhorred because they excluded men who wanted to work; because they were in opposition to property and, by extension, the rule of law; and because the news tended to index the views of official sources, the source-messages in question are pro-capitalist or pro-worker in that they reported events in a slanted fashion, chiefly by editorializing in news sections. Again, the limitations of single-coder analysis notwithstanding, it will be evident that the coverage of unions cannot have been construed to have been generally favorable toward unions, even if a skeptical reader would argue the coverage was fair.

Also I will examine the columns of Westbrook Pegler, who arguably foreshadowed the latter-day syndicated conservative columnists; Pegler’s columns, usually featured above the fold across from editorials, formed the basis for a newly crystallizing American conservative perspective on labor unions that emphasized their corrupt elements and the costs borne by workers affronted by the picket line. The construction of unions as corrupt and as obstacles to an orderly society find some of their earliest wide expression in Pegler’s columns (Kennedy 1999; Witwer 2005). A major reason that Pegler was granted national reach was that Roy Howard (of Scripps-Howard) had turned against the New Deal in 1937; moreover, Howard sought to ape the national cohesion of the Hearst papers (White 1979, 190; Emery 1972, 431).

Analysis

Figure 2.1 depicts the volume of front-page coverage of strikes plotted alongside coverage of John L. Lewis, the CIO, racketeering, and communism. The count of articles on strikes notably spiked in the major years of labor unrest of 1937 and 1946 and the volume of CIO coverage likewise spiked in those years. The John L. Lewis volume varied with volume of strike articles for the most part (r=.73), as he
was personally linked - negatively - with disruptive militance, even after his break with the CIO. Though the coverage of communism in strikes was relatively muted, it also tracked the overall coverage of strikes (r=.38). The racketeering frame, however (r=.33), had little to do with the prevailing levels of militance and received relatively little attention in the mainstream press, in contrast to its salience for right-wing backlash to unionism in the 1930s. Overall, the sheer volume of strike coverage on the front page suggests that citizens in the mass public were well-acquainted with portrayals of labor militance. During the peak strike years, citizens were exposed to more than 7,000 front page stories about strikes per year; in other words, at the height of industrial conflict, the nation was blanketed by strike coverage. And, importantly, strike coverage was at a peak in 1937, evidencing this issue’s salience in the subsequent elections.
Figure 2.2: Strike Coverage and Strike Volume

Figure 2.2 shows the count of strike articles plotted alongside a strike volume measure (cf. Hibbs 1976) and the union approval measure from the next chapter, respectively. In Figure 2, we observe that the coverage of strikes and the strike volume vary together until the Second World War when the coverage of strikes increased as the strike volume was flat. During the immediate post-war period, citizens ranked industrial disputes as the most important problem facing the nation. Though Gallup did not ask the question in a sufficient number of instance to analyze along the lines of Funkhouser (1973), this result does suggest that newspapers inflated the strike problem. We will see in the next chapter that movements in union approval moved inversely with the volume of strike coverage; as the volume of coverage increased the overall level of union approval tended to decline. The volume of strike coverage was clearly linked with the strike volume measure ($r=0.57$) borrowed from Hibbs. Furthermore, the count of strike articles has an even stronger relation with the count of CIO articles ($r=0.89$). The count of articles was negatively, though insignificantly, related

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5See Chapter Four.
with the expressed popular approval of unions (r=-.04) and strongly negatively correlated with approval of John L. Lewis (r=-.51). Relatively more anti-strike coverage emerged over the course of the sit-down strikes as shown in Figure 4 below. And, indeed, the framing of the issue is suggestive in support of capitalist power. As noted above, the negative coverage in newspapers took two forms: first in the descriptions of union militance and second in the sourcing of reportage. Taken together, these results are consistent with the hypothesis that the valence of coverage buttressed popular disapproval of labor militance.

![Figure 2.3: Lewis, Hillman, and Murray Coverage](image)

**Figure 2.3: Lewis, Hillman, and Murray Coverage**

Figures 2.3 and 2.4 show a comparison of the volume of coverage of prominent labor leaders. We can see clearly that the coverage of John Lewis greatly exceeded that of any other labor leader. In presenting the labor leaders in this fashion, the media was tending to highlight the most combative labor leader. In juxtaposing the

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6I do not present the Lewis approval measure in the figures because the time-series is incomplete.
coverage of the labor leaders, the media were effectively presenting the choices facing organized labor and the public over increasing militance and heightening demands as opposed to subordinating to membership in the FDR coalition. And, indeed, Lewis was cast as out of the mainstream by much of the press. Though Lewis was not a metonym for labor, he was by far the most famous labor leader.
Table 2.2: Hillman and Lewis Coverage

<table>
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<th>Proportion</th>
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<tbody>
<tr>
<td>Favorable</td>
<td>14%</td>
</tr>
<tr>
<td>Unfavorable</td>
<td>29%</td>
</tr>
<tr>
<td>Balanced</td>
<td>43%</td>
</tr>
<tr>
<td>Neutral</td>
<td>14%</td>
</tr>
<tr>
<td>N</td>
<td>14</td>
</tr>
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</table>

balanced or neutral, though there were more unfavorable items than favorable. The New York newspapers were more anti-strike than those elsewhere. It should be noted that numerous strike articles were written by the wire reporters and therefore many of these items were identical across the nation.

Table 2.2 deals with the juxtaposition of John L. Lewis and Sidney Hillman in the newspapers from 1937 to 1940, the final year the original CIO would be intact. Here the papers are not disaggregated because there were relatively few articles contrasting the two. During the run-up to FDR’s second reelection, Lewis argued that the industrial unions should have opposed Roosevelt in the absence of specific concessions to organized labor. Hillman saw that labor needed the president more than he needed the upstart unions. This logic is based on the idea that the workers could not carry on using their collective might unilaterally to impose political and policy demands. Lewis, for his part, in trying to utilized voluntarist logic was missing out on how hostile the Republican Party was. The only viable plan for Lewis, which he came upon after his resigning as head of the CIO was to seek a farmer-labor alliance. In this table, the balance of the articles is again mostly that of general discussion an dispassionate reportage; however, to the extent that a slant is noticeable, it tends toward the anti-Lewis side.

Table 2.3 depicts the coverage of the 1941 captive mines dispute. These strikes
were an attempt to unionize the mines that were owned and operated by steel firms for use in production. The National Defense Mediation Board - a tripartite commission - ruled against the United Mine Workers (Atleson 1998, 20-31). In response, Lewis called a headline-grabbing strike that would have served as a grave obstacle to war production (Zieger 1988, Chapter 4). (Public disfavor in survey responses regarding these selfsame strikes are presented in the next chapter.) A total of 150 articles were found in this search. This table shows the coverage of the captive mines dispute of 1941, which occurred during the run-up to World War Two. In this episode, the negative coverage was spread across the national outlets. And, again, only a small proportion of the articles might be said to have treated the militant unionists favorably. The majority of items are coded as unfavorable in this instance. In contrast with the Flint episode, the captive mines episode had more negative coverage than neutral coverage. The key difference in this episode being that the union militance was places in direct opposition to the war footing; this is in keeping with the highly favorable view of defense strike bans examined in the next chapter.
Table 2.5: Pre-Wagner Coverage

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<thead>
<tr>
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<th>Proportion</th>
</tr>
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<tbody>
<tr>
<td>Favorable</td>
<td>33%</td>
</tr>
<tr>
<td>Unfavorable</td>
<td>11%</td>
</tr>
<tr>
<td>Balanced</td>
<td>53%</td>
</tr>
<tr>
<td>Neutral</td>
<td>3%</td>
</tr>
<tr>
<td>N</td>
<td>33</td>
</tr>
</tbody>
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Table 2.4 depicts the coverage of the reconversion strikes. These connote the strikes that attended the ‘reconversion’ of the economy from a wartime to a peacetime basis during 1945-6. The Reconversion strikes, which were more numerous than the size of the sample studied here would suggest, were more largely sourced officially than previous episodes. Nonetheless, the Truman administration was not as denunciatory as the preceding administration. The $N$ here is only thirty-nine, but this is because I am selecting strictly for the articles that frame the strikes as reconversion strikes. The Reconversion strikes, chiefly against General Motors and US Steel, were designed to insert labor into the post-war management paradigm. Material loss was a key theme throughout the wartime period, but the dominant negative frame here was that of insurrection.

Table 2.5 depicts the coverage of the disruptive wave of textile and rubber strikes that helped form the CIO in early 1935 (cf. Bernstein 1966; Zieger 1995). A search of strike articles related to textiles or rubber on the front page in 1935 before the adoption of the Wagner Act yields 33 results. The pre-Wagner coverage, though, was not ideologically more favorable to unions. And, as previously, the negative mentions are presented in the Appendix. Here, though, 33 percent of the articles were favorable compared to 11 percent unfavorable. In this coverage, the efforts by the President and senior officials to forestall and broker labor disputes was favorably covered. In other words, there existed a manifest bias toward labor peace even in otherwise neutral
coverage.

By way of example, here are quotations from earlier in the sit-down wave. From the *New York Herald Tribune*, ”Ten thousand persons were thrown out of work today when the B.F. Goodrich Company suspended production because of a series of departmental ’sit-downs’ (9/24/36). From the *Baltimore Sun* of the same day ”Labor disputants reported to fists and stones in two widely separated cities today, while others sought to end strikes though conciliation.”

In order to give the reader exemplars of what is meant by a ’negative’ phrase in the lead paragraph, I will present randomly selected articles coded ’negative.’ From the February 4, 1937 *New York Times*, explaining why the Sheriff of Flint, Michigan called for the National Guard to encircle the ”thousands of sitdowners and pickets there that had defied him to compel its evacuation and end picketing under the injunction issued” (*New York Times* 2/4/37). From the February 25, 1937 *Los Angeles Times* on page three, ”A bitter clash of opposing union leaders yesterday marked mediation of a paralyzing sit-down strike at the giant Douglas Aircraft Corporation” (*Los Angeles Times* 2/25/37). From page one of the March 22, 1937 *Chicago Tribune*, ”Professional agitators with communistic sympathies, carefully trained for their duties in a New York City labor college, are the storm troopers and the backbone of the present strike wave’ (*Chicago Tribune* 3/22/37). From the *Washington Post* of the same day, ”It is surprising that President Roosevelt with his proper concern for the many grave problems which confront the Nation, has as yet found no occasion to express himself publicly on the subject of sit-down strikes. The crisis in Detroit where a great city is rapidly drifting into a condition not far

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7I do not report positive mentions because relatively few existed. Though there were fairly positive features in newsmagazines such as Harper’s and Life, newspapers were either factual in their introductory paragraphs or biased against the industrial unions.
removed from anarchy” (Washington Post 3/22/37). The antagonism over the sit-down strikers was so pitted that the Governor Frank Murphy (D-MI) was the target of death threats as ”some of those threatening him assail him for not adopting more vigorous politics in the ejection of sit-down strikers, while others would have revenged themselves on him for permitting such ejections” (Chicago Tribune 3/22/37).

In these articles, the strikes are often described using a metaphor of armed conflict and battle. John L. Lewis was referred to or likened to a leader in combat on a consistent basis. It is difficult to identify negative mentions of Lewis as opposed to the strikers or unions generally. Adjectives such as ‘unyielding’ - commonly applied to Lewis - are more ambiguously valenced when applied to individuals than to interest-groups. A typical report on Lewis: ”John L. Lewis tonight exposed what he considers his ace in the hole in the automobile strike. ”We helped Roosevelt lick industry, now let Roosevelt help us lick industry” (Chicago Tribune 1/21/37). This invocation of Roosevelt here implied that in exchange for CIO support in reelection, the President would support the sit-down strikers.

As Figure 2.5 shows, newspapers carried twice as many articles about labor union demands than about labor union grievances or pleas. The distinction between ‘demands’ and ‘pleas’ is found in the implicit power-relation connoted by the terms: where a demand is imperious, a plea is suppliant. The count of the latter in this analysis is somewhat inflated by articles concerning grievance machinery within firms. Pairwise correlation with union approval in survey responses shows a positive correlation for ‘plea’ (r=.32, N=12) and a small negative correlation for ‘demand’ (r=-.16, N=12) from 1937-48. These correlations imply that unions were more likely to viewed favorably when they were framed as supplicants rather than as insurgents. And, indeed, there were 10,221 articles citing the stated preferences of unionists as
Rather than referring to capital as such, ‘management’ began to prevail as the preferred moniker. And, more subtly, the description of labor comes to be synonymous with unions and not with the class itself (Rondinone 2008, Chap 6). In other words, there was an absence of apprehension of class conflict during the pitted militance. The idea of management - a sub-class of capitalists, strictly speaking - serves to deny the urgency of the claims and demands of either side and consigns the conflict into a technocratic realm. And a scientific outlook on management implies an incorrectly pluralistic take on American labor relations (Harris 1982, 7-9; Atleson 1983). Necessarily, the government comes to be viewed as a player in strikes alongside capital and labor.\(^8\) Interestingly, Governors Murphy of Michigan and Earle of Pennsylvania

\(^8\)This is a distinct point from saying that all politics constitutes the ordering and sublimation of
were often protagonists in the articles about the strikes in their states. The rise of the perceived legitimate role of government in sorting out labor militance was related to the news media predilection for defusing class war.

Pegler helped make racketeering within unions a salient issue for many Americans. In terms of identifying unions as actors, he drew the unions as a gatekeeper over jobs that free people seeking work. For example, "The unioneer’s solemn assertion of a man’s right to work is sacred until it violates the decree of a few union politicians whose appetite for power has been tempted by a group which seems ready for a raid" (Washington Post November 11, 1937, 11). Also, "The fact is that the labor leader very often is a dictator maintaining his power by union politics at the expense of democratic procedure which places the rank and file in the position of the Italian or German citizens who just rock along submitting to discipline" (The Atlanta Constitution June 6, 1937, 4). The racket issue brings Michels’ iron law of oligarchy into focus. The leaders who are trusted to ensure that the worker cartel is administered and organized have distinct and sometimes opposing incentives to the rank-and-file members. Senator Wagner, introducing his eponymous law, claimed "I do not underestimate racketeering in organized labor. It exists, unfortunately, as it exists in politics, in industry, among lawyers, and with bankers and brokers" (NLRA Legislative History 1935, 1319).

In March 1941, across classes, respondents overwhelmingly responded in the affirmative to the following item: "Westbrook Pegler, the newspaper writer claims that many union leaders are racketeers." Do you agree or disagree with him?" (Gallup conflict.

*Racketeering* connotes a fraudulent service - a service that would not exist were it not for the racket. In this case, unions, such as the Teamsters (Witwer 2004, for example) used their control of jobs to compel incoming workers to surrender wages.
3/12/41). Survey results reflect the absence of the expected class cleavage on this item. Those on relief and the wealthy overwhelmingly agreed with Pegler that unions were largely rackets. Every region and class sub-group agreed at a rate greater than 70 percent. Moreover, there was little regional variation, except, unsurprisingly, the South was especially likely to disparage labor leaders. Astonishingly, a majority of union members that responded answered in the affirmative. It is typically a mistake to dwell on one poll result but this response is starkly negative.

There is a relevant normative consideration here: that of the individual rights of the workers wishing to cross the picket line. And here the researcher cannot avoid taking a normative stance as the pluralist neutrality redounds to an affirmation of capital’s preeminence over labor. The choice is whether would-be free riders can be delivered benefits on a particular and selective basis from group activity; since the union’s gains are non-excludable in the workplace, the union is impelled to demand dues. Pegler’s insistence on the right of workers to cross picket lines as well as for the ’public’ not to be deprived of goods articulated the conservative backlash to union power and served to anticipate the offensive against unions that attended the ’right turn’ of the 1980s and the preset-day opposition to public sector unions. Put another way, the discourses surrounding the rise of the New Deal were the ones that surrounded its fall a half-century later.

In his column, cheekily entitled ’Fair Enough,’ Pegler wrote that ”organized labor is assuming the powers of government without the responsibility of government, and with business in shackles that is a lopsided arrangement which cannot continue indefinitely” (Los Angeles Times, 8/8/39). By this, he meant that the use of strikes that seized the site of production or obstructed the flow of commerce were an arrogance of power by the unions. Worse yet, the unions were not necessarily doing their
workers bidding. Like Michels before him, Pegler had the insight that the incentives faced by workers were distinct and potentially contrary to those faced by labor leaders hungry for dues. Moreover, Pegler was critical of the perceived violence of strikers who assaulted those who meant to cross picket lines. Basically - and this is more true of the CIO unions - the nascent union movement of the 1930s was characterized by an expansion of internal governance structure that has its own taxation scheme and ability to annex parts of the United States. And, indeed, the GOP would make curbing union power the central theme of the 1946 midterm elections, capturing the spirit with the slogan 'Had Enough?' (Lee 1966, 47).

The relationship between capital and labor was antagonistic throughout US history. And newspapers took different perspectives, though typically maintaining a pro-capitalist bias. Unhappily, there do not exist valid measures of public opinion prior to the adoption of the Wagner Act. Nevertheless, we can surmise that the coverage of the strikes before the Wagner Act were not substantially more favorable, and to the extent that the coverage of militancy became more negative over the course of the New Deal, it appears attributable in large measure to the increasingly negative stances taken by the Roosevelt administration and the president personally; Roosevelt took his strongest stance against militance during the captive mines dispute.

A sampling of newspaper coverage - even a more comprehensive one than that presented above - would be insufficient to summarize the news that citizens received about strikes, as radios became more commonly owned throughout the period under study. However, newspapers were the dominant source of information. And, substantively, what they have to teach us would not be materially affected by attention to newsreels or radio, as it is unlikely that the newsreels and radio presenters would
have been delivering markedly different content.

Newspapers in Utah and Wisconsin

Continuing with the theme of analyzing states that had protective laws before restrictive laws, I examined the front pages of newspapers in Utah and Wisconsin with an eye toward stories about labor disputes. Given that the New York newspapers comprise a substantial fraction of the national dailies in the analysis presented above, this section will take a brief look at Utah and Wisconsin papers which were not digitally archived in a searchable fashion. But there are numerous examples of negative framings of strikes from the New York papers in the Appendix. Further, it should be noted that the presses with narrow circulation often reprinted the big-city chains. The generalized logic drawn from the big-city newspapers is applied to these states in this section: here, we are looking for examples of strike coverage that are inconsistent with the business interests of media owners. For Utah, I used the *Deseret News*, a statewide daily that had the attention of Mormon Church members. For Wisconsin, I used the *Milwaukee Journal* as this paper had the widest circulation in the state. I attained these newspapers from the Google News digital archive. (Though that archiving project was eventually abandoned, these collections are largely complete, missing no more than a handful of articles per year.)

In contrast to the concerns raised about the Utah case in the previous chapter, the First President of the Latter-Day Saints, Heber Grant, stated in a front-page editorial that “The Church does not interfere nor has any intention of interfering with the fullest and freest exercise of the political franchise by Church members” (*Deseret News* 11/2/36). One might not treat this statement in a credulous fashion but the forceful denial itself evidences the importance the Mormons put on presenting themselves as endorsing individual political freedom.
In covering strikes in silver and copper mines, the Deseret News distinctively led articles on the strike by presenting the workers’ position rather favorably, for example: “the general rise in metal prices and commodities are reasons for the mine operators to look with a friendly eye on worker demands” (Ibid 11/7/36, 1). However, on the very same page, the paper presented strikes occurring in the San Francisco shipyards as ”threatening paralysis for national shipping” (Ibid). And furthermore that article began by pointing out that ”eggs were hatching aboard a strikebound vessel” (Ibid).

In covering out-of-state strikes, the News was sometimes less than even-handed. For example, ”Strikers attacked officers with stones when attempts were made today to open a strike-bound cannery at Stockton” (Ibid 4/23/37, 1). But, on the other hand, it offered a fair contextualizing of a CIO strike against Jones and Laughlin ”Police hurled tear gas into a crowd of shouting, demonstrating pickets today at the strike-closed Aliquippa works of the Jones and Laughlin corporation” (Ibid, 5/13/37, 1). Foreshadowing an issue this dissertation revisits in the conclusion, ”Striking steel workers adopted a ’quit work or starve’ policy against men remaining in besieged mills, and the Republic Steel Corporation answered with a protest” (Ibid, 5/29/37, 1). And this was not the only time the News relied upon a martial metaphor to cast labor in an unfavorable light, referring to the ”strike-sieged plants of Youngstown” (Ibid 6/28/37, 1). It should be noted, though, that this newspaper did spend more time on the events in Europe than on industrial strife at home.

Overall, the Deseret News offered a more even-handed approach than other newspapers. Indeed, when Senator Elbert Thomas (D-UT) questioned a Republic Steel executive on the provision of weapons for Chicago police officers acting as strikebreakers, it made front-page coverage (7/3/37) whereas the New York Times
and even *Chicago Tribune* relegated the story to well inside the paper. And when Lewis began to turn on Roosevelt in 1937 the Salt Lake newspaper elected to emphasize the Labor Day celebrations at the expense of highlighting the growing rift within and between labor and the administration (Ibid, 9/6/37, 1). Though the paper hardly dealt with strikes on the basis of their national salience - indeed the *Deseret News* did not report on the Flint sit-down as front-page news until nearly the end of the strike. And, indeed, upon the passage of the state’s little Wagner Act, there was no report of the bill’s passage whatever. But, by way of comparison with the state’s other major daily *The Salt Lake Tribune*, the copycat sit-down strikes that came shortly after Flint - which, after all, convinced General Motors to recognize the CIO union - were described as an ”epidemic” on the *Tribune* front page while it did not get mentioned in the *News* (*Salt Lake Tribune* 3/3/37, 1). And, what is more, the *News* did not cover the captive mines dispute either. During the post-war strike wave, the *News* was quick to point out that the steel and coal strikes would have little effect on Utah (*Deseret News* 1/16/46,1). However, the position of the editors of the *News* should not be mistaken for progressive: indeed, the paper printed editorials in opposition to child labor laws on the grounds that the ”state should be kept free from federal usurpation” (Ibid 1/26/35, 12). Furthermore, they argued against supporting Roosevelt’s reelection bid suggesting that, in light of numerous New Deal laws being held unconstitutional, ”Church members must stand for the Constitution and should feel duty bound to vote to protect it” (Ibid 10/31/36).

Upon the passage of the Wisconsin Labor Relations Act (WLRA), the *Milwaukee Journal* wrote ”On the hundred and first roll call of a continuous 12-hour session, the hungry and weary state senate passed the administration’s labor disputes bill in just the form its sponsors wanted it” (4/3/37, 1). On that same front page, the
Journal prominently features a quotation by Senator Borah (R-ID) that anticipates a discussion that we will save for the final chapter: "I confess I have not been excited over the fact that labor in its struggle with capital has seized property but you cannot separate this sole issue from all the others involving individual rights" (Ibid).

In the wake of the WLRA having been passed, the unions sought to organize the creameries and dairies of Wisconsin. Examples of negative agricultural responses were salient and featured in the Journal. Early after the passage of the Wisconsin little Wagner Act, the Journal began an article about a strike as "paralyzing the produce trade" (Ibid 5/6/37, 1). Another example, "Unionization of the Richland Cooperative Creamery Company at Richland Center was protested Monday night by 325 farmer-patrons" (Ibid 4/19/38, 1). The next month: "Sixteen square jawed farmers representing the Wisconsin Dairy Industries Cooperative declared here Monday that they are prepared to don 'political brass knuckles' for a showdown resisting unionization of farmer-owned plants" (Ibid 5/17/38, 1). And the next day, "Operators of twelve large Milwaukee poultry and egg firms took the initiative in a labor controversy and closed their commission houses after negotiations broke down over a closed shop provision" (Ibid, 5/18/38, 1). The Journal featured the farmers' backlash prominently, "Union Grove farmers who were 'innocent bystanders' of the spinach strike last spring started to do something about their plight Monday. 'No closed shop on the farm!' was their keynote" (Ibid 7/26/38, 1).

Having won a sit-down strike against Allis-Chalmers in May 1938, the Journal framed its front-page coverage of the union victory thusly, "Immediately upon [collective agreement] ratification, leaders warned men to avoid new trouble" (5/7/38, 1). Later that month, the Journal featured the AFL chief William Green denouncing the CIO, "In some cases industry has been plagued by sitdown strikes and the AFL and
its unions do not and will not condone such illegal methods of organization” (Ibid 5/22/38, 1).

The captive mines dispute was front-page news in the Milwaukee Journal five times over the course of the episode. Here, the coverage was largely synoptic. The most unfavorable lede was a quotation of a presidential statement wherein FDR asserted that "the cessation of coal production would create a further danger to American defense and it was the indisputable obligation for the President to see the coal production not be stopped” (Ibid 11/14/41, 1).

Overall, the Journal was not distinct from the national sample analyzed above while the Deseret News contained examples of strike coverage that contextualized the labor unrest. This is consistent with the observation that Utah was the only state to keep its protective law intact. Sadly, these newspapers are not archived in a fashion that allows for reliable keyword searching that would enable valid content and volume analysis. However, in light of the relatively light coverage of strikes and strikers by the Latter-Day Saints’ preferred newspaper, it is plausible to suggest that the readers of Utah were situated in a distinct information context. Though including more articles in the present analysis might be enriching, the core conclusion that the national coverage was unfavorable would not be gainsaid. The New York papers are treated in the main body of this chapter, but it is evident that the coverage there was not favorable to strikes or strikers.

Manipulation or Education?

Even if the probes above were to persuade the reader that the press was pro-capitalist (or anti-strike), it would not be clear whether this was simply to sell newspapers or was revelatory of an editorial bias. A Herald Tribune editorial said the
Flint strike "cannot be permitted to prevail if the law and the courts are to survive" (1/10/37, 10). The Washington Post summarized its stance thusly, "Sloan [GM chief] is everlastingly right in demanding that his company’s plants be evacuated by un-welcome squatters. There isn’t an honest, intelligent mind in the country that can gainsay this. Least of all should it be condoned, even by silence, by the President of the United States" (1/31/37, 9). The Christian Science Monitor was agnostic by contrast, stating that "The American conscience is still weighing the sit-down strike" (2/1/37, 18). The Atlanta Constitution, though, adopted a law-and-order stance, "The grave threat of the sit-down strike to the welfare of the nation is causing concern...the law is being flouted by strikers who refuse to respect authority in any quarter" (3/23/37, 6).

In the captive mines dispute, the Washington Post submitted that "John L. Lewis has taken a stand in defiance of the United States. By his arbitrary refusal to abandon coercion during this critical period, he has laid before the government a challenge which it cannot fail to accept" (10/27/41, 10). And the Herald Tribune took a similar tack, "John L. Lewis’s peremptory defiance of the President in order to call forthwith a strike which grabs the defense industry by the throat at least accomplishes this much - it puts the issue of the union shop...on the worst possible ground" (10/27/41, 14). An editorial in the Atlanta Constitution argued that the strike "has forced a situation where the issue remaining is simply whether Lewis as head of his union, or President Roosevelt, as head of the nation, shall dictate the terms on which this nation’s defense and war aid program shall proceed" (11/18/41, 6). The New York Times was less hyperbolic but was nonetheless worried about the power of the United Mine Workers, pointing out that to award the workers a closed or union shop in mediation would be ‘capitulation’ (10/31/41, 22). The following week, they saw that "An increasing number of union leaders are no longer content merely to bring
pressure on the employer. They are attempting by the threat of strikes to coerce 
government itself” (Ibid, 11/5/41, 22). The Los Angeles Times described Lewis as 
a ‘man up a tree’ and claimed that "no ‘labor leader’ since Debs has gone so far to 
defy the government or flout the national interest as he” (11/14/41, 4).

In the Reconversion episode, the editorials were less strident, though they re-
mained opposed to strikes. From the Herald Tribune, "The prospect that reconversion 
to a peacetime economy will be hampered by labor strife is grave enough to demand statesmanship...and the Wagner Act does not provide the machinery for a really fair adjudication of the issues that will arise” (7/16/45, 8). The Washington Post was 
dismayed to observe that "no sooner had the news of Japan’s surrender been broad-
cast than a message from the CIO went over the airwaves stating that the no-strike pledge was off” (8/18/45, 4). The Atlanta Constitution described the nascent strike wave as "spreading like an epidemic” (9/26/45, 6). Some editorials called for labor peace, "The President’s directive to the national conference of unions and manage-
ment, to find some way of settling disputes without strikes and without government interference is good advice” (Los Angeles Times 11/6/45, 4). As the strike wave 
wore on, the Washington Post editorialized, "The immediate inconvenience caused by any kind of large-scale labor disturbances is annoying rather than serious. But the malign effects of strikes and lockouts that slow down industrial activity and tend to perpetuate wartime shortages of essential civilian products can hardly be exag-
gerated” (1/7/46, 6). Nor did the boards take the demands of unions seriously, the Wall Street Journal was typical in this regard: "President Philip Murray of the CIO and past leaders of that organization are masters of drawing red herrings across the path of plain logic and common sense” (1/30/46, 6). Overall, though, throughout the 
year of 1946, the editorial emphasis was on the importance of production and less on
denouncing unions and strikes.

The editorial pages during the major strike episodes suggests that the editors of the major dailies were decidedly unsympathetic to labor grievances, let alone labor militance. Nor was this pattern confined to the post-Wagner period. "No man may be legally compelled to work for wages he does not consider adequate and no man has the privilege of denying his neighbor the right to sell his labor at any price he desires" (Washington Post 8/25/32, 6). The Christian Science Monitor embraced a related theme, "in every case of industrial warfare, the consumer is inevitably the sufferer...the cessation of any essential service cannot but strike at the innocent bystander, the public, which stands all the inconvenience and pays all the bills" (1/28/33, 16). Further, the Wall Street Journal approvingly referred to Senator Wagner (D-NY) who "told the American Federation of Labor in convention that labor’s obligation was to maintain discipline within its own ranks and to win the support of the public. In his mind public sympathy and support are not to be won by the propensity so frequently of late to strike" (10/12/33, 8).

The editorials suggested that the patterns observed in the content analyses were borne out of an anti-strike slant. However, this observation is not sufficient to label the coverage of strikes as manipulative. The suggestion of slant does not demonstrate the presence of manipulation. But it does rule out the possibility of labor militance receiving a balanced hearing. Having said this, it is more likely that the outcomes that interest this dissertation are likely as not the result of majority preference being represented. Again, for the condition of manipulation to obtain, the editorial boards would have had to have willfully intended to deceive. The observed patterns do not rise to this level.

Conclusion
Taken together, these initial empirical probes combined with the next chapter outline the contours of the possible in the mass polity. These alternate sites of investigation have the advantage of revealing paths of potential variation that were foreclosed. New Deal liberalism was delimited in the mass public at the height of labor power - and militance - across the United States. Across jurisdictions, and in advance of the conservative Democrat rebellion against the New Deal, the states adopted laws to restrain strikes because ordinary citizens opposed the efforts taken by other citizens that challenged existing relations. The relational threat posed by militant industrial unionism demanded a powerful response.

The CIO saw itself as making a positive gain in terms of providing grievance machinery. The CIO said that 'Patriotism outweighed all other considerations” (CIO News June 1945). The CIO was flummoxed by a conundrum: the majority of people are wage earners, so, then, how could the CIO be seen to seek special privilege? Its interests paralleled the community’s since wage earners’ families largely make up the community. Furthermore, the CIO took credit for the independent activities of the Industrial Union Councils in New York and New Jersey that agitated for the adoption of the first-in-the-nation fair employment legislation at the state level, presaging its alliance to push the conservative Southern Democrats out of the caucus (Baylor 2013).

In the present discussion, media owners are theorized to be motivated by the desire for profit and support of free enterprise and not necessarily try to use their power to influence the shape of public discussion and therefore use information as a tool of class power and oppression. Political beliefs do not automatically reproduce themselves nor does a social and economic order automatically reproduce itself. It involves conscious propagation to sustain shared beliefs and values on a widespread
Consistent with Parenti’s observation (1986, 94-5) that protesters are described more than their grievances are attended, the ways in which protesters were different than the mainstream were widely emphasized in strike coverage. In part, for this reason the landmark sit-down strikes were widely framed as an insurrection. By framing the protests outside the mainstream, journalists served to reinforce the view of the world that the capitalist ordering of the society and economy stood beyond reproach.

The labor movement had great difficulty explaining its demands to the wider public in a fashion that obscured their particularism. Consulting the wartime strike record, one finds that workplace stoppages were the function of shopfloor conflicts more than of organizational directive (Swofford 1946, 9-14). Over the course of the Wagner to Taft-Hartley period, the strikers were acting with an evidently different set of motivations over time in their militance. At the outset of the New Deal, the strikes were in furtherance of organization; as the New Deal wore on, the strikes came to be motivated by shopfloor power struggles. In principle, this might frustrate the analyst because the object of public derision is a shifting target within my temporal frame. This is a challenge for inferring the underlying logics of mass opposition to strikes, but it does not inhibit understanding the limits of progressive demand-making.

Strikes were essential to the gains the workers won through New Deal protest - though this was not sufficient; the sufficient additional condition being the non-intervention by the coercive apparatus (i.e. the National Guard not being used as strike breakers). This is an important factor to consider for the labor movement was subsequently incorporated into the Democratic coalition from a position of weakness.

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10 This was a study commissioned by Senator Joseph Ball (R-MN) of Ball-Burton-Hatch fame.
This was resultant from of the absence of other plausible coalition partners.

The coverage of strikes did seem to grow less favorable over the course of the 1930s, but it is far from evident that the news coverage was sufficiently unfavorable to have constituted clear bias against labor. Unfavorable coverage does not imply unfairness, nor does it imply that public opinion was crafted by these articles. However, the coverage certainly did not facilitate the formation of pro-strike opinion. And, although the 'hard news' regarding strike actions was factual, the choice was made to focus more on the social costs of the strikes as opposed to the class conflict that is inherent to the shop-floor. The simultaneous and nearly instantaneous retrenchment against strikes suggests that these phenomena were governed by a shared logic. The next chapter turns to survey data that depict the attitudes citizens held in the light of the coverage analyzed in this chapter.
Chapter 3

What Did the Public Think of Strikes?

Introduction

In the previous chapter, I investigated the coverage of strikes in newspapers across the nation and in the present chapter, I turn to surveys of the citizens that elected anti-strike legislative majorities across the nation. What did citizens think about strikes and would it meaningful or sound to understand them as a homogeneous public? If citizens’ views on militance were sharply divided along class or regional lines, then the adoption of Taft-Hartley might be an instance of class or regional domination. On the other hand, if citizens were responding to the emerging turbulence in a similar fashion, this would be consistent with the view that the public got what it wanted from New Deal labor law. Finally, to what extent was mass opinion in tension with the coverage of strikes presented in the previous chapter?

It is puzzling that the public came to take a dim view of industrial organizing,
rather than blaming capital. The public disfavor of the CIO strikes appears wrong-headed in that most citizens had class interests more in common with the strikers than with the owners. Interests are a treacherous topic from a normative or positive perspective. Defining an interest necessarily implies a discounted utility function whose discount rate is impossible to demonstrate. If the rate is posited *a priori*, then one has a difficult time demonstrating that observed preferences that differ are flatly wrong. Nevertheless, it is equally difficult to posit that a political vehicle in American history has achieved more gains for economic losers than organized labor. And the power of labor over capital lies not in the fact of its organization, but in the withholding of its productive capacity. Moreover, the very process of profit-generation implies exploitation: in order for a firm to make a profit, it must sell its goods for more than it costs to produce them; a positive difference can only arise when labor earns less than it creates.¹

The negative potency of union militance was also reflected by the media coverage of strikes for "the symbols of revolt are not drawn like musty costumes from a cultural closet and arrayed before the public. Nor are meanings unrolled out of whole cloth. The costumes of revolt are woven from a blend of inherited and invented fibers into collective action frames" (Tarrow 1998, quoted in Kellstedt 2003, 83). The 1930s strikes were evidently highly salient and, though citizens are typically disinterested in news, they can typically be counted upon to perk up when it clearly matters to them (Key 1965; Page and Shapiro 1994). As noted in the introduction, this dissertation differs from much of the New Deal literature not only because of its focus on the

¹To point out that the capitalist had secured unpaid labor for a sold product does not mean the same thing as to say that he has secured a profit. Elaborating beyond the above simplification would take us beyond the scope of the present study. In future work, though, I would like to explore the relationship between marginal profit, workplace tyranny, and political activity; it is my suspicion that firms with narrower margins tend to be more extreme in their political rightism and tend to visit more depredations on their workers.
states, but also its focus on bottom-up policy change. Here we are interested in how much the substance of citizens’ views were connected with newspaper content.

To buttress the rationale for studying newspapers, I examined Gallup poll responses to the question “Do you read a daily newspaper?” In April 1937, across regions and class, more than eighty percent of respondents affirmed that they read a newspaper on a daily basis. In October of the same year, the same result held. And, once again, in April of 1939, the overwhelming response was in the affirmative across classes and regions. Though it is worth pointing out, that as one might expect, the South and Sunbelt were the least-read regions by self-report. Desirability bias raises measurement validity concerns but this result dovetails with Bartels’ (1993, 269) observation that newspaper reading “appears to be a sufficiently stable behavior.” Furthermore, assume the contradictory position: if citizens formed views on strikes from personal experience, then there should have been clear regional variation in opinion as the strikes were geographically concentrated. In May 1939, Gallup asked “Would you prefer to get national news from a daily newspaper or from the radio?” Interestingly, there was a class and regional cleavage here wherein the upper-class respondents preferred newspapers; and, the Midwest (West Central) and the Mountain West expressed an equal preference for print and radio. Sadly, this poll did not contain a question asking whether the respondent actually owned a radio because the variation in class preference might be a result of deprivation.

Happily, in 1944, we can explore responses to the same question juxtaposed with radio ownership. By 1944, respondents owned radios by a greater than 4:1 ratio and at this point across class and regions, citizens preferred to get their news from the radio broadcasts. The turn toward radio and then television coverage carries implications for exposure and processing that are distinct unto themselves (Prior 2006,
for example), but that is beyond the scope of this investigation. Some studies have suggested that radio content significantly overlapped with newspaper coverage (Albig 1937; Anderson 1971, for example) and that the radio coverage was mostly unfavorable in its coverage of labor unions (Sussman 1945; Schiller 1981, for example). As we will see, the backlash to strikes and strikers did antedate the growing preeminence of radio.

In outlining the contours of citizen attitudes toward unions, strikes, and the Wagner Act, I find that, contrary to expectations drawn from sectional or class interest, the mass public was generally hostile to worker protest upon the formation of the New Deal coalition. In principle, the lower-class citizens and the more urbanized regions might have had more sympathy for unionists and strikers.

When citizens consumed news about strikes, what kind of news did they consume? This is an important question because the strikers were struggling to be understood by the mass polity. The CIO actively sought to shape interpretations of events though speeches, radio programs, and pamphlets (Foster 1975; Fones-Wolf 1994; Charnock 2012). In surmising why citizens might have held similar opinions, we would look at the information they shared. Moreover, since Hadley Cantril, observers and students of politics have known citizens to make their evaluations of policy more on a concept of the public good than their own self-interest; and to rely on elite cues to form standards and evaluations (Eisinger 2003). Elite cues comprise much of the substance of the news and citizens were typically exposed to a limited number of sources. So, then, subgroup opinion, having been exposed to information in common and sharing processing rules, would tend to move in parallel (Page and Shapiro 1992, 318-9).

In this chapter, I assemble aggregated national survey responses to items re-
garding labor militance, particularly the sit-down and strikes during the run-up to the Second World War. Previous studies identifying a mass backlash to the CIO have emphasized the importance of the post-War strike wave in giving the Taft-Hartley delegation a workable majority in both chambers of Congress (Lee, 1947 47-52; Atleson 1998, Chap 11, for example). In this chapter, I will identify mass opposition to union power that antecedes the War, let alone the Truman presidency. Patterson (1969) identified the rise of the conservative majority in the Congress as a result of backlash to court-packing in part. I will also examine public attitudes on this.

Classic works in political science emphasize that the impact of interest groups is directly related to the esteem in which they are generally held (Key 1964; Truman 1971). Therefore, it is necessary to outline the contours of public opinion on unions and strikes in order to see whether the glass is ‘half-empty.’ There was evidently more tolerance for the disruptive strikes for union organization than for the strikes to secure particularistic benefits, political clout, or programmatic gains.

Typically, political science studies of the New Deal are focused on the politicians and the bureaucracy, but the mass public was a target of efforts at persuasion. Political elites - particularly the president and newspaper owners - were interested in shaping opinion within the hard bounds set by mass preferences. This task is essential to delimiting the limits of liberalism: because the white supremacist delegation had a veto tells us why Congress was not a potential site for improving labor’s statutory fortunes; that senior liberals in the FDR administration were not committed to codetermination of production tells us why the bureaucracy was not a potential site for improving labor’s regulatory fortunes. But these obstacles were themselves held in place by a bulwark of mass opposition to labor defiance. More subtly, this chapter sets the stage for connecting individual-level attitudes with the legislative outcomes
analyzed in the next chapter that interest this dissertation.

The public opinion literature that utilizes relevant polling from the period (Verba and Schlozman 1977; Berinsky and Schickler 2006; Panagopoulos and Francia 2008; Schickler and Caughey 2011) has broadly covered this ground before, but the aggregate stability of opinion is left unconnected to the development of the labor relations framework. Implicit in the backlash concept is the notion that the mass polity held unions in disfavor. This empirical question will be explored as it has been in previous efforts (Bok and Dunlop 1970; Parenti 1986; Schmidt 1993; Flynn 2000; Martin 2004; Carreiro 2005; Amenta et al. 2009, for example). Thus, this chapter is not only interested in using this analysis to ask whether the organized labor movement might have achieved a better result from the New Deal; it is interested in the contours prevailing attitudes toward militance and the protective laws that promoted it. In particular, this chapter is distinctive in its focus on salient strike episodes and its emphasis on pre- and post-War continuity in mass opinion.

In studying the volume and content of news, I have been implicitly considering opinion formation at the individual level; however, the survey data examined here are treated as aggregates. The data are not ideal but they are better than what students had even a decade ago and they are essential for bringing in public opinion. And the question is not whether the data are ideal but whether we can plausibly proceed without it. If public support for strike restrictions is not noted, then we would not see why the Taft-Hartley restrictions were ineluctable.

Again, the exclusionary focus on labor militance as opposed to alternate economic or social items is motivated in part by the observation that capital was satisfied with seeing unions denuded over the course of decades in the cul-de-sac of federal labor law since Taft-Hartley (Estlund 2002). More to the point, the labor relations
area is one of the few areas in which mass opinion moved rightward during FDR’s
tenure (Schickler and Caughey 2011, 163-4). And the stability and breadth of re-
strictive opinion helped to ensure that the labor-liberal alliance would be checked
until it could make an alliance with the civil rights demanders to take control of the
Democratic Party (Frymer 2008; Roof 2011; Baylor 2013).

In addition to being crucial in the development of the American labor relations
order, the strike waves of the New Deal period lends an opportunity to examine
conflict between broad economic groups in society. Particular attention to the sit
down wave of 1937 and the UMW (Lewis’ group and the financial core of the CIO)
disputes of 1941 will reveal that the contours of mass opinion did not hold any promise
for a more favorable legal outcome in the United States.

**Theory and Motivation**

The foregoing analysis has taken 1937 as the starting point for the investigation
because Wagner was ratified as legitimate in that year, which allowed the states to
play out the labor relations development alongside the federal government. Yet,
during the same year, the anti-labor coalition of Northern Republicans and Southern
Democrats began to emerge as President Roosevelt sought to pack the Supreme Court
and ‘primary’ conservative Democrats (Patterson 1969). Amidst this fracturing of the
Wagner coalition, the anti-labor laws that would structure the labor relations order\(^2\)
for the rest of the century into the next were adopted. The chambers that enacted
the restrictive backlash came to power in the 1938 elections, thus an account of the
backlash would be incomplete without reference to public opinion.

Though the search for class cleavages in mass opinion toward strikes is the chief

\(^2\)As before, ‘labor relations’ connote the shop-floor dealings of employer and employee. ‘Order’
means overarching framework or legal structure.
motivation for this chapter, regional cleavages are of interest as well. Following Bensel (1984), I distinguish between the industrial core and periphery. In this seminal work, Bensel argues that sectional interests were decisive over bill adoption across a variety of economic issues, as opposed to partisanship or ideology. In the present chapter, we might expect to see that worker protest was more acceptable to respondents in the industrial core than to those in the periphery because core respondents might have been more likely to identify their common cause with the strikers. Alternately, presence in the industrial core likely exposed one to the inconvenience related to labor stoppages, thus increasing the likelihood of opposing worker protest. At all events, the argument that sectionalism has been the dominant factor shaping the political economy implies substantial regional variation in opinion unless strikes were widely understood as an injury to all. For the purposes of the regional classifications below, we will take the South and Southwest and Mountain West regions as the periphery while the other regions will be taken to be in the core. Though this approach does not have the granularity of Bensel’s ‘trade areas’ taxonomy, it will be sufficient to examine whether opinion was determined by the respondent’s region.

This chapter will show that there was support for strike bans as well as a generalized opposition to militant unionism across the nation amidst muted class cleavages. As we will see in the next chapter, the immediate upshot was Republican seat gains in 1938, particularly in the states that adopted ‘baby’ Wagner Acts. In short, the industrial union organizing precipitated by Wagner caused a social and political perturbation that was programatically threatening but insufficiently strong to repel the backlash.

The term ‘backlash’ implies that there existed a previous equilibrium that had been disturbed (Pierson 2000, 85). Before the Wagner Act, would-be union militants
had little reason to expect that statutory gains would be effective in the face of judicial opposition. The Supreme Court upholding Wagner in the face of political pressure legitimized strike activity. Consequently, the newly legitimized industrial unions were wedded to the Democratic Party, because it was the Democratic administrative commitment to Labor Relations Boards that made the CIO growth legal. But the direct effect of CIO growth positioned the industrial unions in direct opposition to prior members of the coalitions that enacted, or might have enacted, protective laws. And, Gross (1981, Chapter 2) rightly emphasizes the role that public criticism of the NLRB had in the push for Wagner emendment. The Supreme Court held, consistent with prevailing views, that the illegal seizure of plants by strikers was ”more troublesome than the illegal actions of employers” (Ibid, 26). And, further, though Roosevelt was popularly connected to the Wagner Act, the president himself was skeptical of the Board’s pro-CIO leaning (Ibid, 39-40).

There was a shift in the legitimate exercise of authority in labor relations (cf. Orren and Skowronek 2000) as a result of Wagner. Prior to this, the dominant pattern of labor relations was a relation of force. This substantial change in policy seemed to contemporary observers to indicate that a fundamental social reordering was nigh (Goldfield 1989, 1264-5; Columbia Oral History Project, Frances Perkins Reminiscences). With the benefit of hindsight, it is easy to understate the peril that was perceived by elites. This perceived danger forms the first empirical question of this chapter: how class conscious might the public have been? Put another way, did the poorer respondents identify with union resistance?

Plausibly, one might suggest that personal experience with strikes would be sufficient to form a negative opinion. For example, one’s having been deprived of milk due to a transport sympathy strike with the dairy cooperative could well have
turned one’s opinion against CIO organizers. However, as we will see, the strikes were regionally concentrated and mass opinion does not show meaningful regional variation. Moreover, though the responses show clear differences in levels of opinion by occupational class suggesting that opinion formation was a function of interests, the parallel movement of class opinion over time is consistent with Verba and Schlozman’s (1977, 317) conclusion that New Deal respondents lacked class-consciousness broadly - indeed, majorities of blue-collar and unemployed respondents did not see management and labor as being in opposition (Ibid, 308). Like that study, I find little evidence that the unemployed or the poor were particularly desirous of robust industrial democracy, shop floor codetermination, let alone ending capitalism.

'Switch in Time'

The court packing episode was a turning point in the history of the Wagner Act and is deeply relevant to the present analysis. The Supreme Court had held several New Deal measures unconstitutional, including the collective bargaining provision of the Norris-LaGuardia Act which the Wagner Act was designed to replace. The Court was expected to rule the Wagner Act unconstitutional as well. This episode is deeply relevant because the President might have been seen as to have been subverting old norms in order to reward his new friends in labor. The backlash under study here may have been against the perceived presidential overreach rather than the industrial union disruption.

Happily, these survey data present the opportunity to revisit the 1937 court packing controversy. Early in 1937, FDR threatened to pack the Court in the face of its doctrinaire constitutional reading that denied the right to withhold labor while enjoining capital to bargain. It is important to note that interpreting public opinion on the court packing controversy and labor issues is fraught with pitfalls as there
was a long chain of reasoning linking the Court and the right to strike. And, the
court-packing plan was about more than the Wagner Act; it was about the power
relations between the branches.\textsuperscript{3}

Though the Supreme Court had, at various points in US history, been the
target of fulminations by sitting presidents and public outrage, the court packing
moment stands out as consequential because it coincides with the beginning of the
end of New Deal liberalism. However, the proximate cause for the proposal was the
anticipated rejection of the Wagner Act after the Court had found previous elements
of the New Deal unconstitutional, particularly matters related to labor relations. It is
plausible that the key to union legislative defeat was that the Supreme Court ratified
the Wagner Act under duress. That is, FDR subsequently betrayed the militant core
of the CIO that was central to his reelection because he had spent all his ‘political
capital’ protecting the Wagner Act (which he did not support openly until a few weeks
before its passage).\textsuperscript{4} Or, one might argue that mass disfavor of the union power by
which the Supreme Court was cowed also generated the electoral backlash to FDR
in the Congress and in the states that made leftward movement in New Deal policy
nigh-impossible. At all events, the Roosevelt reelection coalition included numerous
Republican supporters (Sinclair 1978; Erikson and Tedin 1981), which suggests that
the mass support for further leftward policy change was limited, particularly a shift
at the cost of long-standing US constitutional patterns.

\textsuperscript{3}Perhaps it is worth considering, despite being speculative, that FDR might have been able to
enlarge the Court had he not been insistent on adding six judges. According to Altman, the Senate
was going to recess daily and limit speeches in opposition to the bill (1937, 1079). That is to say
that Roosevelt might have successfully attained Senate approval for enlarging the Court had he not
sought to emerge with such an overwhelming majority of co-partisans.

\textsuperscript{4}The ‘political capital’ metaphor, though often tenuous, is particularly inapt in the present
instance. What was happening during this 1933-1937 period punctuated by general strikes in popu-
lation centers and sit-down strikes across core industries constituted a direct assault on the existing
social relations, and, perhaps, the right to property altogether. (Lichtenstein 1997)
Caldeira in his study of Gallup polls from 1938 (1987, 1149) finds that "two crucial events - Jones and Laughlin and Justice Van Devanter’s resignation - spelled doom for FDR’s bill to enlarge the Court and pack it with justices favorable to the New Deal.” That is, the acquiescence of the Court to the demand that the Wagner Act be upheld and the stepping-down of one of the judicial opponents of the New Deal cooled public enthusiasm for altering the Court’s structure. However, this influential work did not present subgroup analyses, preferring to treat the issue items as a continuous dependent variable in a linear model. Here, I am more interested in the class and regional cleavages that theory would expect: the upper class, being aware of the Court and its conservative role ought to have disfavored enlargement; and those on relief who owed their presence on the rolls to Roosevelt would have tended to support the president. Baum and Kernell (2001) find evidence that cleavages in class approval of the Roosevelt presidency were a peacetime phenomenon that was eroded by US entry into the Second World War.

FDR, having been a highly salient figure, obscures the interpretation of citizens views because approval of the politician himself conditions responses on items related to him. But the instance was a turning point in his presidency as FDR pivoted toward foreign policy thereafter. Of course, the loss of liberal Democratic seats in the 1938 elections played a significant role of Roosevelt’s calculus. Although the Sunday New York Times of April 3, 1938 pointed out that "The sea and things of the sea, the navy and its ships and men and guns are probably the outstanding passions of the President’s life” and "The Navy is being run from the White House these days.” It is hard to say whether the patrician former Undersecretary of War for the Navy would have sought to pivot even if he had packed the Court with cronies and had endless coattails (or, at least, not reverse ones). Moreover, the attempt to ‘purge’ recalcitrant
Bourbon Democrats did actually succeed in unseating John O’Connor, the chairman of the Rules committee in the House, and an opponent of liberal New Deal measures (Polenberg 1968).\textsuperscript{5}

**Data and Method**

In the following, I ask whether class and region put different groups at odds over the legitimacy of strike actions. Though limited by available survey data, I present subgroup opinion (see Appendix for question wordings) on salient items during 1937, the height of the sit-down troubles. I continue to dwell on the important year of 1937, wherein Roosevelt proposed to enlarge the Supreme Court. Then, I present opinion responses to the union approval item form 1937 to 1943 comparing respondents by region and by class. I turn to opinions on the Wagner Act, which was a salient issue throughout the period; then opinions on John L. Lewis the militant labor leader; and opinions on defense strikes during the run-up to the Second World War.

In order to assess public opinion regarding militance in 1937, I take a collection of issue items from 1937 Gallup polls and present the subgroups comparisons by region\textsuperscript{6} and class\textsuperscript{7}. However, there are no items repeated across all the 1937 surveys, save for FDR approval questions. Moreover, to the extent that the items are heterogeneous,

\textsuperscript{5}Though the result was the ascension of Dixiecrat Howard Smith of Virginia.

\textsuperscript{6}The regions are as follows: Northeast (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut), Middle Atlantic (New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia), East Central (Ohio, Michigan, Indiana, Illinois), West Central (Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, Kansas), South and Southwest (North Carolina, South Carolina, Virginia, Georgia, Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, Texas), Mountain West (Montana, Arizona, Colorado, Idaho, Wyoming, Utah, Nevada, New Mexico), and Pacific Coast (California, Oregon, Washington).

\textsuperscript{7}The classes were Average-plus (Upper), Average (Middle), Poor and Poor-plus (Lower), and those receiving emergency aid (Relief). The Gallup interviewer scored the respondent as belonging to the economic classes having screened for those reporting having received relief spending. Though this is seemingly a recipe for coder bias problems, the recorded scale correlated with reported income at .74 (Baum and Kernell 2001, 205).
this serves to bolster the claim that regionalism was subsumed into a broader opinion climate that was itself mediated.

Despite their distinctiveness, the items address the substance of the CIO threat directly. The personality of the leader John L. Lewis was salient because he was famous for his militance and the Mine Workers provided the bulk of the CIO’s operating budget (Foster 1975) and the sit-down questions bear on the current study directly. The key point here is that the class cleavages in the mass public, then as now, were not sufficient to inspire counter publics. Workers *qua* citizens did not favor radical leftist programs, and proved receptive to messages that constructed unions as negative forces.

Though it may seem curious not to dwell on the union approval series, this ground is covered well by Schickler and collaborators in previous efforts. What these studies do not emphasize - and what we touched upon in the previous chapter - is that the dips in union approval from their all-time highs in 1940 and 1954 (Gallup 2011) were precipitated by racketeering scandals in AFL unions. And indeed, even Robert Taft might have answered the union approval question in the affirmative at various points throughout the New Deal; what was critical was the widespread view that union militance was excessive.

**Analysis**

The union approval opinion response did not vary systematically by region, as shown in Figures 3.1 to 3.3. The regions moved roughly in tandem over time. In Figure 3.1, the Northeast, Mid-Atlantic, and Pacific Coast regions are plotted against the overall response. I put these regions together because these states were all in the
industrial core. The Northeast moved in tandem with the rest of the nation, though these states did typically approve of unions at a higher rate than average. Even at the troughs of support, a majority of the public expressed a favorable view of unions; and notably, these troughs are found in the strike-heavy years of 1937 and 1941. No less than 60 percent of the public expressed a favorable view of unions in this region, or the nation generally. The Mid-Atlantic region, which has the highest level of union support, consistent with those states being in the heart of the industrial core; however, the region does move in tandem with the other regions. Absolute levels of union support were typically greater than 70 percent and not below 65 percent in any survey. Perhaps unsurprisingly, the Pacific Coast (Figure 1), with strong left-wing contingents in their shipyard unions, contained the most favorable response to unions, approving at greater than the national average in each survey, though moving in parallel.
The East Central region, as depicted in Figure 3.2 closely tracked the national average response. However, the West Central region consistently approved of unions at a below-average rate. I juxtapose these regional trends because these states were in the industrial core, but were marked by higher levels of agricultural production. Also in this figure, we observe parallelism in the direction of opinion change in each survey but this region tends to disapprove of unions more than average. Both regions maintain 65 percent approval at the lowest survey readings, though they average 74 and 72 percent respectively.

Figure 3.3 depicts the response for the South and Southwest alongside the Mountain West; unsurprisingly, these periphery regions had the only net negative response to the union approval question during the captive mines dispute in 1941 wherein the South reported a 47 percent approval rating of unions. On average, however, these regions average 64 and 67 percent respectively. Although the states in
this region were distinctive, not only in terms of Jim Crow laws but also in terms of military siting, the responses change in a parallel fashion. The Mountain West whose response closely tracked the national average, with levels of approval not going lower than 65 percent.

Consistent with the present day, the South and Southwest region consistently reported the lowest relative approval of labor unions while the Northeast was generally the most favorably disposed. Notably, while the South declined in union approval during the captive mines dispute, the Mountain West did not. Within each item, there is consistent homogeneity across regions. Also, none of the regions are consistently outlier subsamples. The patterning suggests that regionalism did not have a strong effect on opinion related to union approval. In terms of temporal differences, there was a generalized dip in union approval in 1938, preceding the electoral backlash to FDR.
Each region is positively correlated with every other region on union approval. The Mountain West was the most distinctive region with respect to union approval compared to the other regions. The Mountain West was most weakly correlated with the Northeast and the Mid-Atlantic, consistent with the argument that states in the core and periphery would express different attitudes. The public in Utah displayed weaker support for unions than in the Northeast, yet the Utah law remained intact. However, the overall level of union approval in this region closely tracked the national average. And, moreover, unions enjoyed a net positive approval rating in each survey outside the South. Union approval levels were typically highest on the coasts dotted by immigrant-rich cities.

![Figure 3.4: Union Approval, Upper and Middle Class](image)

Figures 3.4 and 3.5 depict the class sub-samples for the same union approval items. In Figure 4, the responses from upper-class respondents are juxtaposed with the middle-class respondents alongside the national average. These respondents, pre-
dictably, were more likely to disfavor unions. Nonetheless, upper-class respondents did express a net favorable opinion of unions across surveys with no survey reading showing a lower than 55 percent approval. Here, though, the expectation of opinion parallelism breaks down somewhat as the subsample opinion moves in opposite directions to the national average, increasing during an overall decrease and vice-versa. Though the middle-class respondents typically disapproved of labor unions more than the national average, the change in survey responses moved in parallel with the national average. As before the troughs are in 1937 and 1941, but the readings are all above 65 percent. These results do not suggest a class cleavage in union approval response.

Likewise in Figure 3.5, the lower-class respondents moved in parallel with the national average though approving of unions at level slightly higher than the national average. Here the approval levels were not less than 65 percent. In this figure we see
that the respondents on the relief rolls approved of unions more than the national average in most surveys and the subgroup opinion mostly moved in parallel with the national average \((r=.88)\). And, importantly, the poorest respondents expressed a lower level of approval than the upper class respondents \((r=.27)\) in 1937 and 1941. While the unemployed respondents - the ones on relief - typically had the highest approval of unions and the respondents coded as upper class held unions in the lowest relative regard, this condition did not hold across all surveys, thus militating against there having been a class cleavage in opinion. However, the general trend over the 1937 to 1944 period was downward. And, again, the distinct publics move in parallel rather than in a fashion that is suggestive of class cleavage. Though citizens typically lost regard for unions, they do not tend to view them in an unfavorable fashion. It should also be noted that the union approval time series is at its lowest point prior to 2009 in 1941 (Gallup 2014). The upper-class respondents had the weakest correlation with the average response among the class groups, while the other groups were close together in approval levels. Importantly, though, the correlation was weakest between the upper and lower-class, as opposed to with those on the welfare rolls. But even the upper-class respondents did not report net disfavor in any survey. The key story with union approval here is that though the overall levels of approval are high, the trend throughout the critical early post-Wagner period was downward.

Figures 3.6 to 3.8 show the responses to the John L. Lewis survey items by regional subsample. In Figure 3.6, the Northeast \((r=.85)\), Mid-Atlantic \((r=.66)\), and Pacific Coast \((r=.71)\) regions all closely tracked the national average and are generally declining over time. Though, consistent with being in CIO strongholds, these regions were consistently above the national average. And the Pacific Coast region, is likewise parallel, though Lewis was unsurprisingly more popular in this region which was a
Figure 3.6: John L. Lewis Approval, Northeast, Mid-Atlantic, Pacific

site of radical worker protest. Figure 3.7 depicts the East Central and West Central regions, which also shows graphical evidence of parallelism.

Figure 3.8, depicting the South and Southwest ($r = .49$) and the Mountain West also evidences parallelism, though this region expresses the lowest levels of Lewis approval, as both regions expressed below-average Lewis approval. The average levels of approval move from net favorable to deeply net unfavorable over the six years of survey items. The national average was net 2 favorable in early 1937 and fell to negative 80 percent after the captive mines dispute. Indeed, every region at the nadir of Lewis approval during the captive mines dispute was below 20 percent.

Figures 3.9 through 3.10 depict the Lewis approval responses by class. Predictably, in Figure 3.9 we observe that the upper-class respondents were markedly less likely to approve of John L. Lewis though this sub-sample was moving in tandem
with the national average ($r=-.43$). Also in Figure 3.9, we see that the responses for the middle-class, whose opinion was close to the national average within and across surveys. In Figure 10, the lower-class respondents, constituted a parallel public as well, though, predictably, they supported Lewis more than the national average. Likewise, the responses by those on relief, who typically supported Lewis above the national average. However, importantly, this group which had the most to gain from Lewis’ opposition to the political relations between the classes, converged toward the generally high disapproval of Lewis by the run-up to the Second World War in light of the ‘captive mines’ dispute, which we treated in the previous chapter.

In general, the items specific to John L. Lewis showed a clear overall trend toward increasing disapproval of the militant labor leader. Across regions and classes the trend was identical. This is in keeping with the narrative of his increasing estrangement from the CIO and from the Democratic Party. Lewis had been regarded
as a marginal figure as a result of his break with Hillman and Murray (Lichtenstein 1982; Zieger 1995); but the evident threat his vision posed to the incumbent Democratic Party suggests that views on Lewis implied views on the legitimacy of the ruling coalition.⁸ Importantly, John L. Lewis approval began to plummet in 1937 leading into the turning-point elections of 1938.

Regional averages in support of Lewis were mostly positively correlated, though significantly less so than in the case of overall union approval. Notably, the West Central region, containing Wisconsin, had negative correlation with the Northeast, Mid-Atlantic, and Pacific regions. This highly agricultural region was opposed to Lewis during the captive mines dispute and his subsequent move to organize dairy workers.

⁸Also, we should note that Lewis’ notoriety ought not be conflated with leftism; indeed, he was supportive of capitalism, even of the laissez faire variety.

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However, there was substantial divergence in class opinion on Lewis. The upper- and middle-class respondents substantially diverged from the lower-class and unemployed. Upper-class responses were not at all correlated with the other groups, suggesting that the disruptive threat posed by Lewis was clearly recognized by those who had the most to lose. Though every class displayed a negative net favorable rating of John L. Lewis, the poorer respondents had a higher peak from which to fall. But these differences are fairly muted: upper-class respondents expressed a net negative 94 percent approval, while respondents on relief expressed a net negative 78 percent.

In 1941, the identical question was put 6 times over the course of the year: "Should the Government forbid strikes in industries manufacturing materials for our national defense program, or should the workers in those industries continue to have the right to strike?" Figure 3.11 depicts the level of support for measures to outlaw
strikes in the Northeast, Mid-Atlantic, and Pacific Coast regions plotted alongside the national average. The Northeast region moved in tandem with the national average but this industrial core region supported such a measure at a markedly lower rate. The Mid-Atlantic subset tells a similar story. Likewise, the Pacific states was more muted in their support for a wartime strike ban.

The East Central region (Figure 3.12) which closely tracked the national average. The West Central trend shows that this region tended to support the strike ban above the national average and this region supported it at an increased level when the national average declined.

Figure 3.13 depicts the South and Southwest where support for strike bans was consistently elevated above the national average, though this region moved in parallel with the nation. The Mountain West which tended to support the strike ban above
the national average though less so than the South and Southwest. No less than 65 percent of the public in any region expressed support for an outright ban on strikes in defense industries. It is, furthermore important to note that any large industry could have been easily construed as defense-related.

Figure 3.14 shows the upper-class respondents’ support for defense strike bans which moved in tandem with the national average, though, unsurprisingly was above it. The responses for the middle-class tracked the national average closely. Unsurprisingly, the lower-class were more likely to oppose a ban on defense strikes, though a decisive majority of those respondents favored one as shown in Figure 3.15, which also reveals that the respondents on the relief rolls were the least likely to support such a measure, though this group opinion moved in tandem with the national average.

Unlike the above items, the regions are negatively related in several cases and
Figure 3.12: Strike Ban Approval, East Central, West Central

the Northeast was negatively correlated with most other regions. However, the average level of support was above 60 percent in all regions. In terms of class differences, the unemployed were in opposition to the upper class, but otherwise the classes were positively correlated. These differences are small in percentage point terms, as each class favored a defense strike ban by more than 70 percent in each survey. Here we can see that those who were received public benefits were the least likely to support a ban on defense strikes; the reserve army of the unemployed was the least likely to countenance strike bans in support of the war effort.

All regions were in favor of there being a measure adopted to forbid strikes in defense industries. But the South and Southwest region - the Deep South and Sunbelt - consistently reported the greatest willingness to see a law forbidding strikes altogether. This is in keeping with the fact that this region would be the home to the first right-to-work laws. Within the class subgroups, the relative ordering is
consistent with the expectation that the affluent would favor more repressive laws but crucially about three-quarters the poor and unemployed supported such a provision in the months preceding the attack on Pearl Harbor. It should be noted that for all the publicity attending the defense strikes in the early 1940s, there was actually less militance in 1941 than in any of the preceding ten years. Moreover, average levels of strike volume varied greatly across the regions, in contrast to the general homogeneity of opinion, as all groups opposed defense industry strikes at a high level.

The questions on the Wagner Act vary slightly in wording but prompt the respondent to identify as someone who would leave the Wagner Act unchanged or not. Since the law was evidently a tool for disruptive organizing and a *casus belli* for sit-down strikes, opinion on the law reflected sentiment about organized labor as a powerful force. Labor organizing under the law was the result of the Wagner Act being adopted and held constitutional, therefore opposition to the law implied
opposition to industrial unionism.

Figure 3.16 shows the level of support for leaving the Wagner Act unchanged in the Northeast, Mid-Atlantic, and Pacific Coast regions plotted alongside the national average. These regional opinion moved in tandem with the rest of the country; though, unsurprisingly, the NLRA was more popular in these core states than the rest of the country. Unlike the survey items examined above, the Pacific Coast did not support the pro-CIO response at an elevated level.

In Figure 3.17, we observe a similar pattern within the East Central region as well as in the West Central region. Perhaps surprisingly, in Figure 18, the South and Southwest did not markedly differ from the national average within and across surveys; likewise, in Figure 39 the Mountain West tracks the national average.

Across regions, there was never a majority for leaving the Wagner Act un-
changed, aside from an outlier reading in the Northeast. Though a majority of citizens did approve of unions generally, there was never a great deal of popular support for the law that had legitimized labor militance. Unhappily, though, these surveys began after the 1937 strikes, so there is no pre-*Jones and Laughlin* baseline for comparison. Nonetheless, it would be correct to state that there did not exist a solid pro-Wagner issue public that over time would have constituted a majority in any region.

Figures 3.19 and 3.20 depict the level of support for leaving the Wagner Act unchanged by class. Predictably, as shown in Figure 19 the upper-class respondents were less likely than average to oppose amending the Wagner Act. The middle-class, being the largest group in these surveys, tracks the national average closely. The lower-class respondents, as depicted in Figure 3.20, were likelier to support the Wagner Act than average, though, importantly, those survey measures move in parallel with the national average, nor are they well-elevated above the average. Likewise, in
Figure 3.16: Wagner Act Approval, Northeast, Mid-Atlantic, Pacific

Figure 3.20, we observe that those on the relief rolls were overwhelmingly more likely to support the Wagner Act; however, even this public moves in a parallel fashion. Nonetheless, there is some evidence of class cleavage on the Wagner Act, indeed as the NLRB carried on its work through the 1930s, the lower class and unemployed respondents formed a majority in support of the law. However, as Gross (1974; 1981) explains, the Board was changed in a more anti-CIO direction after 1938, so the machinery of the Wagner Act was changed over the course of the surveys during the late 1930s.

Regional opinion toward the Wagner Act was largely correlated as all but one regional correlation was negative. Unsurprisingly, this was the South and Southwest region, which found the Wagner rights especially destabilizing. Contrary to the surveys examined above, the upper-class respondents and the lower-class respondents were positively related, though weakly. Nonetheless, the upper-class respondents
were the most weakly correlated with the national average among the class groups. However, over the course of 1939, support for leaving the Wagner Act unchanged declined and then rose at the end of the year: 54 percent of respondents would have left the Wagner Act unamended in February 1939, falling to 34 percent in November that year. The public disfavor toward the Wagner Act coincides with the Smith Committee hearings regarding charges of unfair application of the Wagner Act by the National Labor Relations Board. The Smith Committee recommendations drew union-hampering provisions from the Wisconsin and Pennsylvania 1939 'Labor Peace' Acts (Gross 1981, Chapter 4).

On a regional basis there was clear evidence of subgroup parallelism. Unsurprisingly, the Northeast held the Wagner Act in the highest esteem while the South and Mountain West were the least amenable to keeping the law on the books unchanged. The class subgroups reveal further evidence of parallel publics with respect
Figure 3.18: Wagner Act Approval, South and Southwest, Mountain West

to Wagner emendation. What is more, the lower status and the unemployed respondents did move in tandem with the other groups. That the unemployed would have pro-Wagner opinion does not follow unless it is assumed that unions were class vehicles. Predictably, the highest status respondents were the least inclined to leave the law unchanged. For the most part, before the second World War, the public was already quite open to the idea of amending the Wagner Act and this viewpoint was not limited to the owners of capital and the managerial class. The strike-hampering provisions that characterize the present legal regime were adopted by governments that were in line with mass preference in policy.

Though Roosevelt was lukewarm on the Wagner Act, it came to be a central legislative achievement, since the unions it legitimated were evidently a major com-

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9Which they assuredly were not; not even in the eyes of the most militant leader of them all, John L. Lewis.
ponent of his landslide reelection; further, the Wagner Act would be the proximate cause for the court-packing scheme, as the Court was evidently inclined to strike down the Wagner Act. For this reason, I graph approval of FDR against support for leaving the Wagner Act unchanged. In this respect, I am asking whether those who supported the president would have tended to prefer leaving the law he championed unchanged. Though the public on average expressed 33 percent support for leaving Wagner unchanged while those who approved of FDR were 45 percent in favor of leaving the Wagner law unchanged. But here, as shown in Figure 21, the pro-FDR opinion converged toward the view that Wagner should be amended. And, after the 1938 elections, the president would move to staff the National Labor Relations Board with members more inimical to the CIO (Gross 1974, Chapter 4).

In 1937, public opinion on the Court packing episode is measured by responses to the question: Do you approve of the President’s plan to enlarge the Supreme
Court? The subsample responses are reported in Figures 3.22 to 3.24. The regional subgroups reveal an interesting pattern in that the Pacific Northwest (Figure 3.22) and the South (Figure 3.24) were the most supportive of enlarging the Court though all groups converged on the mean by mid-1937. Overall, the public expressed 48 percent support on average for the court-packing scheme, though this was a 52 percent average before *Jones and Laughlin* and 44 percent thereafter. The South responded with the greatest inclination to enlarge the Supreme Court; this is odd in light of the region’s typical conservatism. On a class basis, the lower class (Figure 3.26) moved closer toward the average that believed Article 3 of the Constitution should be left intact, declining from a 75 percent average before the Court reversed tack to 68 percent afterward. Thus, when the constitutional system came under frontal assault from a perceived class agent - or at least a broad reformer - the mass public favored maintaining the constitution it inherited. Or, as Caldeira (1987) found in his study
of these same Gallup polls, as the Court moderated its position, the mass public that supported the president lost its appetite for Court expansion. However, as Figures 3.25 and 3.26 show, the upper-class respondents were consistently below the national average in their approval of the court-packing scheme while those on relief were more likely to support enlarging the Court than average. Nonetheless, these two groups moved in tandem with the national average.

The states in New England were negatively correlated with the other regions. And, indeed, the New England states were opposed to the enlargement plan in each survey, in contrast to the rest of the nation, which tended to favor the plan before the Supreme Court upheld Wagner. Most regions averaged around 50 percent support for Court-packing while the Northeast averaged 39 percent.

The magnitude of change between polls in the time-series are also evidence
of opinion change. The regional and class subgroups tended to change about the same amount between survey readings on leaving the Wagner Act unchanged. A consistent outlier, however, was the Mountain West, which is attributable to some combination of measurement error and social polarization arising from strikes in extractive industries. The unemployed were the most unstable in variation between measures. A similar story applies to the defense strike items. Again, the Mountain West was the had the greatest variation between poll readings but the classes were more stable. Variation among the union approval and John L. Lewis data reveal an interesting pattern where the upper class was the most unstable, but this is attributable to rapid increases in disapproval toward unions and their increasingly expansive demands.

Taken together, with respect to the union approval and labor militance items, while the socio-economic class groups located themselves roughly in the expected
order, there was often not clear differentiation between the lower classes and the rest. Any overall coherence in opinion patterns applies to the super aggregated opinion as well as any group therein.\(^\text{10}\) The opinion data presented above reflects a mass public that was largely in sync in terms of levels of support or disfavor toward unions although some class and regional differences existed. The mass public tended to disfavor the sit-down method and it tended to hold strikes against the war effort - even before the war began - in low regard. Indeed, in 1937, in two Gallup polls, the public favored the adoption of a ban on sit-down strikes at a 60 percent level. However, the respondents on the relief rolls were evenly split. This is in keeping with Page, Shapiro and Dempsey’s (1987, 37) observation that the mass public looks askance on militant protest. This data historicize that result further. But this raises

\(^{10}\)It is worth noting that the classes retain their order within each region. The interaction between region and class is small.
the question of what explains why, say, militant protest against the Vietnam War succeeded where militant sit-downs in the 1930s failed? In part, the news media was increasingly friendly to protests as the war wore on (Zaller 1992) - which raises a question as to why the media moved in one case and not the other. The previous chapter suggests that editors were more implacably opposed to labor militance than literal militance.

Substantively, the mass public was in favor of laws that would greatly circumscribe strikes prior to the beginning of the War, and that the run-up to it only hardened those views. Furthermore, the public had little regard or sympathy for the militant union leader, John L. Lewis. This was likely more due to Lewis’ defiance of the government than of capital. Indeed, it was public favor toward the president that served to isolate the radical labor leader.

Figure 3.24: Court-packing Approval, South and Southwest, Mountain West
The direct causal link between media and opinion is untestable directly given the sparseness of the opinion data. Were the time-series fuller, then lagged variables would lend inferential leverage. However, it is implausible to assert that there was no connection between the homogeneous coverage of strikes and the homogeneity of national opinion. Moreover, the correlation coefficients presented below show a weak relationship between opinion at year $t$ and opinion at year $t + 1$ during the 1930s. In Figure 3.27, the union approval time series is juxtaposed with the volume of strike or CIO coverage, an inverse relationship is apparent ($r=-.03$ and $r=-.24$, respectively). As coverage increases, negative sentiment toward unions seems to increase as well. Though not dispositive, this is suggestive and consistent with the argument laid out in this chapter. The Lewis time series is much shorter, not even the entire Wagner to Taft-Hartley period, but the same pattern is apparent: the increased focus on Lewis implied a decrease in the esteem in which he is held by the mass public ($r=-.51$).
This is not surprising in light of his well-known opposition to defense mobilization (Lichtenstein 1998, 45-8). Furthermore, when the count on strikes and CIO articles is compared with the strike volume measure, a fair connection is evident. Coverage was tracking the amount of industrial disputes closely on an annual basis. The relative salience of strikes was not stoked by editorial decisions. Had editors wanted to expose readers to strike news, then the volume of coverage would have been less sensitive to the volume of strikes.

Because mass opinion was never clearly on the side of the radical workers - and, indeed, tended against them - elites never had to take seriously the claims of left-leaning workers. This, combined with capitalist structural power, served to ensure that a quick retrenchment of strike laws was a nigh-foregone conclusion. The backlash was partially ensured by citizens hostile to working-class militance and indifferent to working-class demands (Newman and Jacobs 2010, Chapter 1). Drawing upon
correspondence to President Roosevelt drawn from their work: "Most of us would not accept public gratuities - they are the gift of providence to the profligate and lazy and foolish for the greater part, though to be sure, all these have votes, and no doubt in excess of the hard workers and self-respecters” (Ibid, 18). "You pamper poverty and throttle thrift. [...] Your administration has coddled those whom it was politically expedient to conciliate and imposed upon those who, like myself are politically unorganized although we probably pay more taxes in the aggregate and have a greater stake in the country than any other class” (Ibid 20-1). "The middle classes have suffered a great deal [...] What has the government done to help this class? They do not belong to a union, so nothing has been done but to raise their taxes” (Ibid, 25). "The fall of prices took away our farm and savings. In spite of this, we have managed to send eight of our children through high school [...] We and our children, trying to keep from relief, are taxed 3 cents on every dollar to keep these people who have all the things we cannot have and when I complained to the authorities, they said, why you haven’t been refused relief have you? All of
our children work and not through luck. But if they have to give us everything they are being penalized for being industrious and are paying two sets of relief taxes - one for us and one for the neighbors who rest while the children work. We object to having relievers trying to put us on relief” (Ibid, 26-7). ”As it is carried on, [the relief program] is making paupers faster than any method ever devised [...] The relief families are sure learning fast how to work the racket and live better than the average farmer” (Ibid, 26). This correspondence to the White House from ordinary people who were often skeptical of government assistance exemplified why anti-strike laws more likely to be supported than opposed.

What, in the end, seems to have doomed working class radicalism in the United States is the lack of class consciousness on the part of its citizens. A deeper analysis might have been possible were researchers able to supplement the survey responses with just a bit more information about the respondents - vote choice, for example - a more comprehensive analysis would be possible. However, in terms of providing relief or allowing for legitimate worker protest, there seems to have been little effect from class consciousness. People who might have seen themselves as being deprived of the value they had created instead seem to have blamed their lot on themselves or Providence, being mystified by capitalism.

The meaning and content of strikes changed over the course of the New Deal. Sit-down strikes became defense strikes which became Reconversion strikes. The strikes were varied in their ends and sit-down strikes in defiance of statutes became less common over time (Lichtenstein 2013, Chapter 2). What unified the strikes, importantly, was that the strikes were costly to production. The initial wave of sit-down strikes were aimed at recognition while the defense strikes were toward multiple and diffuse ends while the reconversion strikes - which are typically viewed as a proximate
cause for the adoption of Taft-Hartley - were attempts at forging workplace citizenship (see Lambert 2005, Chapter 5 for a discussion of UAW- and CIO-led proposals). Likewise, temporal variation in opinion regarding strikes was not substantial and was generally negative. Nonetheless, the citizens’ divide between work and private life is bounded by a constellation of psychological factors that are historically constructed and attenuate the effect of class on citizens’ worldview (Katznelson 1981, 6).

This analysis is consistent with the Schickler and Caughey (2011, 186) conclusion that while “public views on labor unions in general were consistently favorable, attitudes toward pro-union policies, aggressive labor tactics, and militant labor leaders were highly negative.” However, in contrast to that work where the authors looked more closely at the 1940s, here this conclusion is shown to be applicable to the US prior to Pearl Harbor and, indeed, prior to the 1938 elections. By turning the focus onto the critical year of 1937-8, we get snapshots of the contours of mass opinion, which played heavily into the considerations of elites (Brinkley 1995; Eisinger and Brown 1998). Since the mass public and elites were comfortable with the existence of unions while disfavoring the militance directed toward programmatic ends, retrenchment was an unavoidable result.

As Page and Shapiro (1992, 287-8) point out, ”public opinion may change in a uniform fashion across the whole population, if the national media transmit similar information to all groups and the receive and process it in similar ways. This is especially likely to be true to the extent that different groups have similar interest or think in terms of public good and the collective, or national interest.” The collective interest is not a given; it is constructed in large part by elites. An important, though soon to be supplanted, medium for the transmission of pro-capital messages were newspapers. Elites sought to shape opinion and industrial unionists were hard done
by it. And, as Fones-Wolf (2000) points out, the CIO unions were aware of the media slant against them and recognized it as an obstacle to organizing and coalition formation.

Bearing the state cases in mind, it is worth emphasizing that the regional differences in opinion were relatively muted across surveys, each region was typically positively correlated with all other regions. Despite the distinctiveness of the local editors, the overall patterns of approval were consistent. Therefore, citizens in different states and regions cannot be said to have been marked by significant opinion cleavages. And, at the state level, the governing parties in New York and Wisconsin made similar moves. The Wisconsin state Republican Party in 1935 “pledged the worker the right to singly, or collectively bargain for working conditions and wages, either as an individual or through a representative of an organization of his own choosing,” but in 1937, the GOP “pledged to defend the right of labor to organize and bargain collectively” (Blue Book 1935, 487; Blue Book 1937, 282). The New York Democrats expanded their definitions of unfair labor practices under the protective regime to include the unfair practices of labor unions (Red Book 1939, 146). In Utah, the recognition of collective bargaining was dependent, in part, with the assent of the Mormon leadership, in light of the perceived communist threat posed by mine worker organizers in competition with Lewis’ outfit (Powell 1977, 98-100). Utah, though, had a labor board that was far less busy than its counterparts in New York and Wisconsin, handling less than ten percent of the caseload of the other two states (Cohen 1948, 11). In other words, despite the fact that strikes were differentially disruptive across political units, the attitudes toward them were similar.

The above presentation of regional sub-groups strongly suggest that the states that adopted Wagner-style laws were not marked by notable divergence in opinion
toward unions or strikers. The various regions moved in tandem and had similar levels of approval across survey items. The absence of state-level opinion data is lamentable, but it does not undermine the conclusion that regional parallelism was the rule with regard to worker protest before, during, and after the Second World War. Indeed, it would be fairly unlikely that the states of New York, Wisconsin, and Utah were all substantial outliers from their neighbors. Likewise, though there were differences in levels of approval by class, there was no divergent movement between the classes; that is, the sub-groups moved in tandem even though those on relief and the upper-class were distinct. The absence of contrary sub-group dynamics evidences the lack of class consciousness at the height of labor’s protest power.

**Conclusion**

In the first chapter, I noted that the same militance that won statutory gains for labor was the same militance that ensured statutory losses. In this chapter and the previous one, I asked whether that same militance had different results because of media presentation of strikes. Perhaps, though, there exists a reason for a substantial change in public opinion and voting behavior in the changing nature of strike grievances. The strikes that won the Wagner Act were strikes for recognition whereas the strikes that followed were strikes in furtherance of union wage and benefit demands, or in sympathy with strikes of that nature. Therefore, the mass public cannot be said to have been manipulated. In broad strokes, the policy outcomes people got were in line with the policy outcomes they received.

It would have been doubly tragic if the inability of the press to realize its democratic ideal was instrumental to the reversal of industrial democracy. This was not the case. Though the newspapers did emphasize the social costs of strikes without contextualizing of the worker grievances, the mass public cannot be said to have held
the opinion that the labor policy should have been more to the left. And, indeed, there is clear evidence that citizens did not wish to tolerate the industrial action workers had to take in order to maintain bargaining strength against employers.

The backlash against unions played out in the press though the mass public was clearly disposed toward taking the view that strikes to ensure union bargaining power were not worth the social cost. And, as we shall see in the next chapter, the strikes that prevented militant unions from garnering public sympathy were strikes that prevented labor from being part of a winning legislative coalition. The labor stoppages deprived consumers of desired goods while antagonizing essential legislative partners.

Citizens evidently had a limited respect for unions. Though happy to see unions exist, the mass public did not support radical militance nor did they support strikes in conflict with the war effort, prior to Pearl Harbor. Furthermore, the public did not support the Roosevelt presidency to the extent that lack of resolve on the part of FDR can be blamed for the delegitimizing of worker resistance. On the contrary, citizens supported FDR’s court packing until the Court agreed to uphold the collective bargaining law - note the decline in support across all groups after the April 12, 1937 ‘switch in time.’

The mass public accepted that unions should exist but generally had little patience for labor militance. In light of this, the failure of congressional conservatives to enact more repressive retrenchment programs can be viewed as a victory of sorts for the labor movement. Indeed, this dissertation has wrestled with the question of whether to treat the development of American labor relations as a glass that is half-full or half-empty. However, an interpretation that laments the missed opportunities of the New Deal is undermined with reference to the contours of mass opinion. We
are getting close to definitively ruling out the 'half-empty' perspective. In the next chapter, we will do so.
Chapter 4

State-level Origins of Anti-Strike Laws

Introduction

The introductory chapter presented the states as usable sites for comparative investigation during the Wagner to Taft-Hartley interlude. The succeeding two chapters framed the information environment and opinion patterns in which the states were situated. The citizens were found to be generally opposed to strikes and to have been presented newspaper articles that were generally unfavorable to strikes and strikers. Given that the various states shared a common discourse that was unfavorable to radical worker protest, in this chapter I ask, why did states adopt anti-strike laws? Further, why did states that adopted Wagner copycats adopt retrenching amendments in short order? This chapter will use a series of regressions to address the first question and reference to our key state cases to address the second; in both elements, the variable of interest is whether a state adopted an anti-strike law in a given year.
Recalling the introduction, this chapter assumes that the states are sufficiently similar to invite comparison. The analysis in this chapter also assumes that the politics within the states is sufficiently similar with the federal government to invite comparison. From an inferential perspective, broader comparison enables broader generalization about the logics governing politics. These assumptions are not particularly heroic because strikes lay bare much of the political struggle that organized politics seeks to sublimate.

Implicit in the preceding analysis is the assumption that the object of political contestation in the various political units is the opinion of the mass public. That is, the struggle for chamber majorities and friendly Labor Boards called for the marshaling of favorable opinions. And, from the late 1930s into the WWII period, public opinion turned against unions and this fact did not escape the notice of labor (Foster 1975, Chapters 1-2) or capital (Fones-Wolf 1994, Chapter 2).

The questions this chapter addresses also bear on the counterfactual wherein Wagner is left untouched. In particular, the cases exemplify anti-union political dynamics and suggest why alternative pro-union paths were occluded. In order for the unionists to have defended their early-Wagner strike rights, the labor movement would have had to organize and strike in a fashion that was costly to owners without spillover costs being absorbed by potential coalition partners. In practice, chief among these partners was farmers, who were quick to turn against the CIO. The potential for alternate coalition partners was dim at the time - quite rightly, the CIO sought to form an alliance with the NAACP in the following decade (cf. Baylor 2013). But, the third party option was evidently precluded in the 1930s, in light of the experience of the states.

The logic that produced the speedy retrenchment against organized labor evi-
dently applied to states that adopted Taft-Hartley precursor laws as well as the nation as a whole. Most important among these provisions were those pertaining to strikes because those laws served to turn the coercive apparatus against disruptive worker resistance. To begin, I aggregate the restrictive laws adopted by states pertaining to strikes that were subsequently in the Taft-Hartley law. In the remainder of this chapter, I will investigate the cases of several states that adopted protective laws after Wagner was upheld in order to draw out the logic of the previous chapters and to address the question of why the disruptive militance of the New Deal period was double-edged.

The cases will treat three of the five states that adopted protective laws modeled after the Wagner Act: New York, Massachusetts, Pennsylvania, Wisconsin, and Utah. I leave Massachusetts off to the side because its protective law provided for mediation but not for a Labor Board; therefore the state administrative apparatus was not tightly coupled with the militant industrial unions as in the other cases. The other four laws established a Board with adjudicatory powers regarding labor disputes. The Pennsylvania case will be referenced but is not a central focus because the labor stoppages in that state were marked by protracted and bloody showdowns (Lichtenstein 2012; Davin 2000). That is, the disruption in Pennsylvania, particularly in the 'little steel' conflicts, manifested the kind of violent class opposition that democratic politics is meant to sublimate. The remaining three states vary over the outcome of interest but are sufficiently similar as to warrant comparison. And, we shall see that the seeming 'odd duck' of Utah serves to elucidate the logic as an exceptions which proves the rule of disruption-backlash retrenchment.

The New Deal period was crucial in the development of the American state. And the expansion of the labor relations bureaucracy was one of the defining fea-
tures of the New Deal program. The statutory changes in Norris-LaGuardia (the anti-injunction Act) and Wagner (the National Labor Relations Act) spurred new organizing, particularly in auto, steel, rubber, and garment unions (Zieger 1986, Chap 2). When these laws were adopted, the industrial unions - the CIO unions - grew. And when the CIO grew, as we shall see, it caused the fracture of the political coalitions that adopted those laws in the first place.

Recent studies in APD on the origins of fair employment legislation in the states and the alliance between the industrial union and civil rights movements that realigned the parties have used proxies for CIO power, Republican control of veto points, and state-level variation in racial makeup as variables of interest (Zeitlin and Weyher 2003; Chen 2007; Baylor 2013, for example). In the following I investigate in a similar fashion, using state-years as my unit of analysis, bearing in mind that the restrictive statutes were reflective of mediated public opinion.

It is unlikely the protective statutes would have been passed at the state level in any instances had the federal government not passed the Wagner Act first. The construction of the Labor Boards with subpoena powers was necessary to give the pro-union laws force. And, it was the organizing spurred by the Boards and the very passage of the Wagner Act that caused the restrictive majorities to coalesce. A related question is why do states without protective laws adopt restrictive ones subsequently? That is, outside the South, is the policy shift a story of Republican seizure of legislative control spurred by militant union disruption? If so, then, this pattern of protection to restriction is just a story of capitalist disarray and subsequent reorganization. But an argument that places capitalist elites at the center of the story needs an explanation for the widespread application of social democratic policies in

1Sadly, there are not data on state level membership.
other countries. Although the American businessman has a unique distrust of his state (Vogel 1978; 1983), capital’s interest with respect to labor is invariant across time and space. More subtly, there was cross-national experience with social insurance policies in the 1930s (Amenta et al. 2001, 224); an argument that emphasizes the decisive impact of capital in the content of the Wagner Act needs to explain why elites who shared information arrived at wildly varying policies despite having the same interest.

Substantively, the protective laws entailed the formation of new institutions - the Labor Boards - to expand labor’s capacity. This was evidently the understanding that the CIO unions had, for every industry covered was faced with organizing strikes (Foster 1975, 8-11). And crucial to the explosive growth of the then-renegade AFL unions was the belief on their part that the Wagner Act had created a new space for legitimate, disruptive action. The Boards were the crucial enforcement mechanism for the protective labor relations acts.

The political undoing of the National Labor Relations Board has been treated extensively elsewhere (Gross 1974; 1981). However, the institutional irony of the labor relations acts is that their very energy was the primary cause of their undoing. The power of the young CIO within the Democratic Party was dependent on the legal protection and relief provided by a Labor Board. Because the new labor boards were active proponents of CIO organization, they served to work as an opposing force to the AFL which increased the AFL’s willingness to join the Republican coalition in some states, such as New York, as noted below.

In theory, a backlash implies that there existed a previous equilibrium that had been disturbed (Pierson 2000, 85). Before the Wagner Act, would-be union militants had little reason to expect that statutory gains would be effective in the face of
judicial opposition. The Supreme Court upholding Wagner in the face of political pressure solidified industrial union gains. The newly legitimized industrial unions were wedded to the Democratic Party, because the Labor Relations Boards that made the CIO growth possible were reliant on Democratic control. In effect, this served to contrapose unions with preexisting members of (state) Democratic coalitions, be they AFL-allied machines, agricultural interests, or white supremacists (Fink 1969; also discussions of Wisconsin Farmer-Labor tensions throughout the dissertation speak to this).

What this contraposing chiefly entailed was the CIO threatening to make the AFL irrelevant; or to displace agriculture interests. Recalling the discussion of feedback and equilibria in the first chapter, what CIO organizing strikes served to do was disturb an existing equilibrium. Labor was strong enough to break the old arrangement but it had far too little leverage to determine the emerging equilibrium.

There was a shift in the legitimate exercise of authority in labor relations as a result of the Wagner Act. New institutional actors, in the form of the industrial unions and the Boards, carved out space at the expense of the AFL, farmers, and the urban machines. What happened at the state level was not unlike what happened at the national level: widespread and salient, strikes served to generate public disfavor that formed the basis for Republican majorities (outside the South). The result was a fracturing of Democratic coalitions at the sub-national level, which led to Republican seat gains. The 1938 backlash was the result of union militancy under the Wagner regime.

Did strikers empowered by protective labor laws cause the adoption of restrictive laws? In order to examine the extent to which the concomitant backlash to CIO growth was determinative over restrictive statute adoption, I outline the analysis
in four parts below: first, a description of the data under investigation and the method; second, the results, which offer modest support, under a stern test of the theory; third, the case studies; finally, I conclude with thoughts on further study. This investigation is in the service of amending the literature on the role of labor in politics in the New Deal and the decline of US private-sector unions to include a place for outcomes at the state-level and to leverage these state-level comparisons to highlight the logics seeming to govern the political conflict between labor and capital. Statutory prohibitions on sit-down strikes, sympathy strikes, 'hot cargo' strikes, and jurisdictional strikes all served to diminish the range of legitimate disruptive activity in which unions, particularly industrial ones, might engage.

The environment of state politics was embedded in a context that had been defined by their failure to reverse the setbacks of the Depression (Patterson 1969 was among the first to notice this). In response to the shortfalls, the federal government expanded its spending and administrative capacity. Whether state government political and policy outcomes were more a function of partisanship or economic circumstance is an open question on the face of it. The economic crisis was deep and the 1938 recession approached the nadir of the Roosevelt years.

Ostensibly, the strikers made great gains in their organizational membership (see Table 4.1) through recognition strikes in the core industries and would have been well-served to maintain their independence from the Democratic administration. And, on the face of it, organized labor’s access to FDR’s burgeoning administrative state was the basis for a relationship worth cultivating. However, Roosevelt’s selective granting of access to Hillman and Murray (accomodationist leaders of CIO unions in textiles and steel, respectively) over Lewis (the militant head of the CIO and the mine
workers) helped deepen the rift within the industrial labor movement and wed the
mainstream of the CIO to the Democratic Party (Lichtenstein 1982, Chap. 3; Milton
1982, Chap 4). Rather than seeking their own fortunes under a separate banner as
Lewis recommended, the CIO threw their lot in with the Roosevelt administration
and with the Democratic Party outside the South.

This is not to suggest that the marriage with the Democratic Party was an
error, as such. It is hard to argue that Hillman was not as much FDR’s envoy to
labor as he was labor’s envoy to the President. However, alternate coalitions were
tried at the state level, and courses that led unions to be aloof from the Democrats also
failed to forestall retrenchment. Put all together, the hard left proposition that labor
might have secured a more favorable outcome through adherence to labor stoppages
is difficult to sustain. More subtly, access to government is of varying and quite
limited degrees of usefulness to a labor movement that cannot credibly countenance
voluntarism. Voluntarism is the idea that unions should ‘reward friends and punish
enemies’ as Gompers said - it is the idea that labor should support whichever choice
in a given election that is more palatable, or preferable. But this idea is inapplicable
in a context in which one party is highly oppositional.

Outside the South, we will see that the states that adopted union restriction
laws, with a broad or narrow statutory scope, were heterogeneous in their partisan
composition as well as factors of production. Within regions there was also significant
variation in statutory outcomes. As noted above, New York and Pennsylvania had
far different labor relations experiences (as did Oregon and California or Indiana and
Ohio). Neighboring states with similar characteristics traveled different paths.

This analysis of restrictive statute adoption leaves the committees in the cham-
bers unobserved. As the Ways and Means and Defense Committees were essential
to Dixiecrat New Deal retrenchment, so were subnational majorities to state-level retrenchment. However, the data are clearly in support of the claim that there was a relationship between militance in a state-year and whether a restrictive labor law was adopted. Although this analysis does not dive into the battles over statute adoption in the chambers, it is evident that the laws were enacted in response to strikes with an eye toward curtailing them. This chapter will deploy a mixture of methods to provide an explanation for the adoption of these statutes. First, the backlash explanation will be investigated statistically; then, narratively.

**Method and Data**

Following the periodization in the first chapter, the 48 states between the years of 1937 and 1947 inclusive, comprise my units of analysis. My outcome of interest is whether a state-year saw the adoption of a restrictive labor law and my key variables of interest are strike volume in the state-year and Republican control of a state veto point, the expectation being that these variables will vary directly with anti-strike law adoption. Republican control of a veto point connotes whether a legislative chamber or the governorship was controlled by the Republican Party (Council of State Governments, 1937; 1939; 1941; 1943; 1945; 1948). As the Northern Democrats were motivated by an interest in leveraging the New Deal labor relations institutions to sustain the growing industrial organized and immigrant voting bases, the Republican officeholders were motivated by the demands of business organizations and agricultural concerns. I do not double-count multiple anti-strike statutes because any and all of the banned labor stoppages were and remain essential for wage earners to obtain leverage over their paymasters. I do not code for pro-union statutes because none were adopted aside from the Wagner copycats which will be dealt with in the penultimate section of the chapter. (See Table 4.8 for exemplar laws. As noted in the first chapter,
these laws were primarily bans on sit-down strikes and jurisdictional strikes.)

The disruption that arises from labor stoppages can be measured not only by the sheer number of workers involved, but also by its duration as well by their frequency. To this end, following Hibbs (1973), I employ a strike volume measure that accounts for all three of these factors. This strike volume variable is a product of the size, duration, and frequency of strikes. Size is the ratio of strikers to number of strikes. The duration is the ratio of eight-hour days (man-days) lost per striker. The frequency is the ratio of strikes to 1,000 workers in the labor force. This is called strike volume because it is akin to the geometric concept of volume: the product of length, height, and breadth (Ibid, 1036). The strike volume reduces to the ratio of man-days lost per 1,000 workers. This measure serves as an index of industrial conflict that is more comprehensive than the count of strikers alone.

Additionally, I include an indicator for whether a state is in the South given the distinctiveness of the states that mandated segregation. Because of the Dixiecrat interest in preserving racial segmentation, the partisan cleavage over labor relations is null in those states.

Also importantly, immigrants were politically distinct from the native-born: the native-born were typically in the skilled AFL while the recent immigrants were working in the unskilled jobs the CIO sought to organize. And, what is more, the black population was not overwhelmingly likely to support the Democratic candidate at the outset of the New Deal, thus helping install a partisan barrier between them and the white recent immigrants in their economic class.

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2The South are taken to be: Alabama, Arkansas, Delaware, Florida, Georgia, Louisiana, Kentucky, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
I attained the proportions of black, immigrant, and urban residents as well as state income per capita from the *Statistical Abstract* of the United States and my expectations are directly informed by the theories of disruption-backlash and labor market segmentation. A state with more urban residents has more individuals in a geographic space to be inconvenienced by a strike. A state with more blacks is likelier to have a more segmented labor force, implying an increased likelihood of restriction. Finally, state income is a proxy for state capacity; I argue that states with greater fiscal capacity would be less interested in restricting labor because the New Deal party within the state has more reason to ambitiously form a 'baby' New Deal coalition.

Penalized maximum likelihood estimation can be generally applied to data that suffer from quasi-separation to generate unbiased finite estimates (Firth 1993; Heinze and Schemper 2002). This has the attractive feature of enabling researchers to avoid dropping covariates or groups (Zorn 2005). That the data suffer from quasi-separation or 'sluggish' indicators is itself a fault of the data. (Bartels 2008, 28). However, the data offer the opportunity to present a challenging test to the hypothesis that strike disruption was decisive. Because I focus on the adoption of anti-strike laws, the groups by state and year would be unbalanced if I deployed a standard logit model; therefore, I use penalized maximum likelihood estimation to find odds-ratios that would be analogous to those estimated by a standard logistic function.

Therefore, I estimate a logit model of the functional form: \[ Pr(Y_{ik} = 1|X_{ik}) = \frac{1}{1+\exp(-\sum \beta_{ik}X_{ik})}, \]  where \( Y_{ik} \) is the probability that state \( i \) adopts a restrictive law in year \( k \). \( X \) is a vector of indicator variables associated with each state-year.\(^3\)

\(^3\)One might want to deploy a Cox regression or some other Event History method (like the seminal Berry and Berry 1994) but the controls in a hazard regression in this dataset would violate the proportional hazards assumption, and, therefore, bias the models. And, just as importantly,
These variables are whether the amount of strikers in a state, Black population, urban population, State income, as well as indicators for Republican majorities or governorships and Jim Crow laws.

Results and Discussion

[TABLES 4.2 AND 4.3 ABOUT HERE]

Strike volume finds support as a variable of interest. The strike volume variable, though significantly associated with restrictive law adoption, appears quite small in magnitude. By way of interpretation, every increase by one thousand man-days lost increases the odds of restrictive law adoption by a tenth of a percent; that is, every extra 10,000 man-days lost increases the probability of restrictive law adoption by one percent. The effect of this variable is significant alongside statehouse partisanship. States under at least partial Republican control were about three times as likely to adopt restrictive laws. The controls for state income, black population, and the Jim Crow dummy variable are all insignificant, though they carry the expected sign. Southern states and states with more blacks were more likely to adopt restrictive laws. States that were relatively more prosperous were more likely to adopt restrictions on strikes. Finally, the control for urban population is also significant in this model; on average an increase of state urban population by one percent implies a two percent decrease in the likelihood of adopting restrictive law.

Turning to the strike volume results for the non-South states in Table 4.3, we see that the strike volume variable holds the same value and reaches conventional levels of significance. The GOP veto variable, however, increases greatly in magnitude estimating a fixed-effects logistic model would entail substantial losses of statistical power as the data are quasi-separated both temporally and spatially - that is, there exist years and states that have no variation on the variable of interest. Because of this, variables or groups must be dropped for a finite solution to arise from optimization.
though is estimated less precisely than in the case of the previous regression. Here an increase in 10,000 man hours implies a one percent increase in the likelihood of adopting restrictive laws while states with at least partial Republican control are more than 12.5 times as likely to adopt a restrictive law. In addition, the state income variable is significant. Since this variable has been logarithmically transformed, the interpretation is not straightforward: the key takeaway is that increasing state income implied an increased likelihood of restrictive law adoption. And again, the urban share of the population is negatively associated with the likelihood of anti-strike law adoption, an increase of one percent urban resident implied a 3.5 percent decrease in the likelihood of law adoption.

Though the magnitudes are small for the strike volume variable, the association is robust to controls and the overall fit is high across models. Each component of the strike volume variable captures an element of the disruption caused by strikes.

[TABLE 4.4 ABOUT HERE]

The marginal effects for the full model with all forty-eight states are presented as differences in odds in Table 4.4. In the case of the binary variables, the marginal effect is that of going from zero to one and those are easily interpreted. The marginal effects imply probability changes for given values of the variables of interest. In this case, the probabilities implied by the marginal effects suggests that for every 10,000 man hours lost in a given year, the state was .29 times as likely to adopt a restrictive law; while moving from no Republican control to at least partial control implied the state was 1.32 times as likely to experience restrictive law adoption. These results are consistent with the view that the adoption of restrictive laws was driven by a backlash to strike action. The other marginals carry the expected signs.
The chief impact estimated has been a mediated one: that of strike disruption producing Republican gains outside the South. What happened in the states occurred before Taft-Hartley - moreover, the state level retrenchment even occurred before the 1942 Smith-Connally Act was passed. More importantly, the phenomena of speedy retrenchment and of restrictive law adoption in the states would suggest that the antipathy to labor union power was broadly shared in the mass polity. That is, the story of the crystallizing of US labor relations law was essentially democratic.

In this dissertation, CIO militance is proposed to be a neglected explanatory factor in the literature as a result of the neglect of the states during the New Deal. But this chapter does not have a direct measure of CIO militance - rather, it proceeds on the basis of overall militance. Measurement in this fashion runs the risk of conflating non-CIO militance with CIO-driven outcomes. However, we know from historical study that the CIO was a major component and instigator of workplace resistance. Taken together, however, the point estimates tend to support the thesis that restrictive law adoption was driven by strike disruption mediated by partisanship.

In the non-Jim Crow states, the Republican electoral victories of 1938 were themselves the product of disruption wrought by strikes. Or, at a minimum, the election of conservative legislators is a clear predictor of restrictive law adoption. This seems to imply a counterfactual that is consistent with the literature: no decline in business power, no protective laws; no increase in business power, no restrictive laws (Hacker and Pierson 2002, 318). Yet, to directly speak to this, a uniform proxy for business strength in the states would need to be deployed. Including a proxy for a neighboring state having a restrictive law does not add explanatory power to the analysis. In fact, the measure is highly correlated with southern statehood.

But the preceding analysis raises the question of why Republican legislative
majorities came to power at the state level; therefore, I estimate a regression model of Republican seat gains in the 1938 election.

I draw the Republican seat gain data from the *Book of the States* (Council of State Governments 1937; 1939). I add the seats in either chamber and use the sum. I attained the state income data from the *Statistical Abstract of the United States* (US Census Bureau 1940). I attained the FDR 1936 vote share from the California-Santa Barbara American Presidency Project. Finally, the measure of CIO density is drawn from the Troy count of dues paying 1939 members. In terms of expectations, as noted above, CIO density should be associated with Republican seat gains in 1938; state income\(^4\) should vary with Republican seat gains; and, FDR 1936 vote share should vary directly with Republican seat gains, under a balancing theory (as in Bafumi, Erikson, and Wlezien 2010).

Further work is needed to evaluate the seeming potential for omitted variable bias in state labor retrenchment models. Another concern is whether the results in the tables above were temporally as well as regionally driven. Indeed, it should be noted that a Chow test performed at the break date of 1940 based on the model in Table 4.1 yields a significant $F$-score (see Table 4.5). This indicates that there is a break in the coefficients between pre- and post-1939 groups (see Table 4.6 for odds-ratios grouped around the break date). Put another way, the politics of retrenchment against worker protest were deeply-seated in US politics. The coefficients for strike volume are similar, though only significant in the pre-1939 specification. The value of Republican partisanship is much higher after 1939, but this coefficient did not

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\(^4\)Ideally, I would be able to employ a measure for annual change in state income, but the *Statistical Abstract* does not allow for this.
approach conventional levels of significance. Importantly, 1939 is the only year where an $F$-test indicates a break in the regression coefficients.

The OLS estimates\(^5\) for the non-Southern states presented in Table 4.7 show a strong association between CIO density and Republican seat gains. A one-unit increase in the CIO density implies an average of 62 additional seats in the state legislature for the Republicans. That is, adding 1 to the ratio of CIO workers to the labor force yields the coefficient estimates. Therefore, each increase in CIO density by 1.5 percent yielded an average increase of one Republican seat. The control variables are not clearly associated with the GOP gains, which is furthermore consistent with the understanding that labor militance was a highly salient issue. Nonetheless, they carry the expected signs here where FDR 1936 vote, state income, and state urbanism vary inversely with Republican gains, if tenuously. It is particularly important that the income variable is insignificant because the 'Roosevelt recession' was as salient as the widespread labor stoppages. Density, though indirectly, captures the effect of militance because we know that the CIO could not and did not organize without a large element of protest. A competing explanation for seat losses, which we engaged with in the previous chapter, is the court-packing controversy, which resulted in a salient defeat for FDR. And, importantly, no interaction terms would approach conventional levels of statistical significance.

Taken together the estimations tabulated above point to the interrelation between strike disruption conceived narrowly or more broadly, partisan control, and restrictive law adoption. This lens points my investigation toward and under-explored path. The operant sections of the Taft-Hartley Act that circumscribe worker protest

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\(^5\)The $N$ is 29 because Nebraska and Minnesota are omitted since those states had non-partisan legislatures. However, it is more likely that the results would be strengthened by their inclusion, as the officials who won behaved in a decidedly conservative fashion.
percolated upwards from these state laws. The experience of the states was a priority in the drafting and advocacy for the Taft-Hartley Act. For example, as Representative Hartley (R-NJ) argued: "In many instances where secondary boycotts have occurred, union trucks have refused to haul products of honest hard-working American farmers. If the farmers or dairymen try to haul for themselves, their trucks are destroyed and their lives threatened. For instance, the lettuce strike in Salinas [California] in 1936 caused a loss of 2000 [train] cars of lettuce which would have been distributed over the United States" (*Legislative History*, 583). More to the point, Hartley elaborated: "One of the main objectives of this bill is to break down authority to call strikes which can cripple our entire economy" (Ibid, 784) Furthermore, the legislative history of the Taft-Hartley Act contains several references to state labor peace laws and how the national law is meant to be consistent with those statutes (Ibid, 422-4; 881-83, for example). Illustrative of this theme, Taft argued that "This necessary measure [anti-picketing provision] is practically contained in the Wisconsin Labor Relations Act and has been used in Wisconsin as a means not only of preventing the coercion of employees but also of attempting, bringing such action as can be brought by administrative law to end mass picketing...It would be the simplest matter and the matter which will bring up the least litigation to use the same words in this law [Taft-Hartley]" (*Legislative History*, 1032-3).

This project does not mean to suggest that the labor laws are mere scaffolding for subsequent bargaining games, nor does this study assume the efficacy of labor law; indeed, labor law is constitutive of the strategic context shared by the actors. As Hattam (1990) and Forbath (1991) argue, the (hostile) judicial regulation of the labor movement necessarily reduced the expectation that programmatic gains in the legislature would be effectual. Thus, voluntarism and dual unionism were rational
results. Indeed, the new labor laws passed in the political units constituted the
grounds for subsequent conflict, particularly in the labor relations boards. Most
importantly, though, the laws that were passed had been designed to control labor
militance. Furthermore, the primacy of militance is evidenced by the fact that New
Deal policy gains were won by the CIO unions before they were enforced by the federal
government. In a sense, the strikes conducted by the nascent CIO unions supplanted
the preexisting political authority which almost certainly contributed to the adoption
of restrictive laws.

Does the preceding mean that the people got the labor laws they wanted?
Seemingly, the unpopular disruption was met with an electoral backlash, itself con-
sonant with opinion polls regarding sit-down strikes and defense strikes presented in
the previous chapter. Restrictions on private-sector union strikes that emerged from
the Wagner to Taft-Hartley period decisively ensured that the principals of corpora-
tions would have an outsized influence on American politics (more on this in the next
chapter).

Cases

In this chapter, the dissertation turned its focus from the media and public opin-
ion to the politics leading up to laws restricting the right to strike. The previous two
chapters have emphasized that the citizens of the various states were, broadly speak-
ing, exposed to the same information and that region did not apparently affect the
way that information was processed. Bearing in mind that regional opinion was fairly
homogeneous, this chapter will be concerned with tracing whether and why states
that adopted Wagner-style laws adopted retrenching acts shortly thereafter.

This dissertation has been attempting to marry the behavioral and historical in-
stitutional approaches. Where behavioralism takes actions and expressions to be the site of revealed preference, historical institutionalism is concerned with how preferences are constituted and configured at particular times as products, not just causes; but as causes as well as products.

In the states we will examine below, we will observe that the strikes for recognition that precipitated Wagner reverberated through the political economy. The rapid success of the conservative backlash within heterogeneous contexts presents the opportunity for a most-similar comparison. Generalizing through the method of difference will suggest that the rules of the electoral game largely explain the successful retrenchment against class protest during the New Deal. Within the two-party structure the organized labor movement lacked - necessarily so - the leverage to turn the Democratic Party toward a labor-left agenda.

There are more potential explanations for retrenchment than cases in this chapter. (See Table 4.11 reproduced from the Introduction.) Therefore, I am relying on the previous chapters to eliminate plausible alternatives from contention. What I am aiming to draw from the 'laboratory of history' is a closer causal tracing of the mechanisms that governed whether the backlash manifested. And I rely on the similarity of the states to enable semi-experimental comparison.

Why did states retrench to anti-strike laws? The Wagner Act and the Taft-Hartley amendments have analogues at the state level during the New Deal. The adoption of the 'little Wagner Acts' mirrored the adoption of the national bill and the adoption of conservative amendments are harbingers of Taft-Hartley; these are a class of like phenomena that call for explanation. The union security laws created statutory protection for collective bargaining, thus strengthening the hand of labor against capital.
An important assumption - also relied upon above - is that the 1930s constituted a decisive break with the past, particularly in the area of labor relations. Though many proposals were considered by the legislatures early in the twentieth century, the economic crisis wrought by the Depression was likely an important causal force. More to the point, if the growth of the government was a continuation of a then-ongoing trend, then the presumed importance of the Depression period would be attenuated.

The restrictive labor laws arising from the boomerang against unions ensured that corporate tyranny would prevail on the shop-floor and, necessarily, I will argue, spill over into politics. The relationship between corporate power and worker resistance is clear: the acquisition of profits necessitated continuous production and the resultant labor quiescence contributed to the long period of annual growth that characterized the the 1950s to mid-70s (cf. Lichtenstein 2012, ”Postwar Accord”).

In evaluating the labor relations policy domain, the unity and hostility of American owners is relatively high in comparative perspective (Vogel 1979; 1981). Moreover, scholars have tended to assume that this business unity has led to political strength. But the American experience does not support the claim that business unity overrides popular majorities; rather, business unity is an imperfect predictor of legislative outcomes (Smith 2000). Mass opinion during the period does not directly support the claim that the citizens opposed Taft-Hartley or the drive to curb militant unionism, generally (see Chapter Three).

Existing scholarship on progressive laws in the states (Patterson 1969; Shefter 1983; Bridges 1997; Weir 2005) focus on how state level variation in capacity and political logics amplify or diminish the effects of progressive interventions. Distinc-

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\[6\text{As did the war effort.}\]
tively, this study aims to justify a generalized conclusion in the area of labor relations. Though I would not argue that the state-level politics were governed by an invariant logic, I argue that the actors in each state did perceive clear and contrasting policy and political goals in an equivalent fashion.

What is distinctive about this investigation is the aggregating of the state-level outcomes and the attention paid to specific subnational experiences in probing explanations for the distinctive American pattern of labor relations. Nations are all exceptional in their own way but the US case is preeminent because of its global role; and, more importantly, given the opulence of the American society, its niggardly policies are particularly striking. Moreover, state-level variation in labor laws suggests that deterministic explanations the emphasize unique institutional configurations cannot obtain. The states, sharing political rules and circumstances broadly, vary in the labor relations regimes they adopt; this militates against exceptionalist claims.

As the Democrats were motivated by an interest in leveraging the New Deal labor relations institutions to sustain the growing industrial organization and immigrant voting bases, the Republican officeholders were motivated by the demands of business organizations and, importantly, farmer’s groups. In the following, I examine the statistical finding above that backlash to union disruption was predictive of restrictive law adoption.

The statutes we have focused upon thus far are those that hamper class-based union protest as opposed to those that hamper union organization, financing, or political activity. These laws, though, were often passed in the same legislative session if not the package, so these phenomena are closely related, if distinct.
A portrait of American trade union decline is incomplete without a regional perspective. The declines in the South and Southwest are the product of labor laws that restrained new organizing and curtailed the scope of militance for existing unions. However, attention to the historical record reveals that the political, social, and economic conditions that produce legal regimes hostile to unions prevailed in states where unions achieved a range of outcomes, some of them fairly positive. This would suggest that union power is at most a decisive variable in explaining the adoption of laws at some times and not others.

Again revisiting Table 4.8 above, it is evident that the ownership of farms distinguishes Wisconsin and Pennsylvania. However, consonant with the statistical results from earlier in this chapter, the rural representation in the statehouses were the main bloc in retrenching legislation. Because the farmer-labor possibility was a threatening one to the status quo this chapter will focus on Wisconsin and treat Pennsylvania as a site for opportunistic comparison.

**New York**

The progressive capture of the New York executive was a defining feature of this case. Already strong unions were best positioned to capture the gains of New Deal legislation; in the New York case, the national anti-Injunction Act provided support to garment worker unionizing.

Most labor militance in New York State occurred in New York City. For the period under investigation and the years just preceding it, New York City accounted for 70 percent of man-days lost - and during the early Depression it was more than 90 percent (Annual Report of the Industrial Commissioner, 1931). The unions based in New York City, particularly the Clothing Workers (ACWA) and the Ladies’ Garment
Workers (ILGWU) actively lobbied for collective bargaining legislation. Moreover the NYS Federation of Labor tended to actively endorse and support Democratic candidates, in contrast with Gompersian voluntarism. And, indeed, the NYSFL joined Governor Lehman in his call for union security legislation in line with the Norris-LaGuardia Act (New York Times 8/15/33; 8/23/33).

And the garment workers were a potent force, given that the industry was mostly small firms on tight margins. In the wake of a tri-state area general dress strike in August 1933, Bernstein (1970) notes, "The union’s power was so complete that employer opposition collapsed at once....The employers accepted the closed shop..." (87). What is more, just a month previous, Secretary Perkins had to prevail upon ILGWU leader David Dubinsky to postpone a strike when federal-level negotiations over an industry code broke down (New York Times, 7/25/33).

The state of New York had a sharp urban/rural cleavage reflected in the legislature. The industrial areas of the state were Democratic strongholds and the less-industrial areas were held by the Republicans. The Democrats were strong in the New York City and the surrounding areas as well as the cities throughout the Hudson Valley and in the western part of the state. The Republicans represented largely rural districts and benefited from malapportionment. Thus, it was nearly impossible for organized labor to capture the seats they did not already hold.

Not unimportantly, elections in New York were governed under fusion rules; that is, a candidate could be endorsed by more than one party. Thus, the centrist parties can be pressured by the radical candidacies without those campaigns or their supporters being concerned that their vote would only serve to get the less desirable centrist party elected. In New York, the American Labor Party played that role on the left in New York politics.
After passing the state anti-Injunction Act in the previous session, Governor Lehman said in his State of the State address that "I stand ready to exercise my veto power and my right to appeal directly to the people to combat any plan to destroy what I sincerely believe to be the finest set of social legislation ever enacted by any State in the country. The State of New York has now reached a happy position" (quoted in New York Times 1/2/36). And later the same year, Governor Lehman reiterated his support for pro-union legislation at the State Federation of Labor Convention (New York Times 8/26/36). And in the next session, the State Labor Relations Act was adopted.

The first enumerated unfair labor practice was that of interference, restraint, or coercion of employees in their attempt to exercise collective bargaining rights. This concept is a direct intervention against the owners most basic strategy in the face of new organizing. The decision to whether and how apply penalties or issue judgments on the basis of this unfair labor practice, because of its lack of precision, is a residue of political contestation. In its first Report, the New York Labor Relations Board summarized their concerns thusly:

It is not possible, of course, to establish rules as to when a discharge will and when it will not be held a violation of the Act. Each case must rest upon its own facts and upon the inferences which may logically be drawn therefrom. While it is possible to list the various considerations which have affected the decision of the board in a particular case, no one of them alone can ordinarily be regarded as the determining factor where the Board has made a finding of discriminatory discharge. Invariably, the evidence reveals the presence of a combination of circumstances which, taken in conjunction, may lead to the conclusion that the discharge involved in the proceeding was in fact discriminatory (1939, 41).

After the progressive electoral victories in 1936, the Doyle-Neustein bill - the State Labor Relations Act (SLRA) - passed the Senate and Assembly overwhelmingly.
And the labor board created by the bill would itself be constitutive of the subsequent labor relations context. It should be noted that in the case of any of the Labor Relations Boards, the first effort was to find a way to compliance without resort to hearing or charges. However, the new Board would, like the national Board come to be seen as pro-CIO.

The SLRA was based off Wagner. However, unlike Wagner, which listed five unfair labor practices and left the interpretation to the triers of fact (read NLRB), the SLRA enumerated ten unfair labor practices and defined them broadly. Also, the SLRA contained a craft unit proviso (a majority of employees in a particular craft could make the craft a bargaining unit) and the SLRA permitted employers to petition for an election.

The NYSFL would not continue its support of the 'happy' labor relations paradigm erected in New York's Little New Deal. In the first two years of the SLRB's existence, there were ten contests where the CIO and AFL were directly competing for recognition and the Board found for the CIO in seven of the cases while the AFL won just one (in one case neither won employee majority and in another an independent union won recognition) (New York Times 9/18/39). As the NLRB came to be viewed as an enemy by the AFL (Gross 1981, 246), the NYSFL would come to oppose the SLRB. Indeed, after a crucial transit workers bargaining dispute was ruled against the AFL, George Meany declared the SLRB was seeking to impose 'Nazi-Communist' regulations upon labor (quoted in New York Times 12/7/39).

Where the state AFL affiliate was opposed to the operation of the State Labor Relations Act, the state CIO had 'not one single complaint' regarding the administration of the act (quoted in Kim 2000, 233). On August 28, 1937, the Triboro Coach Company entered into a collective bargaining agreement despite the CIO hav-
ing collected sign-ups from more than 109 of the 181 workers there. The State Labor Relations Board ordered an election which the CIO was favored to win. The AFL was incensed, having seen the Board put aside a previously existing collective bargaining agreement. And at its annual legislative conference in April 1939, the NYSFL condemned the Board’s resolution as being prejudicial against the AFL and beyond the color of law. The NYSFL would, subsequently, lobby in support of amendments to jurisdictional strike laws and make common cause with the anti-labor Republicans led by Irving Ives, a Republican state senator and later a US Senator who would vote for Taft-Hartley (Ibid 241-3).

The Ives Committee, a parallel to the Smith Committee, was formed after the conservative surge in 1938. With the support of the NYSFL, the SLRA was amended to weaken its union security provisions: crucially, the preamble was amended to promote 'partnership and cooperation between workers and employers;' and established arbitration agreements as having the force of law. This latter point is crucial, it encumbers workers’ legal recourse to protest grievances. The upshot of the amendments, as Dubofsky concludes, "Like the Ives bills, which weakened the New York State Labor Relations Act and therefore diminished the power of organized labor, the Taft-Hartley Act attempted to strip organized labor of what they had gained though the New Deal law and labor policy” (1994, 204).

Unlike the Smith Committee, the Ives Committee - formally, the Joint State Legislative Committee on Industrial and Labor Relations - was convened by Republicans, rather than by co-partisans of the administration. However, the differences between the Dixiecrats and FDR were not unlike the differences between Governor Lehman and the New York Republicans; it also should be noted that a substantial number of assembly Republicans voted for the SLRA much as House Dixiecrats
supported Wagner (*Red Book*). Again distinctively, the Ives Committee was designed to make "recommendations designed to increase industrial peace" in contrast to the anti-communist basis for the Smith Committee. In his *Story of a Legislative Committee*, Ives writes that "At the beginning of 1938, affairs between workers and employers seemed to be getting out of hand. Bad administration of the Wagner Act was threatening the proper administration of our SLRA which, with the backing of both industry and labor in the state, had been enacted in 1937. So the Legislature created a Committee of eight members for the purpose of finding out what could be done by law to bring about a happier relationship between employers and employees" (1944, 3-4).

Both Committees set out to rewrite the preambles of the protective labor statue it assailed and move policy in a more pro-capital direction. Both committees were interested in undermining the pro-labor 'bias' of the Labor Relations Board. The Ives Committee produced a number of bills, and unlike the Smith Committee's recommendations, some were adopted, including a new preamble and new employer guaranteed rights to oppose unionization during elections (Ives 1944, 8-9). However, the provisions that served to restrain militance - other than the ban on jurisdictional strikes - were in fact opposed by the NYSFL.

However, even in the New York case where the American Labor Party (ALP), a third party formed by the CIO’s John Lewis and Sidney Hillman (a New York garment union leader), stemmed the conservative tide in 1938, the state LRA was still amended in line with the Ives Committee recommendations. Ultimately, in the same way that the AFL, Dixiecrats, and Republicans in the Congress formed a majority for the adoption of hostile amendments to the Wagner Act, the NYS Federation of Labor and Republicans formed a state-level majority to adopt employer-friendly amendments to
the SLRA in the form of the Ives committee recommendations, which is analogous to the contemporaneous Smith Committee at the national level. Moreover, as the Taft-Hartley Act does concede that organized labor would be a factor in labor relations, the Ives bills likewise accepted the fact.

Taken together, the New York retrenchment was swift but blunted by Lehman’s governorship and the American Labor Party in the Assembly. Recommendations to alter rules by which the Labor Board adjusted disputes were chief among the Ives Committee proposals that were adopted. The New York case stands in the middle between no retrenchment at all and a full retrenching bill. While strike rights were not substantially curtailed, there were conservative amendments. The urban core of the state legislature was sufficiently numerous to resist legislative attempts to contract labor’s capacity for action. These outcomes dovetail with the regression results from the earlier in this chapter.

Strikes were not more popular in the Northeast, as we observed in Chapter Three. But the electoral ramifications were blunted. Nor could the local newspapers have been said to be neutral in their coverage of labor stoppages, as we observed in Chapter Two. Referring to the appendix in that chapter, we observe numerous examples of the Times and Herald Tribune declaring the strikes to be forms of insurrection with the articles typically preferring to use official sources or ownership sources as opposed to those of the strikers. In the coverage from major papers in the East drawn from the searches in the second chapter, the Times and Herald Tribune were carriers of net negative source-messages.7 Overall, the New Yorkers were not in a distinct information environment from those in Wisconsin, Utah, or the nation generally. As

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7Sadly, the newspapers from Wisconsin and Utah are not amenable to digital searches; therefore an analysis of source-message content is not possible.
discussed in the second and third chapters, citizens were expressing attitudes more on the basis of shared information and shared processing rules than they were operating with different apprehensions of the state of the world.

**Wisconsin**

The Wisconsin SLRA followed the Wagner Act in its definition of unfair labor practices for employers but not employees. And, like Wagner, a Labor Relations Board was created to certify unions and investigate unfair labor practices. Unlike Wagner, the Wisconsin Act specifically prohibited blacklisting and spying. Moreover, the Wisconsin Board had the mandate to prevent and settle labor disputes, unlike the Congress, which gave the NLRB no arbitration powers.

As a result of the SLRB, like the NLRB, there was a surge in new organizing, particularly on the part of the CIO. And CIO new organizing would split the Farmer-Labor Progressive Federation as cooperatives run by farm groups in the coalition were targeted for organizing (Holter 1990, 35). This split contributed to the demise of the majority coalition that had enacted a bill more pro-union than Wagner and paved the way for the Republicans to take the majority in both legislative chambers.

The 1939 amendments to the Wisconsin SLRA presaged Taft-Hartley in numerous respects. The Board lost its power to determine bargaining units - that is, the Board lost its power to decide what the bargaining unit should be. As a result of the defanging of the Board, its caseload dropped precipitously - unions seeking mediation or redress for grievances dropped by more than 90 percent (Ibid, 43). Also, it allowed for employers to call an election at any time. The amendments instituted a 2/3rd majority requirement for the union shop. Another important provision that antedates Taft-Hartley was the ban on the secondary boycott.
In Wisconsin, the SLRA was adopted by a coalition of farmers and progressives. However, the intervening strikes after the passage of the law caused the farmers to leave the coalition (Ibid, 37). However, just as CIO new organizing in the South doomed the union security majorities in the Congress, CIO new organizing in transport and dairy doomed the Farmer-Labor Progressive Federation. Nonetheless, the farm interests were contingent in their support:

...exemption from the scope of this bill [Wisconsin Labor Relations Act] cannot guarantee freedom from the disastrous effects, due to the perishable nature of our products, that labor disputes would have upon agricultural cooperatives. It is evident that exemption does not spell immunity. In view of this, these farm cooperatives withdraw their demand for such exemption. In doing this, we hope that labor will appreciate the fairness of spirit on the part of agriculture and we hope that such mediation machinery may be provided which, in the event of trouble, will be sufficiently fair, effective, and quick to meet the unusual problems that would inevitably result from a tie-up of our perishable farm commodities (Swanton to State Sen. Earl Leverich 3/31/37, WCAC Files, Box 8, Folder 1).

The Wisconsin Farmers Cooperative Confederation, along with the Wisconsin Council of Agriculture Cooperatives, was the preeminent farmer’s organization in the state in the 1930s. Milo Swanton, their Executive Secretary, said to to the state Manufacturers’ Association in 1938,

Unlike the industry manufacturer, the agricultural manufacturer maintains a constant production at a variable price. As an employer the farmer is also in a very different position because of his very seasonal production and because of the perishable nature of his products. An industrial strike is a loss to all concerned...However, the farmer with goods that perish in a few days or hours and with seasonal production is in a weaker position as a bargainer with labor than the industrial employer. It is for this reason that the Wisconsin Council of Agriculture, seeing the advance of organized labor into the field of agriculture and carrying with it industrial trade union policies, asked for a revision of state laws. (Wisconsin State Historical Society, WCAC Files, Box 3, Folder 8)
What is important in this passage is the fact that the Wisconsin farmer groups moved away from the union protection coalition into the restriction coalition because of the vulnerabilities to industrial disputes that were realized under the (baby) Wagner law. The exercise of power by workers in Wisconsin undermined their future capacity to exercise that power because it hurt the forces who were indispensable to the passage of protective laws. Swanton, in private correspondence to an editor argues that

The farmer is both a capitalist and a laborer; and while in the past he has been inclined to be sympathetic with labor, he has also come to realize that he has a large investment in land, machinery, livestock, and buildings. He is a purchaser of both consumer and capital goods. He has come to realize that labor policies and high rates have a definite effect upon his cost of production and that labor disturbances frequently invade his rights and his opportunities to make financial progress (Ibid, Letter to Roy Park, February 6, 1942, Folder 10)

The previous two chapters proposed that there was a bulwark in mass opinion against strikes that would increase workers’ relative power that coincided with prevailing unfavorable coverage of strikes and strikers. Here, though, we can see that the interests of would-be coalition partners with labor evidently diverged. The paths to forestalling Taft-Hartley were occluded in two ways: the citizens \textit{qua} consumers were opposed to the costs of strikes; and, incumbent coalition partners were affronted by those selfsame costs.

Unlike New York, the labor militance was dispersed throughout the state. The formation of the third party came from the radical farm groups that finally found an ally in the progressive wing of the state Republican Party (\textit{Milwaukee Journal} 3/4/34). The bill was passed by the Farmer-Labor majority after more than one hundred roll calls (Backstrom 1956, 332). However, the result would not hold.

CIO success came at the cost of farmer groups who had tipped the majority of
the state legislature toward labor interests. The CIO endeavored to organize cooperatives run by farm groups. These farmers, aggrieved by the concomitant strikes, realigned with the Republicans after the 1938 elections and then they introduced a bill to promote 'employment peace.' The Employment Peace Act changed the processes of unit determination, reducing the scope of Board activity in this area, in the same ways as the Taft-Hartley Act did for Wagner. Moreover, like Taft-Hartley, the Act outlawed secondary boycotts. This meant that unions could not operate in concert to disrupt production. Atomizing unions in this way kept them from operating on a class basis. More subtly, the theme of CIO new organizing disrupting long-existing patterns of economic and social domination leading to harsh retrenchment is a story that occurs outside the American South.

The Roosevelt recession was also costly to farmers: "Butter is the same in price as twenty-five years ago, while the wages of skilled workmen are, roughly, fifty percent higher. Can the farmer help to boost wages which he has to pay, while his own income stagnates, or goes lower?" (Swanton address to Milwaukee Chamber of Commerce, WCAC Files, Box 3). And, these losses exposed the rift: "It is true in a country like ours, with surplus farm production, that, when the farmers are prosperous the rest of society is prosperous. This is true because a surplus of farm product cannot be sold at good prices to unprosperous customers. The converse of this statement is not, however, equally true." (Ibid, "Mutual Relations of Agriculture, Labor, and Industry, WCAC Files).

The opportunity for a farmer-labor alliance, then, was very difficult to exploit. And, what is more, antipathy toward Lewis would make forming such a coalition difficult. In the _Hoard’s Dairyman_, a predominant industry newsletter in Wisconsin and Minnesota, an editorial argued that "control of food is a weapon. John L.
Lewis knows this. Any man who can control the distribution of food can control the destinies of the people. The organization of farmers into unions controlled by labor dictators would take away from farmers freedom of action, and could conceivably put farmers in a strait jacket from which there would be no escape” (WCAC Files, Hoard’s Dairyman, 1943)

In the way that Operation Dixie proved a grave threat to the Roosevelt New Deal coalition, CIO farm organizing proved a grave threat to Governor LaFollette’s little New Deal coalition of labor and farmers. And, indeed, progressives, who were Republican defectors went back to the Republicans in the 1938 elections. As Thomas Amlie, the progressive Congressman, pointed out:”Although organized workers did not vote for Heil, neither did they enthusiastically work for LaFollette, having become somewhat dissatisfied with the independent role the governor played in the matter of appointments to various boards and commissions, and the failure on the part of the governor to consult representatives of labor on plans of reorganization and matters of public interest” (Thomas R. Amlie Papers, Memoranda, Box 2)

One might wonder about the awareness level of farmers, though. Curiously, a Farmer’s Cooperative poll in 1944 found that more than half of the members were unaware whether the co-op was required to pay taxes; only 26 percent correctly answered that the co-ops were obligated to pay taxes (WCAC files).

The ascendant farmer-labor coalition elected with the support of organized labor and the coattails of FDR’s reelection campaign, delivered a protective labor law. The organizing that resulted from that law broke the coalition. The fractious relation between agriculture groups and organized labor, particularly the CIO, ensured that any progressive majority would need to be delicately ushered through the adoption and administration of its legislative program.
The Midwest was not out of step with the rest of the nation in terms of opposition to strikes. The *Milwaukee Journal* has not been archived in a fashion conducive to subject and keyword searching. However, as we saw in Chapter Three, the opinion in the Midwest was in sync with the national disapproval of labor militance. The agriculture bloc proved decisive in the state legislature in a context where mass opinion was cool toward labor militance. The crucial takeaway here, though, is the emergent opposition between the farm coalition that was essential to the progressive law and the CIO unions strengthened by that law.

Aside from the fracturing of the farmer-labor majority, the sit-down strikes in urban Milwaukee were themselves highly disruptive. Over the course of the first year of WLRA administration, there were 28 sit-down strikes in Milwaukee. Nine hundred workers in the textile affiliate of the CIO sat down at the Rhea manufacturing plant for 17 hours. The garment workers held the factory throughout the night and saw their wage and workplace safety pleas answered the next day (Holter 2001, 214-5). But, over the course of the year, the sit-downs became less a tactic for winning union gains and more a tactic in furtherance of shopfloor protest (Ibid 215).

**Utah**

Though we have been focusing on the cases of protective laws being wholly or partially retrenched, we now turn to a case where the protective statute remained intact. Indeed, in contrast to New York and Wisconsin, a restrictive statute did not even make it onto the legislative calendar following the 1938 elections (Hinton 1975, 160)

Utah was ravaged by the Depression, having the fourth highest unemployment rate in the nation in 1934. Further, the mining industry, which was the basis of the
state’s economy was decimated by the Depression, seeing a decline in mineral value from approximately 122 million dollars to 22 million (Ibid, 4). And, Importantly, the Mormon First Presidency was in favor of capitalism and against socialism in principle. And all Mormons are beholden to the directives of they First President (this is a more serious commitment than say a Catholic has to the Pope). The Mormon Church cannot be said to have dictated political behavior during the early statehood years but at least some politicians did feel sufficiently beholden to change their votes on spending bills and Senate elections - and in one case even changing parties and switching again on church orders (McCormick and Silito 2011, 439-42).

These distinctions do not render Utah unsuitable for comparison with the other states. Though it is a state with a religious power parallel to the civil government (more on this in a moment), it is not as if the Mormon domination of state politics had subsumed political conflict, as there was stiff partisan competition between the Democrats and Republicans since it had acceded to the United States. Also, it is important to note that the state was ravaged by the Depression and was a major recipient of relief expenditures. Ranked ninth among the states in receipts from federal spending from 1933 to 1939, Utah benefited from New Deal programs. This is attributable to Governor George Dern’s having been appointed FDR’s second Secretary of War, though Utah’s unemployment rate was more than twelve points above the national average (Cannon and Embry 2009 115-6).

The Mormon hierarchy largely opposed the New Deal and sought to get people off the relief rolls and put them on to the Latter Day Saints Security Plan (Cannon 2004; Darowski 2009). On the other hand, some Mormons helped people enroll

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8The LDS scheme is extant, rechristened as the Welfare Plan in 1939, though most of its clients are located in the third world nowadays.
in FDRs relief programs at the outset to the New Deal. With respect to foreign policy, the Mormons supported FDR in lockstep; favoring intervention in the second world war and could be reasonably described as patriots. The long-time Senator Reed Smoot (R-UT) was an apostle and was openly endorsed by the First President leading observers to draw a link between the Mormon Church and the Republican Party (Hinton 1975, 183). However, the failure of the Church to forestall prohibition repeal as well as the delivery of Utah’s electoral votes to FDR in 1936 and 1940 go to demonstrate that while the Church was deeply influential, it was not able to set policy as it wished. Though the Mormon Church issued statements in opposition to the seeming unconstitutionality of the New Deal, it did not seek to erase federal contributions to the state budget (Ibid, 190). Broadly speaking, we can think of the Mormon Church as an influential pressure group during this period, rather than as a dictator.

That said, the Mormon Church officials tended to oppose the union shop provisions that were commonly a part of protective labor laws. Not only were Church officials typically businessmen, there also existed the fear that solidaristic unionism would supplant the Mormon faith (Powell 2013, Chapter 9). Nonetheless, when Lewis called on the United Mine Workers to organize in Utah in 1933, the question was not whether the mines would be represented but whether they would be represented by an independent union or the CIO. Ultimately, though citizens were wary of resultant price increases, the New Deal Democratic majorities ensured that protective labor laws would stand (Ibid). Indeed, the New Deal would lead to the election of Democratic majorities that would govern uninterrupted until 1970 (May 1987, 181). This is due in large part to the benefits Utah received from New Deal spending: Utah was ninth in per-capita spending among the states and the state’s own Chamber of
Commerce lobbied against decreased Civilian Conservation Corps federal spending in 1938 (Hinton 1986, 276-6).

While party control did not change from the Democrats until well after the War, Utah would abandon its protective law regime after Taft-Hartley’s passage in 1947. Likely between the influx of Black soldiers and the national Republican turn against labor, the Mormon leadership saw an opportunity to press against socialism which was opposed by the Church hierarchy prior to the New Deal because “Socialism endangered capital; God’s kingdom should be one where business interests and investments were safe; Mormons should champion the capitalistic system and the values on which it was based and work within the two-party system to support it” (McCormick and Silito 2011, 421). Though, in all fairness, the First President opposed FDR’s reelection in 1936, after the church had enacted its Security Plan and Roosevelt carried Utah by 70 percent of the vote in that election and would gain more than sixty percent of the vote in the next two races (Frankoski 2009, 169).

Though the adoption of the Wagner Act impelled further organizing in Utah’s copper and silver mines, the resultant chaos did not spill over into the major conurbations. The general strike in Eureka, Park City, and Bingham mines from October 10 to December 16, 1936 resulted in property damage and violence between picketers and strike-breakers and led the (Summit) county Sheriff to request that the Democratic Governor Blood call in the national guard. In response, the governor sent a skeleton force and mediated the dispute. The resultant wage increase was hailed as a victory for labor (Deseret News 12/8/16, 1; Hinton 1975, 217). There was some organizing among taxi drivers and auto mechanics in Salt Lake City, the scale of this organizing was in no way comparable to the general strikes that crippled major metropolitan areas in the East and Midwest.
Thus, the Utah strikes were not particularly disruptive because the radical unions in the mining industry did not generate an interested constituency that would leave the protective majority to help form a retrenchment coalition. In contrast to the logic that prevailed in Wisconsin, there was no farmer interest to overcome and in contrast to the logic that prevailed in the New York, there was little urban citizenry to provoke with shortages, nor would workers have been inclined to impose such shortages on people they considered brethren as more than two-thirds of the state was Mormon in the 30s.

Importantly, the state was homogeneous in its population; the state was the whitest in the nation in the 1930s. Interestingly, the state had an influx of black residents during the war as more than a million black GIs moved to Utah. This might be a cause for the Utahan move from protection to restriction, which would, of course be consistent with the received wisdom on New Deal retrenchment. But the homogeneity decreased the threat implied by radical worker militance because the Mormon church was not concerned about being politically or economically marginalized. Put another way, if there were some disruption, there was no reason for sweeping backlash because the mining unions would never have been ascendant in Deseret.9 Though the most widely-circulated newspaper in Utah offered more contextualized coverage of strikes than most other presses, the overall tenor of the coverage was negative in line with the articles analyzed in the second chapter. Altogether, it is more likely that Utah’s distinctive policy outcome was the result of a comparatively lower social cost to strikes than it was of a distinct information environment.

The state of Utah stands as the only state that did not enact a retrenching law

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9The name the original Mormon settlers gave to Utah. The Deseret News is the name of the newspaper the Church has owned and printed continuously since 1850; it was and remains a good source for the official line of the LDS chieftains.
after having adopted a protective law during the working class interlude. Though state urbanism was previously found to be negatively associated with restrictive law adoption, the Utah case is not particularly in tension with this finding because of the relatively muted worker protest. This view is, however, in tension with the core-periphery distinction drawn above. Utah was decidedly on the periphery, in contrast to the industrial core states that adopted protective laws, yet, unlike the periphery states in the Southwest, it maintained a protective labor relations framework until the Taft-Hartley amendments. Overall, this case suggests that there was a qualitative difference in the effects of militance depending on the arrangement of partisan coalitions ex ante. The apparent uniqueness of the Utah case indicates how it is an exception that proves the rule: strike retrenchment was avoided where the strikes themselves were not disruptive.

Discussion

What is being addressed by the historical comparison is the relative importance of union activity in politics conditional on partisan composition. Students of the laggard status of the American welfare state pay special attention to political institutions, particularly majoritarian electoral rules, federalism, and separation of powers. But a systematic comparison of the states challenges these explanations. Even in contexts where labor was politically strong, it suffered setbacks. Also variant across cases - though increasing over the 1935-47 time frame - was the unity of capitalists.

Taken together, in some sense the labor law outcome is a product of partisanship. However, partisanship does not carry a uniform meaning. Regional differences imply different coalitional fractures and alignments. For example, the farmer-labor divide (or coalition), was put under varying degrees of tension; whereas the in New
York State union density and a pro-union executive, itself elected by largely Catholic majorities, combined to create a circumstance wherein labor could achieve union security laws and blunt (if only somewhat) capitalist-led efforts at retrenchment.

Alternately, explanation arising from theories of political composition can be understood as the residue of social and economic forces within the political unit. That is, the partisan labels might not matter as much as the balance of the factors of production and the degree of racial or religious fracture. But, again, attending to demographics and economic factors yield heterogeneous results. The farmer-labor coalition for progressive policy was fractious to be sure. However, it is a question of degrees. And, the Utah and New York experiences suggest that different factors of production can yield similar statutory results. Though Wisconsin’s legislature had far less party discipline than New York’s - indeed, the Wisconsin lower house regularly had cross-party voting on the vote to organize the chamber and elect the speaker (Backstrom 1956, 339) - the partisan composition of the two 1937 legislatures that adopted SLRAs did not affect the substantive contents directly.

So, then, why were the protective laws adopted in the first place if they would be so easily undone? As Patterson (1967, 79) wrote,

"The reform impulse of the 1930s unlike that of the progressive era was federal in origin and limited in duration. [...] since many key New Deal laws affecting states – social security, the Wagner Act, and fair labor standards – were passed in or after 1935, and since the Supreme Court did not sustain them until 1937 or later, many states were reluctant to enact "Little New Deals" before 1937. Then the conservative reaction of 1937-38 descended and the main chance was gone.

Moreover, subnational Democratic parties were as fractious as the Party in Congress (Ibid, 80). The factionalism within the Party was at times the outgrowth of liberals confronting long-standing political machines and sometimes it was provin-
cial selfishness in the state chambers but the general upshot was to ensure that a unified Party program would not be adopted. The initial adoption of a protective labor law required a then-novel concept of the American state intervening in labor organization.

In practice, the socio-political coalition for progressivism in Wisconsin had to be a farmer-labor alliance. The majority of the political unit in most cases could not be unionist, so alliance would be necessary. (This is the logic that labor relies upon in lending support to the civil rights movements of the 1960s while subordinating the crucial goal of 14(b) repeal). In order to build an alliance with the farmers, labor had to offer inducements. From a programmatic standpoint, labor and agriculture could agree on the necessity of aid from the public till during the Depression. But the class actors needed a class vehicle. If a class is constituted by persons sharing utility functions, then it is evident that labor laws applied to agriculture result in a coalitional tension. That is, the direct result of labor militancy implies a loss for agriculture insofar as transport and workers are involved.

In this analysis, the equivalency premise takes a different shape. Across political units there is a struggle for internalization of the union to the Democratic Party or the Democratic Party to the union in each case. The extent to which unions are internalized, I expect, depends in part on the degree to which the AFL (dualist) can resist the CIO (monist) unions. In Wisconsin, the monist unions needed to coalesce with farmers to form a majority. That is, the rural urban cleavage is dominated by New York City in New York while Madison and Milwaukee had no such preeminence.

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10Not to suggest that had FDR actively sought to purge uncooperative Party members at the state level, the Democrats would have developed forty-eight New Deals. Though FDR was highly popular after his first reelection, there would have been entrenched and resentful forces opposing such an effort.
in popular terms by comparison.

What comes through clearly from considering the cases is that the CIO new organizing was destabilizing. In each unit under consideration, CIO new organizing and growing rivalry with the AFL exacerbated fault lines in the majority coalitions that adopted union security legislation in the first place. The labor law became constrained as a result of its success. This implies that the reason for the adoption for restrictive laws is the upshot of the adoption of the protective laws. The character of restrictive provisions adopted by the states of New York and Wisconsin also speak to the coalitional costs of labor action: New York adopted a ban on jurisdictional strikes while Wisconsin was sure to impose a cooling-off period on agriculture-related labor stoppages.

The media and public opinion probes in Chapters Two and Three revealed that the prospect for worker protest finding public support was minimal; and, further, that the media portrayal of strikes only served to limit that prospect. This chapter advanced the overarching argument of the dissertation in that it shows why the unions could not have forestalled Taft-Hartley under any plausible circumstance. The various states suggest strongly that the pathway to a workplace rights regime like the ones that govern the affluent counterparts of the US was a foreclosed possibility, even at the height of industrial union strength. Though the states provided varying political opportunities and threats, the result was the same across varying contexts. The unions could only avoid retrenchment in a political context wherein workplace resistance was not especially costly to preexisting political actors.

Attention to these states indicates that the intimate relationship between the Democrats and the unions was not the result of the union leadership having been co-opted or their having missed the potential of an alternate partisan coalition with
farmers. Furthermore, the successful resistance to the restrictive amendments in New York in contrast to neighboring Pennsylvania suggests that the rules of the game determined labor’s position in partisan competition. The shrewd progressive, Amlie, explained why voluntarism was a non-starter by the mid-40s,

The day is over when labor can afford to take the position that in Congressional contests it will support its friends and oppose its enemies. Unless labor takes the responsibility of bringing its friends into the political arena to run for office by undertaking to carry the financial load involved, labor will have no friends to support. This has been strikingly brought home in the present [1944] campaign. According to Governor Benson of Minnesota, there are only two candidates for Congress that liberals can properly support in Minnesota this year. In the other seven Congressional districts, the candidates who won the Democrat-Farmer-Labor nomination are no better than their Republican opponents. In my opinion, the situation is almost as bad in the other mid-west and northwestern states.” (Thomas R. Amlie, "Memo to Sidney Hillman,” ibid)

It appears more likely that Hillman and Murray made a strategic calculation that was basically correct: failing to wed with FDR and liberal Democrats would have likely ensured that labor would lose all its Depression gains in the post-war period, much as it did after the First World War (Gall 1989, 24-6).

The new institutions that enshrined collective bargaining in the law promoted disruptive militance which generated an electoral backlash. These labor boards altered the preferences of industrial unions because accepting the benefits of legal protection implied submission to subsequent amendments. To order large-scale extra-legal militance like the organizing drives of the CIO during its break from the AFL after Wagner being ratified by the Court would have cost the CIO its relationship with the president they paid dearly to elect. And the very acquiescence of the Court to the packing scheme itself further suggested that the CIO was well-advised to maintain its close alliance with the Roosevelt administration. Congressional conservatism
within the southern delegation combined with Republican hostility in the North also demanded that the labor movement eschew voluntarism and work to alter the group composition of the Democratic coalition.

But, just as importantly, Lewis’ voluntarism ran aground in its effort to form an alliance with farm owners. Due to their self conception as capitalists; their historical primacy over labor; and, inclination toward patriotism for the war effort, the farmers in the Midwest were themselves unwilling to forge such an alliance. Though these alliances were intermittently in power at the state level, the newly ascendant unions of the 1930s would not have been able to form these coalitions because the militance that empowered the new unions was unacceptable to agriculture.

The fact that heterogeneous states arrived at similar outcomes amidst a variety of union postures suggests that alternate political paths were occluded. Organized labor as a political vehicle was presented with four strategies vis a vis the parties and polities. First, quietism; second, voluntarism; third, form the parties-in-chambers with unionists themselves; fourth, become constituent members of the Democratic Party, like the British Trades Union Congress and the Labour Party. Each of these alternatives is freighted with costly tradeoffs, and moreover, each was tried with varying degrees of success. In the several states, the unions tried to staff the parties (MI), become central to the Democrats (PA, NY); play both ends against the middle (WI, OR).

The Michigan unionists were riven by racial division and therefore were unreliable a a progressive force. Moreover, though the UAW became a predominant force in Michigan politics, they were unable to unseat Republican Senator Vandenberg, who opposed Wagner and helped override Truman’s veto until after the passage of Taft-Hartley (Greenstone 1969, 111-4). In Oregon, the unionists were able to work
with Republican Senator Wayne Morse - who voted to uphold Truman's veto - but this course was freighted with difficulty. As Morse wrote to the CIO political director Jack Kroll late in 1949, "You people in the CIO are going to have to make up your minds in respect to my candidacy for reelection as to whether or not you want any liberals in the Republican Party. The attitude of you CIO critics in Oregon leads me to believe you want liberals only in the Democratic Party" (quoted in Foster 1975, 197). It eventuated that the CIO had to work to only have liberals in the Democratic Party because the third party option was not viable and because the Republican Party had senior officials as hostile to labor as the Southern Democrats.

But standing firmly with the Democratic Party, even outside the South, did not imply that the CIO could have forestalled retrenchment. In the states without a segmented work force, the AFL held great sway and their opposition to state Labor Relations Boards and to the new organizing helped galvanize opposition to the Democrats, particularly Governor George Earle (D-PA) who was unseated in 1938 (Davin 2000). And, the presence of fusion balloting in New York State enabled Hillman’s American Labor Party to operate as an adjunct of the Democratic Party without being subsumed by it and without siphoning votes off it. That is to say, the case of New York being without a significant retrenchment law (i.e. not one that inhibits most strikes) is not necessarily an implication that these comparisons indicate a way forward for labor. The cases are more useful to rule out courses of action.

Nonetheless, to counsel pre-War labor to take the militant tack that John L. Lewis recommended would have likely resulted in further legal repression, rather than further programmatic gains. Taken together, the results tend to strongly indicate that industrial labor would not have been better served by choosing a path of militance in line with Lewis’ persuasion. This implies that labor cannot expect to form a majority
for socioeconomic reform via militance without forming alliances with other groups, as standing on principle alone would more likely than not returned unions to the late 1890s. But this is something of a straw man, as Lewis did not counsel militance alone but sought alliances with farm groups (Zieger 1988, 118-24; James A. Wechsler Papers Box 1, WSHS).

From a strategic perspective, the unionists (particularly, the CIO) were not in a dissimilar position with respect to the Democratic Party than they were vis-a-vis capital. The withholding of the cartel’s services constituted the gravest threat the union could muster. And, like in a strike, the workers’ resistance is highly costly. What the unionists wanted to achieve in order to adopt social democratic policy was to ensure that a majority of the majority coalition in the chambers were pro-union voters. Because of the Dixiecrats, this was nigh-impossible in the Congress. But, in principle, this goal was achievable in the statehouses.

Students of American labor politics have not failed to notice the crucial importance of the CIO’s split from the AFL (Galenson 1960; Davis 1986; Rogers 1990; Weir 2013) which divided the American labor movement into an industrial wing with a Democratic partisan affiliation and a 'bread-and-butter' wing that often acted at cross-purposes with the other. What is distinctive about this dissertation is the systematic examination of the inability of the CIO to forge protective coalitions after the schism. The split between the AFL and CIO came to define labor politics from 1936 onward. Indeed, the fragmentation of American labor is a major reason the United States has never known a viable socialist party. As Zolberg (1986) argues, the American labor movement is the most decentralized and divided among the affluent nations. But all labor movements are distinctive for they are embedded in distinctive contexts (400).
The battle between the rival federations necessitated the use of jurisdictional strikes, which certainly helped foster the impression that labor stoppages were as much a tool for racketeering as they were a tool for economic or social change, writ broadly. Indeed, this line of argument featured in the Senate debate in favor of the ban on secondary boycotts. However, in areas where the transport union (Teamsters) engaged in secondary boycotts and hot cargo boycotts, these strikes were more often mafioso tactics than class-organizational.

Moreover, the fragmentation of American unions is a mirror for the contestation between class sympathies and particularistic benefit-seeking. The CIO was more designed as a class vehicle but its growth was dependent on the occupation of office by liberal Democrats. As a result, the CIO became internalized to the Democratic Party. The AFL, being threatened with marginalization, necessarily had to pose itself in opposition to the nascent labor-left coalition. Without a unified, or at least undivided, labor movement in politics, there did not exist a feasible majority for union security measures.

**Conclusion**

The rapid failure of protective laws outside the South implies both that racial segmentation is not what doomed the labor movement to adjutant status and that militant unionism would have failed even if the US had not entered the War. The cases in this chapter take a representative cross-section of the varying results that labor enjoyed at the state level; where New York serves as an exception that proves the rule. Fusion balloting in New York elections was and remains a crucial tool for a third-party vehicle on the left.

An expanded focus on labor relations in the states takes the unevenness of New
Deal interventions seriously, which suggests that study of the New Deal order should consider the national initiatives as being interwoven with differing political units. In a sense, the disconnections between the national AFL and CIO and political parties and the state-level organizations and parties generated an 'intercurrent' (Orren and Skowronek 2004) labor relations order.

The overall role of labor law has been, on the one hand, to provide a platform for asserting labor’s right to contend on an equal footing with capital but, on the other hand, to limit the very capacity to engage in militant confrontation. The price of legitimate access to the political arena is tactical moderation. But within this law framework, labor and capital have structural dissimilarities that favor the owners. Claus Offe summarized the problem thusly,

For the sake of their power, unions are forced to maintain a precarious balance between mobilization of resources and mobilization of activity, between size and collective identity, between bureaucracy and internal democracy. None of these dilemmas applies with comparable seriousness to business and employers organizations for the reason that they do not depend on internal democracy, collective identity, or the willingness to engage in solidary action, because of the very fact that they are already in a structural power position which renders complications such as these avoidable (Offe 1985, 187-88).

In a sense, Plotke’s (1996) argument is a restatement of Offe’s point in that observers should be impressed with the achievements of the poorly institutionalized labor movement in the midst of a relatively low-capacity American State. This point is well-taken as the CIO (and AFL) was in a difficult spot. It would not be wrong to say that unionists faced a Hobson’s choice between allying with the Democratic Party and increased militancy.

The only jurisdiction where the protective law was left intact was Utah, which, as we have seen, was unique in that the newly empowered unions did not threaten
to undo the preexisting political equilibrium. That is, although the New Deal was a challenge to LDS supremacy in broad strokes, the worker protest element in itself did not constitute a grave threat as it did to the order in political units in the industrial core, or racially segmented units in the periphery. The experience of the Wisconsin case clearly illustrates the immense difficulty of constructing a farmer-labor coalition after the New Deal.

But none of the above is meant to say that the Taft-Hartley Act would not have been passed without the states having passed laws first. Statehouses were not full of 'hayseeds' (Teaford 2002, 5) but they were not leaders in national policy on important substantive matters. The reason states passed laws that anticipated Taft-Hartley was, I have argued, because of the disruption to commerce and society wrought by industrial strikes that politically marginalized radical organized labor.
Table 4.1: Strike and CIO Membership Trends
Sources: Bureau of Labor Statistics and Troy and Sheflin (1965)

<table>
<thead>
<tr>
<th>Year</th>
<th>Strikers (1000s)</th>
<th>CIO Membership (1000s)</th>
</tr>
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<tr>
<td>1928</td>
<td>314</td>
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<td>1929</td>
<td>288</td>
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<td>1930</td>
<td>183</td>
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<td>1931</td>
<td>342</td>
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<td>1932</td>
<td>324</td>
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<td>1933</td>
<td>1,168</td>
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<td>1934</td>
<td>1,467</td>
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<td>1935</td>
<td>1,117</td>
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<td>1936</td>
<td>788</td>
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<td>1937</td>
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<td>1,991</td>
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<td>688</td>
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<td>1939</td>
<td>1,171</td>
<td>1,837</td>
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<td>1940</td>
<td>577</td>
<td>2,154</td>
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<td>2,362</td>
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<td>1942</td>
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</tr>
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<td>1948</td>
<td>1,435</td>
<td>4,450</td>
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<td>1949</td>
<td>2,537</td>
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Table 4.2: Penalized Maximum Likelihood Odds-Ratios of Restrictive Law Adoption, 1936-1947, All 48 States

<table>
<thead>
<tr>
<th>Variable</th>
<th>Odds-Ratio</th>
<th>95% Conf. Interval</th>
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<tr>
<td>Strike Volume</td>
<td>1.001**</td>
<td>1.00 - 1.01</td>
</tr>
<tr>
<td>GOP Veto</td>
<td>4.18**</td>
<td>1.68 - 10.41</td>
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<tr>
<td>South</td>
<td>1.16</td>
<td>.394 - 3.38</td>
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<tr>
<td>Urban</td>
<td>.972</td>
<td>.941 - 1.00</td>
</tr>
<tr>
<td>Black</td>
<td>1.01</td>
<td>.982 - 1.05</td>
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<tr>
<td>Income</td>
<td>1.85</td>
<td>1.19 - 2.86</td>
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<tr>
<td>Immigrant</td>
<td>.98</td>
<td>.899 - 1.07</td>
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<tr>
<td>N</td>
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Log-Likelihood: 148.840
Model $p > \chi^2$: .0064

* $p < .05$  ** $p < .01$  *** $p < .001$

Table 4.3: Penalized Maximum Likelihood Odds-Ratios of Restrictive Law Adoption, 1936-1947, Non-South

<table>
<thead>
<tr>
<th>Variable</th>
<th>Odds-Ratio</th>
<th>95% Conf. Interval</th>
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</thead>
<tbody>
<tr>
<td>Strike Volume</td>
<td>1.001**</td>
<td>1.00 - 1.002</td>
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<tr>
<td>GOP Veto</td>
<td>12.55*</td>
<td>1.01 - 155.66</td>
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<tr>
<td>Urban</td>
<td>.956*</td>
<td>.921 - .993</td>
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<tr>
<td>Black</td>
<td>.865</td>
<td></td>
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<tr>
<td>Income</td>
<td>2.45**</td>
<td>1.31 - 4.58</td>
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<td>361</td>
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Log-Likelihood: -83.528
Model $p > \chi^2$: .0056

* $p < .05$  ** $p < .01$  *** $p < .001$
Table 4.4: Marginal Effects on Restrictive Law Adoption, United States, 1936-1947

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<th>Variable</th>
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<th>Z</th>
<th>X</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strike Volume</td>
<td>.2971*</td>
<td>2.34</td>
<td>8.96</td>
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<tr>
<td>GOP Veto</td>
<td>1.32*</td>
<td>2.89</td>
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<td>South</td>
<td>-.031</td>
<td>-.06</td>
<td>.373</td>
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<td>Black</td>
<td>.013</td>
<td>.82</td>
<td>9.33</td>
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<tr>
<td>Immigrant</td>
<td>-.006</td>
<td>-.14</td>
<td>8.09</td>
</tr>
<tr>
<td>Urban</td>
<td>-.037*</td>
<td>-2.14</td>
<td>46.8</td>
</tr>
<tr>
<td>Log-Income</td>
<td>.224</td>
<td>.81</td>
<td>11.07</td>
</tr>
<tr>
<td>Owner Occupancy</td>
<td>.149</td>
<td>.08</td>
<td>.487</td>
</tr>
<tr>
<td>Farm Own</td>
<td>.139</td>
<td>.95</td>
<td>9.14</td>
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Table 4.5: Penalized Maximum Likelihood Chow Test, Non-South DV=Restrictive Law Adoption

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<td>.999 - 2.41</td>
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<td></td>
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<td>GOP Veto</td>
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<td>.922 - 287.78</td>
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<td></td>
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<tr>
<td>Break</td>
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<td>1 - 2217</td>
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<tr>
<td>95% Conf. Interval</td>
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<td></td>
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<tr>
<td>Break*Strike Volume</td>
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<td>.435 - 1.1</td>
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<tr>
<td>95% Conf. Interval</td>
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<td></td>
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<tr>
<td>Break*GOP Veto</td>
<td>.061</td>
<td>.003 - 1.15</td>
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<tr>
<td>95% Conf. Interval</td>
<td></td>
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<tr>
<td>N</td>
<td>576</td>
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<tr>
<td>Model p &gt; \chi^2</td>
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<td>Chow p &gt; \chi^2</td>
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*p < .05 **p < .01 ***p < .001
Table 4.6: Odds Ratios, Pre- and Post-1939

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<th>Variable</th>
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<th>Post-1939</th>
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<td>Strike Volume</td>
<td>1.008*</td>
<td>1.011</td>
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<td>GOP Veto</td>
<td>3.762*</td>
<td>51.921</td>
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<tr>
<td>South</td>
<td>1.343</td>
<td>1.214</td>
</tr>
<tr>
<td>Black</td>
<td>1.023</td>
<td>.977</td>
</tr>
<tr>
<td>Immigrant</td>
<td>.983</td>
<td>.971</td>
</tr>
<tr>
<td>Urban</td>
<td>.976</td>
<td>.970</td>
</tr>
<tr>
<td>Log-Income</td>
<td>1.485</td>
<td>2.051</td>
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<tr>
<td>N</td>
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<td>384</td>
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*p < .05   **p < .01   ***p < .001

Table 4.7: OLS Estimates of Effects of Republican Seat Gain in 1938 State Elections

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<th>(4)</th>
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<th>(6)</th>
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<td>CIO Density</td>
<td>58.79*</td>
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<td>60.2*</td>
<td>59.07*</td>
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<td>63.5*</td>
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<td>(24)</td>
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<td>(24.42)</td>
<td>(24.98)</td>
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<td>-.504</td>
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<td>-.211</td>
<td>-.222</td>
</tr>
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<td>(.429)</td>
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<td>(.495)</td>
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<td>-</td>
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<td>-.21</td>
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<td>-.194</td>
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<td>(.191)</td>
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<td>(.282)</td>
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<td>-</td>
<td>-</td>
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<td>-.056</td>
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<td>(2.82)</td>
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<td>(18.01)</td>
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<td>-</td>
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<tr>
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<td>52.37</td>
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<td>Adj. $R^2$</td>
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<td>.1277</td>
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*p < .05   **p < .01   ***p < .001
<table>
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<th>Year</th>
<th>Measure</th>
<th>Law</th>
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<td>Tennessee</td>
<td>1937</td>
<td>Sit-down Ban</td>
<td>Tennessee Code 1887, Title 160</td>
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<tr>
<td>Vermont</td>
<td>1937</td>
<td>Sit-down Ban</td>
<td>Vermont Laws 1887, Number 160</td>
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<td>Pennsylvania</td>
<td>1939</td>
<td>Baby Wagner Amendment</td>
<td>Labor Relations Act of 1897, amended</td>
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<td>1939</td>
<td>Anti-Violence Provision</td>
<td>Minnesota Laws 1899, Title 2, Section 1</td>
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<td>Minnesota</td>
<td>1939</td>
<td>Sit-down Ban</td>
<td>Minnesota Laws 1899, Title 9, Section 11</td>
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<td>Wisconsin</td>
<td>1939</td>
<td>Baby Wagner Amendment</td>
<td>Wisconsin Laws 1899, Title 3</td>
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<td>1940</td>
<td>Arbitration Strike Ban</td>
<td>New York Laws 1940, Title 851</td>
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<td>California</td>
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<td>Anti-Picketing Law</td>
<td>California Laws 1941, Title 100</td>
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<td>1941</td>
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<td>New Mexico Laws 1941, Title 1</td>
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<td>1941</td>
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<td>Texas Laws 1941, Title 100</td>
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<td>Mississippi Code, Number 320</td>
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<td>Alabama Laws 1943, Title 2</td>
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<td>1943</td>
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<td>1943</td>
<td>Right-to-Work Law</td>
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<td>1943</td>
<td>Hot Cargo Strike Ban</td>
<td>Kansas Constitution, Amendment 5</td>
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<td>1946</td>
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<td>Louisiana</td>
<td>1946</td>
<td>Right-to-Work Law</td>
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<td>Nevada Constitution, Article 15</td>
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<td>1947</td>
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<td>Hot Cargo Strike Ban</td>
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<td>Anti-Closed Shop Law</td>
<td>Maine Laws 1947, Title 30, Number 79</td>
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<td>North Dakota Laws, Title 28</td>
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<td>Congressional Quarterly 1994:67-716</td>
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<td>Katznelson and collaborators</td>
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<td>Troy and Sheflin</td>
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<td>BLS (Wawro and Katznelson)</td>
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<td>Census</td>
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<td>Census</td>
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<td>Mostly</td>
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<td>Owner Occupied Units</td>
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<td>Mostly</td>
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### Table 4.10: Variable Summary

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<td>.07</td>
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### Table 4.11: Summary of the Cases

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Chapter 5

Conclusion

Putting It All Together

The previous chapters have made the argument that the retrenchment against worker protest was a result in line with majority preferences and, indeed, was a fairly popular result across the nation. Yet, this dissertation has been premised on the claim that the abrogation of the right to strike was a depredation borne by the workers of the United States. So, then, the democratic competence of the mass public is called into question - but not from the public side; rather, from the elite side - because the mass public can only be judged based on the information available to it. The newspapers, though factual in their reporting, did prefer to emphasize the supply shortages and public disorder arising from strikes than the grievances or class interests being upheld by the labor stoppages.

In the second chapter, I turned to the information that citizens relied upon. I examined the coverage of salient and consequential strike episodes during the New Deal period as well as editorials and syndicated columns alongside automated keyword

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searches. I established that militant union leadership received the preponderance of coverage. And with respect to the content of news coverage, unfavorable items against strikes were generally prevalent from the Flint strikes onward. Also, official sources became more denunciatory over the course of the 1930s and 40s. That the content was analyzed episodically as opposed to continuously imposes a limitation on the conclusions drawn. Though it is unlikely, there is a chance that the content of media reports were more evenhanded than these samples suggest. More subtly, it is not evident that, to the extent coverage was against unions, the news was leading or lagging mass opinion. Whether editors and owners were ‘chasing eyeballs’ remains an open question. But I proceed with an emphasis on the finding that the coverage was mostly unfavorable to unions when it plausibly could have been more balanced.

The third chapter dealt with surveys of the citizens that returned retrenchment majorities to the statehouses in 1938 and the Congress in 1946. I examined surveys regarding support for unions, labor militance, the Wagner Act and militant union leadership and compared them on a regional and class basis. Although this dissertation has been somewhat agnostic on the puzzle of why the militance that led to protective laws also led to restrictive laws, the third chapter regarding public opinion data suggests a tentative answer: namely, that the public approved of strikes in furtherance of bargaining unit organization but deplored strikes in furtherance of working-class interest or in contravention of war aims. Though the opinion and media data are only analyzed graphically, it is evident that there was a connection between sentiment toward unions and volume of coverage. The survey data presented were arranged as rather limited time-series datasets because of the paucity of repeated survey items. Moreover, that the data were not broken out by state in some polls - instead by region - implies potential conceptual slippage between the opinion and
media data on a sub-national basis. The sampling procedure employed makes imputation of state level opinion difficult. Nevertheless, we saw that the citizens were not meaningfully divided along regional or class lines.

In the fourth chapter, we learned that the restrictive laws against unions were adopted in order to delegitimize worker protest. Here I regressed state-level characteristics alongside strike volume on the adoption of restrictive strike laws across the nation and in the non-Southern states. The statistical results suggested that the pattern of labor restriction was in some sense orthogonal to race, for the non-Jim Crow jurisdictions also rapidly retrenched against unions. Further, the statistical results in that chapter suggested that the turning point in labor law history was in the 1938 elections. As noted in that chapter, the baby Wagner laws might not have been adopted without the adoption of the Wagner Act in the first place, but the retrenching laws did not need federal leadership to be adopted. Moreover, this chapter does dampen potential observed variation in the laws in its focus on anti-strike provisions. Union activity went beyond strikes, of course. What is gained in recompense is a clarity of focus on worker resistance.

Alongside the work in these chapters, I compared states that elected to adopt 'baby' Wagner Acts, asking whether and how the logic of the chapter applied to the cases, and, in the fourth chapter, I asked why did they retrench so quickly. These comparisons dovetailed neatly with the statistical results, showing that organized labor coexisted uneasily with other members of the protective coalition\(^1\) while indicating that the skilled workers contributed to the programmatic defeat of industrial

\(^1\)Though it might be noted that farmer-labor coalitions had existed in both parties; the discussion in that chapter should not be taken as assuming that farmer-labor coalitions were inherently progressive, though it was undeniably progressive in the majorities they it enjoyed in Wisconsin and Minnesota.
unionism. Moreover, the similar outcomes among heterogeneous industrial states is in keeping with the key lesson of the mass opinion data: across regions, the public was hostile to labor militance.

These findings imply that the anti-strike character of US labor law would have found a genealogy outside the South, even if the Jim Crow delegation had not been opposed to the CIO. The subsequent experience of the US labor movement demonstrated that capital would grow increasingly intransigent as the usage and efficacy of the strike weapon waned. Strikes were not circumscribed to wage and benefit disputes under a contract because other strikes are just offensive to capital; they were circumscribed because other strikes are offensive to many in the mass public.

If there was in fact no connection between the unfavorable coverage that salient strikes received and the unfavorable opinion toward militance that was broadly expressed, then we would have encountered a notable coincidence. The connection between the unfavorable public opinion toward strikes and the adoption of retrenching policies is perhaps more tenuous. However, I did find that strikes in Northern states were positively associated with Republican seat gains in the 1938 elections. And, given that the capitalist class was united in its opposition to labor, the absence of broad public support for militance was a sufficient condition for retrenchment to take hold.

Nonetheless, if these linkages did not hold, the core observation that the behavior of the state legislatures in the 1930s took the character of a conservative reaction to liberal strike policy furthered by the Wagner framework would also remain valid. Furthermore, the core finding that this conservative reaction enjoyed broad tolerance, if not favor, by the mass public would remain valid. The argument that the glass was 'half-full,' also would remain valid, in light of the state cases.
As Lichtenstein points out, drawing from Daniel Bell, the Taft-Hartley law amounted to a statement of power more than anything else (Lichtenstein 2002, 137). Treating the restrictive legislative outcomes and the popular support they enjoyed without reference to their normative content would be an error. The extant legal framework that emerged from the New Deal is characterized by workplaces wherein workers are subject to the arbitrary dominion of owners and managers. And, when I say 'arbitrary,' I say this because the workers do not enjoy any meaningful check on the authority of management. The prevailing legal view is that workers are meant to obey the dictates of owners and managers. This perspective is rooted in the commodification of labor and the common law traditions concerning disposal of property (Gourevitch 2016, 315-7). In this chapter, I sketch an understanding of strike rights as being inherently bound in the bundle of rights that make citizenship real. But, one could just as easily follow Gourevitch in pointing out that the right to strike is a right to refuse to do work while maintaining a right to the job. This conceptual structure makes sense if we see the strike as a way of reversing the structural domination of workers as the most immediate, concrete point at which they experience that domination: the threat of losing, or never acquiring, a job” (2016, 318). That is, the right to strike is the right for a collective of workers to resist capitalist domination in itself.

In the remainder of this chapter, I will turn to the question of the relationship between strikes and freedom. The foregoing investigation of the delegitimizing and truncation of the right to strike was not motivated by a perspective that is neutral with respect to workers; nor was its central motivation an interest in the fortunes of labor unions as such; rather, it was motivated by the idea that abrupt and collective cessation of employment is an essential tool for securing the rights of workers, and,
by, extension, their political power. The phenomena of strike restriction is meaningful because labor is central to American constitutional development (cf. Orren 1995) as well as its political development, and is constitutive of much of civil society as well as economic production. In other words, the fact of strike restriction is also value-laden (cf. Putnam 2002, 'Chapter 1).

Strikes and Freedom, Reconsidered

The previous chapters have been preoccupied with delimitations on the right to strike. In this chapter, I will be guided by two questions: What is the relationship between strikes and freedom; and, how does the freedom to strike coexist with prevalent concepts of liberty? This chapter will be a good deal more normatively theoretical than the previous ones. We will be further interested in how the lessons of the crucial New Deal period bear on the present political economy whose labor market contains a large share of 'algorithmic' jobs (cf. Collier 2015), and, therefore, are patterned far differently on the shopfloor than in the New Deal.

Therefore, given the information that citizens had, was their opposition to strikes a wise attitude to express? In the present context, what is meant by 'wise' is a sound policy that coheres with democratic values. But in this instance, the policy that coheres with democratic values is one that is incoherent with liberty. Drawing upon David Hackett Fischer (2005, 4-10), observing the theoretical tension between the right to be a free person fully as part of a society of free people (i.e. freedom) and the right to be separate and independent (i.e. liberty). Further, English is the only Western language containing this bifurcation (Ibid, 11). Opponents, particularly conservative ones, of protective laws that shield labor militance typically emphasize(d)

2 Though I would suggest that it is impossible for a study of labor politics - or, truly, politics generally - to be normatively innocent. For this reason, I reject the typical reticence of social science to eschew value-neutrality
the violation of the liberty of contract borne by the worker excluded by union. Indeed, the problem with union dues was laid bare by opponents who argued that paying tribute to any organization one disagrees with as a condition of employment was an injustice. And this does not even contend with the urban scourge of union racketeering. Witwer (2005, 528) argues that this narrative played a central role in the late 1930s backlash against unions.

The investigation of the newspaper coverage of crucial labor episodes during the New Deal suggested that the newspapers were likely to rely on official sources and tended to give less voice to labor sources. Moreover, the coverage featured denunciatory statements against unions that usually were left unrebutted (examples in the Appendix of the second chapter). So, then, the pessimism implicit in my previous work was on the bases of political knowledge and perception (cf. Shapiro and Bloch-Elkon 2008): knowledge in the sense that the public was led to view strikes from the perspectives of those most interested in maintaining labor peace; perception in the sense that the strikes were framed as injurious to the war effort, or a threat to Lockean values of property and liberty.

Let us start with perceptual bias. Because strikes were framed by the press as a direct assault on the American tradition (cf. Hartz 1955) and unpatriotic - leaving aside the inconvenience wrought by strikes - the framing of strikes were commonly depicted as having placed the US in the ‘domain of losses’ (cf. Kahneman and Tversky 1973). That is, there was a mass cognitive bias toward viewing the costs of strikes, rather than imagining the kind of society that would result from labor denying capital the whip hand in socio-economic relations.

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3This is not to say that the conservative tradition in American political thought is more ‘essential’ than the progressive tradition.
Dahl argued that "if democracy is justified in governing the state, then it must also be justified in governing economic enterprises; and to say that it is not justified in governing economic enterprises is to imply that it is not justified in governing the state" (quoted in Frymer 2010, 609). I will not attempt to evaluate this syllogism here; however, I will argue that the extant imbalance in political power between elite citizens\(^4\) and the mass public - so great that Page and Winters (2009) term it 'oligarchy' - is a result of a demobilized and insecure workforce. This decline in worker power was attended by a decrease in union membership and militance. Contrary to prominent approaches in political science (Goldfield 1988; Getman 2010; Frymer 2010) I privilege the decline in militance over the decline in union membership or coverage. This is because collective bargaining is only secured by the threat of the labor stoppage.

What is the relationship between strikes and freedom, directly stated? If a person cannot abruptly cease working, in what sense is that person a free citizen? If a person cannot abruptly cease working jointly and simultaneously with confederates, then in what sense can the cessation of labor be instrumentally effective toward political or economic ends? These are more informal statements of the argument in the conclusion of Lambert (2005). The right to strike is indispensable to citizenship because work itself is inextricably bound with social standing and inclusion. As Judith Shklar argues, "the dignity of work and of personal achievement is [integral to] American civic self-identification" (1991, 1). And, like Shklar, I am persuaded by the contention that citizenship is best understood as a kind of belonging. What is more, I identify this right to belonging - the right to be a free and full part of

\(^4\)By 'elite,' I mean those citizens who are capable of causing serious trouble for politicians (i.e. damage their reelection chances) either unilaterally or in concert, given their number is small. So, then, labor leaders are only elites within the Democratic Party, largely as a result of the geographic concentration of labor density in the United States (Dark 2000; Roof 2011).
a society - is in tension with the right to liberty as construed in the tradition of American political thought. As Shklar points out (Ibid, 67), "this vision of economic independence, of self-directed ‘earning’ as the ethical basis of democratic citizenship” has been predominant since the advent of Jacksonian democracy; and, therefore, "we are citizens only if we earn" (Ibid). Indeed, it is not accidental that the Philadelphia convention never considered extending the franchise to low-wage workers for it was their considered view that their status of dependence on the pay packet disqualified them from citizenship (Forbath 1999, 18-20).

In contrast to Lambert’s argument, upon which I am indeed reliant, I do not defend the right to strike against the argument that the strikes are to be deplored for their inconvenience (cf. Bok and Dunlop 1970, 229) - a core goal of the Taft-Hartley amendments as presented in its statement of policy - in contrast, I take seriously the tension that was and continues to be powerfully exploited by conservative politicians. Thus, I am defending the right to strike against liberal and libertarian objections. The result of the New Deal, with respect to the emergent policy of strike restriction, was not a capitalist auto-correction; it reflected a majoritarian preference for anti-democratic policy.

The dominant school of thought in the formation of the Roosevelt labor relations policy was the industrial pluralist school. These thinkers held that collective bargaining was itself beneficial for society but only to the extent that it did not involve protracted labor stoppages. This is because in the pluralist tradition held that labor disputes were not born from class antagonism but rather from social complexity in large enterprises. A leading pluralist of the 1930s, Arthur Ross, acknowledged class antagonism thusly, "One of the virtues of collective bargaining is that it permits the formulation of limited issues which are amenable to resolution and blurs over the
large differences of principle which can never really be settled" (1954, 532). More pointedly, A.H. Raskin, a labor reporter and editor for the New York Times, argued

"I see no reason why in this institution alone [the labor relations order], of all facets of our society, we should exalt the right to make war as the hallmark of industrial civilization when we seek to exorcize it everywhere else" (1967, 136).

Conservative opponents to industrial unionism who proceeded on principle would likely endorse Hayek’s position that "the whole basis of our free society is gravely threatened by the powers arrogated by the unions" (1960, 269). Hayek, and the libertarians generally, were unalterably opposed to strikes because they involved denying to other citizens the liberty of contract to replace the strikers. The efficacy of a strike is indeed grounded in coercion. Therefore, for my position to obtain, I must make an appeal to a theory of justice; otherwise, I will merely be arguing for the privileging of workers interests over those of capitalists (or consumers). It would be tempting to appeal to Rawls’ original position here because any rational person behind the veil of ignorance would prefer that the rights of strikers trump the right to private property. This is because any individual would be far more likely to be in the position of worker than that of capitalist. However, the Rawlsian concept is based on individual liberty.

Thus, I focus on the right to strike as being a component of citizenship, an essential property of which is the right to belonging. Shklar, in her seminal work does not directly treat the right to strike but the work of TH Marshall upon whom she draws does. "Strikes usually involve breach of contract or the repudiation of agreements. Appeal is made to some allegedly higher principle - in reality, though this may not be expressly asserted, to the status rights of industrial citizenship"

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5This is the legal (logical) positivist reading of my claim.
And this is crucial: a one man strike is just a quitter. By entangling the group right claim to citizenship, the right to strike is placed on a secure theoretical footing. If a group of workers cannot exercise the right to strike, then they must be subordinate citizens; therefore, not truly citizens at all. Note, this is distinct from saying that the worker is servile because of dependence on the pay packet. I find this defense of the right to strike highly persuasive because denying a citizenship right constitutes a civil excommunication.

Implicitly, I have been conceiving of rights as a claim that circumscribes the legitimate grounds under which legal coercion might be applied. Necessarily, then, equality of rights must infringe on liberty - broadly construed. Here, I propose, following Dworkin (1977), that liberty be understood as a bundle of distinct rights and not as a broad shield. In the Hayekian concept of liberty and commutative justice, the right to several property is a shield against inequality. Yet, in contrast to Hayek’s supposition that social justice is a fig leaf for politically motivated expropriation, I emphasize that it is a purely theoretic contest between rights, that of citizenship and property. I can further appeal to Michael Sandel (1996) who argues persuasively that all rights are in some sense collective because all people must be embedded in a social context of some kind. By definition, rights involve a claim and a corresponding duty so they cannot exist in theoretical isolation.

Therefore, the Labor-Management Relations Act is a law that denies the social dimension of humanity. The right to strike necessarily implies a protection from job loss or criminal sanction as a result of industrial stoppage. In denying such protection(s), the extant labor law serves to excise social citizenship from worker citizenship. In their haste to delegitimize worker protest, the Congress promised to contribute to the atomizing of society.
Though the rationale of maintaining the free flow of commerce can be found in the Wagner Act, the Taft-Hartley amendments evidently turn the purpose of Wagner labor law on its head. In this sense, though, it could be viewed as an antecedent case-in-point for Schiller’s (2015) recent argument that the contradictions of progressive policies adopted under the Democratic regime doomed postwar liberalism from the outset. He summarizes thusly, "When liberalism emerged from World War II, the focus of workplace regulation was on ensuring the right of workers to organize labor unions, and on forcing employers to bargain with those unions. By the middle of the 1970s, the regulation of employers had shifted. Paramount now was the protection of the rights of individuals not to be discriminated against because of the immutable characteristics” (Ibid, 240).

Another way of understanding the policy responses to labor militance in state and nation is to note what the retrenchment chamber majorities did not do. To wit, none proposed unconstitutional legislation to disband unions, nor did they attempt to disband unions on an intra-state basis. Indeed, as Paster (2015, 21) points out, the politics surrounding the New Deal reforms suggest some strategic accommodation on the part of capital.

Citizens who themselves had little stake in capitalist accumulation undeniably had a stake in the delivery of consumer goods. Observers, such as Cohen (2003) have made the case that in the social arena, that citizens tended to place a primacy on their identity and interest as consumers. Halting production therefore pits workers against consumers as well as capitalists. So, it is hard to argue that there was an oligarchic distortion during the formation of New Deal policy.

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Such a measure would contravene the Wagner Act and so would have run aground upon the Supremacy clause.
Nonetheless, many observers of present-day politics would argue it tends toward oligarchy (Bartels 2008; Gilens 2012; Gilens and Page 2014; Page and Winters 2015, for example) and that the weakness of unions is a major cause of the United States’ distinctively unequal society (Morris and Western 1999; Stiglitz 2015, for example). The weakness of the unions as a class vehicle stem chiefly not from membership or density but from the absence of direct resistance. Indeed, the present-day gains for the labor movement, such as they are, are dependent on extra-union class-based social movement organizing (Fantasia and Voss 2004; Milkman and Voss 2004; Francia 2006).

Yet, worker resistance is essential to balancing capital. And this means more than union organization, membership, or density - for example, the German experience which shows that regulatory liberalization and economic inequality have risen even with high union density; this is because the unions prefer(red) insiders (cf. Thelen 2014; Collier 2015).

The present political economy has been increasingly characterized by non-production work in recent decades and that trend should continue. If, in this new economy, a CIO for the twenty-first century were to be formed, it would be based in the service sectors and the health care sectors. While the nurses and janitors have a worksite to seize, militance that denies medical care is as unsympathetic as strikes that cut milk delivery or strikes that undermine a war effort. Moreover, many of the present-day workers and economic losers are in atomized workplaces, making organization difficult - and making organization in the absence of militance useless. But, again, I do not recommend the importance of unions qua unions, for they are only politically meaningful for a broad swath to the extent that they engage in class politics. Indeed, public sector unions are all too happy to be adjutant to the Democratic Party,
as Democratic majorities serve as a proxy for worksite co-determination.\(^7\)

It should be noted that the use of replacement workers to break strikes has been an essential tool in the capitalist counteroffensive. The replacement worker doctrine comes out of late 1930s Supreme Court cases (cf. Klare 1978; Barenberg 1993). While the decline of the efficacy strikes would be impossible without the employment of replacement workers, the climate in which owners felt free to negate the right to strike is an outgrowth of the context in which they were embedded; namely a context in which the right to strike was narrowly legitimized.

Schiller (2015, 245-8) rightly argues that the collapse of the New Deal coalition had its origins in the very formation of the policy itself; because the New Deal offered so little to working-class whites, those voters were quick to bolt for the Republican Party. And because the labor relations framework made it difficult for civil rights demanders to believe that the union officers elected by white majorities would allow the unions to petition and be vehicles for racial justice, there was little on offer to Blacks. So, then, legal challenges raised by the civil rights demanders came into direct conflict with union rights. Had there been a robust right to strike, the industrial workforce would have been impelled to adopt racially harmonious policies (like that of unions in the young CIO, the autoworkers, mine workers, mill workers, rubber workers and textile workers), lest the Blacks be rational strikebreakers. So, then, if workers could strike freely, the tension between majoritarian labor law and minority-shielding employment law likely would not have made rivals of the merged AFL and CIO and the civil rights movement. Also, as Lee (2014, 236) shrewdly points out, the conservative movement, in its linking of union trouble with Black and

\(^7\)Co-determination also implicates political theories of dignity which are important but distinct from the focus of this chapter.
women claimants helped blunt the white supremacist undertones of the the ascendant conservative coalition.

The right to strike conceived as part and parcel of citizenship rights would lead to the imposition of the worker’s voice into the production process and enshrine the workers’ cartels as a civic institution. Industrial unions, then, were not merely a vehicle for wage gains, they were a potential site for self-government and, therefore, would have concomitant responsibilities to avoid the use of strike leverage as a means to secure sub-group advantage. That is, these hypothetical, non-Taft-Hartley-bound organizations, would have to elude the iron law of oligarchy. Whether this possibility is theoretically possible is beyond the scope of this chapter, though I would share a skeptical reader’s doubts. Nonetheless, this consideration is altogether distinct from the question of citizenship as belonging or whether rights to full belonging in society trump rights to property or liberty, broadly construed. It is worth pointing out, as Lambert (2005, 194-6) does, that the thirteenth amendment can be credibly read to guarantee the right to strike in its forbidding involuntary servitude; however, the Supreme Court has summarily dismissed this idea without seriously engaging it. That said, the ‘switch in time’ involved a shift in doctrine as great as this one.

In summary, the right to strike is a group right that conflicts with individual liberties. Because this group right is essential to citizenship (or, social belonging), it is presented as prior to individual rights to property and contract in principle. This argument generates the paradoxical insight that majoritarian preference ran counter to democracy. And, indeed, this preference was borne out, for democracy lessened and oligarchy flourished in the subsequent decades. This elides discussion of the intervening political shocks of the civil rights movement and economic shocks associated with deindustrialization, though; and this is why the present chapter has
taken normative theory as its focus, because the argument from principle is clearer than the argument from consequence, as unhappy as those have been.\textsuperscript{8}

\textbf{1930s Backlash and the Present}

The rollbacks that unions in Wisconsin faced in 2011 was one that overturned an old law, in contrast to the backlash of the 1930s that immediately pared down a new law. Upon winning the statehouse in President Obama’s first midterm, Governor Scott Walker and his co-partisans set about applying a right-to-work law to state and municipal employees (Stein and Marley 2013, 12-5).\textsuperscript{9}

Also importantly, the backlash against the public sector unions was one made in a context where the private sector unions had already been substantially weakened. And, indeed, an important element of the Republicans’ advocacy for the rollback of collective bargaining rights was rhetoric concerning fairness. If private sector workers are exposed to the vicissitudes of the market, why should public sector workers be insulated (Devinatz 2015, 9; Chesters 2016, 3)? But the previous decline of private sector unions was not only rhetorical in its effect. The weakness of existing unions also left the public sector unions politically isolated. Though Republicans were variously in support of public sector union security laws in the middle of the twentieth century, Republican unified government is necessary for substantial rollbacks at present. The partisan cleavage that emerged placed the public sector unions in an adjutant role to the Democrats; but unlike the 1930 and 40s, this role was one that was happily

\textsuperscript{8}Taking us back to our discussion of Smith’s (2000, Chapter 9) agnosticism over whether people would be better off under a social democratic regime. Here, our normative argument reveals that the middle tercile whose fortunes may or may not be better than their European counterparts have a stunted citizenship, even if the inequality that arose from working-class enervation is not demonstrably catastrophic for them.

\textsuperscript{9}The Democrats, while in the majority, had a chance to enshrine the collective bargaining agreements into statute, but were unable to muster sufficient party unity. Two Democrats defected and the measure failed in the upper chamber.
played by public sector workers.

Because of these limitations, a comparison between these eras is unlikely to be deeply illuminating. However, the argument that union weakness arising from the retrenchments against Wagner is connected to latter-day reversals is plausible. Notably, victory of the ‘Fight for 15’ in New York in 2015 was itself reliant on the ‘baby Wagner’ law adopted in 1937. In New York, workers picketed fast food restaurants and disrupted traffic on throughfares while protesting for a statutory increase in the minimum wage to fifteen dollars an hour. The New York Governor Andrew Cuomo established an industry commission with the purpose of devising regulations toward that end. These industrial commissions are authorized by the 1937 State Labor Relations Act.

Altogether, this exercise in historical social science is of less utility to students interested in union revival than it is to students of faded potentialities. This dissertation shows more about why and how the paths to American social democracy were occluded at the height of labor’s power. The 1930s were the only time in US history when business opposition to union formation and protest was overcome by the state or the unions. But, even given this, the present-day condition of legal and political weakness could not have been forestalled.

Limitations and Final Thoughts

This dissertation set out to see what could be gained from a revisiting of the Wagner to Taft-Hartley interlude with a focus on the uneven experience of the states. What came out of that analysis chiefly was an emphasis on the social control impetus aroused by union militance among the public. This causal emphasis stands in contrast to the emphasis that would be gleaned from study limited to the federal level where
scholarship has pointed to the preferences of the white supremacist delegation or the preferences of corporate liberals within the Roosevelt administration.

In exploring this pattern of retrenching laws against strikes, we turned to the media and opinion context in which the electorates were embedded. This investigation was inconclusive in terms of determining whether the public was manipulated but it did illuminate the hostility which worker protest encountered and, importantly, suggested that majority preference had been served by retrenchment. Investigation of these factors in the states highlighted the unease with which a muscular organized labor movement was integrated into the existing partisan coalitional alignments. But, just as importantly, the pattern of popular support for strike restraint carried with it thorny normative implications, which formed the focus of the present chapter.

Crucial among the contributions of this dissertation is to locate the turning point in US labor law history in 1938, as opposed to 1941, 1947, 1959, 1968, or 1980. Before the Congress adjourned in 1939, Senator Claude Pepper (D-FL) rose to intervene, "I am unwilling to let this session of Congress end without lifting my voice to decry the unrighteous partnership of those who have been willing to scuttle the American government and the American people and jeopardize the peace of the world because they hate Roosevelt and what Roosevelt stands for....I accuse that designing alliance of a deliberate attempt to sabotage the first real effort ever made in this nation to secure for the workers of America industrial democracy and economic emancipation. I accuse them of having prostituted their power to serve the US Chamber of Commerce, the Manufacturer’s Association, and the beneficiaries of special privilege who hate in their hearts the man who has tried to lighten the burden of toil on the back of labor (quoted in Patterson 1967, 326). Here Senator Pepper has identified the backlash as having occurred well before the traditional understanding. In short,
the limits of labor liberalism were reached at the height of the New Deal.

This is important because it strongly suggests that the present political order is an altogether unhelpful basis on which to proceed for the labor-left. If attempts to forge a new political economy at the apogee of militance were doomed, then the present circumstance is untenable.

At the outset, I argued that the investigation of the states would also yield counter-factual insight into the question of whether the Taft-Hartley Act might have been forestalled or prevented in addition to facilitating testing theories of New Deal policy change. In order to more convincingly make this case, further research might structure the historical path as a sequence of variations represented by nodes that connote the various strategies taken by state-level and local union affiliates during this period.

The experience of the states bears upon union revival in that imagining a muscular labor movement that is not subordinate to the Democratic Party requires imagining a political order in which the right to strike is respected. In the absence of this ability to exercise such power, it is nigh-impossible to suggest a different outcome. Though unions may coalesce with social movement organizations (e.g. 'Fight for 15,' the mass protest movement to raise the minimum wage to fifteen dollars per hour), the success of that struggle is dependent on attention-grabbing disruptive protest which raises the salience of their concerns. And, importantly, the major recent success that protest movement secured in New York State was an exercise of gubernatorial authority resting upon the old Doyle-Neustein bill, that is, the baby Wagner Act. But, here, this should not be taken to undermine the normative argument presented above, for the strike is a commercial (and, by extension, political) tool as well as an expression of worker citizenship and personhood.
This dissertation is in some sense limited by its temporal scope. If we expanded the time frame forward, we would contend with the role of public sector strikes in the latter-day relationship between unionists and the Democrats. While the public sector is strategically distinct from the private sector in terms of union purpose, protest, and organization, the central problem of how everyday citizens wrest control from the strong is the same. There is a cost to limiting the temporal scope to the adoption of Taft-Hartley but the limitation of the right to strike in the private sector was an essential component of the politics surrounding the incorporation of public sector unions into state politics in the mid-20th century. Put another way, it is difficult to believe that the depredations suffered by latter-day public sector unions are not a direct result of the losses incurred by unionists during the New Deal. Indeed, the rhetoric of proponents of state laws that erode public union security justify the public sector depredations on the basis that it would be unfair to exclude the government workers from the precarity faced by private-sector workers.

The relationship between capital and labor that prevailed in the industrial political economy is extinct; but, the relationship between the two forged during the New Deal persists. The relationship between white voters and the Democratic Party has changed; the unions that support the Democratic Party are now more likely to be public sector workers. The temptation for public sector unions to work for class gains\textsuperscript{10} or to use militance is diminished because the politicians constitute the senior managers. But, again, the relationship between the unions and the Democrats was forged during the New Deal and set the pattern for the next century.

\textsuperscript{10}Moe (2011) or DiSalvo (2015) would deem this an understatement and make the case that the public sector unions constitute a cartel of insiders extracting gains from the public till at the expense of the citizenry. I am agnostic regarding diagnoses of latter-day unions. Suffice to say, we have considered the roles and anticipations of militant worker activists and we can say that the decision to bureaucratize and become adjutant to the Democratic Party was freighted with tradeoffs.
The focus on the industrial political economy seems to limit the relevance of the dissertation to the present circumstance, for the nature of work has changed. The 'less hierarchical organization of the workplace in algorithmic jobs seems to suggest that workers are managing the managers as much as the other way around. However, there is an ineluctable disparity in power between owners and managers and workers, even if the workers are autonomous in how they go about meeting production goals. The social conventions of work are apparently less hierarchical than the industrial plants of the 1930s and 40s, but this is a veneer over the insecurity of the workers that are also increasingly atomized. In the final instance, the fortunes of workers remain dependent on their capacity to form effectual collective organizations.

Crucially, the judiciary has been on the outskirts of this dissertation while their causal role is quite central: judicial hostility explains why Lewis was right to form the renegade CIO, and judicial amenability explains the transformation of the Wagner Act from parchment into a social and political reality. This is consistent with Orren’s (1992) and Forbath’s (1991) ‘judicial supremacy’ argument: in the development of the labor relations order, the courts have served to set the rules of the game.

A virtue of this dissertation has been to ask whether the racial segmentation of the labor force and, indeed, US society was an essential component of the politics that established the extant labor law regime. The experience of the states suggests that the US would have had a comparatively restricted labor movement, even if the Jim Crow states had been in a separate polity. However, in leaving race off to the side, the present-day applicability of the foregoing insights is again limited.

These limitations notwithstanding, the foregoing analyses of the states and

\[11\text{A comparison with the experiences of other English-speaking nations would also lend insight onto this matter.}\]
regions strongly suggest that worker-protesters were in an untenable position even at the apogee of their might, and the resultant legal regime is more or less what the mass public wanted: unions should be legally recognized but their protest should be muted. The resultant original contributions are twofold: first, to identify a race-neutral explanation for the prevalence of union restriction; second, to outline pre-War limits to liberalism in the states. The subsequent course of events throughout the twentieth century substantiates the logic of placing our focus squarely on strike restraint across the nation and upon the hollowing out of the concept of freedom that arises from a truncated right to strike. These are consequential because they place the current oligarchic US politics in a perspective that highlights the absence of a class-counterweight precisely because worker protest has been diminished greatly.
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ment Printing Office.


Search Strings
Figures 1-3: All indexed strike articles: (((all(strike) AND labor AND at.exact("Front Page/Cover Story")) AND ti(labor OR strike) AND pd(19360101-19480101); John L. Lewis articles: (all(john l. lewis) AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); Racketeering articles: (all(union) AND racket* AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); CIO articles: (all(CIO) OR all(C.I.O) OR all(C-I-O) AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); Communism articles: all(labor union) AND (communist* OR reds) AND at.exact("Front Page/Cover Story")

Figures 4 and 5: John L. Lewis Articles: (all(john l. lewis) AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); Sidney Hillman articles: (all(sidney hillman) AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); Philip Murray articles: (all(philip murray) AND labor union AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); David Dubinsky articles: (all(david dubinsky) AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); Harry Bridges articles: (all(harry bridges) AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101); William Green articles: (all(William Green AND AFL) AND at.exact("Front Page/Cover Story")) AND pd(19360101-19480101)

Figure 11: Plea: all(labor union) AND (plea OR grievance) AND at.exact("Front Page/Cover Story" OR "Article" OR "Image/Photograph" OR "Feature" OR "Illustration" OR "Front Matter" OR "Editorial" OR "Editorial Cartoon/Comic" OR "News" OR "Commentary") AND pd(19350101-19490101); Demand: all(labor union) AND demand AND at.exact("Front Page/Cover Story" OR "Article" OR "Image/Photograph" OR "Feature" OR "Illustration" OR "Front Matter" OR "Editorial" OR "Editorial Cartoon/Comic" OR "News" OR "Commentary") AND pd(19350101-19490101)
Negative Framings
Flint Sit-Down, January 1, 1937 to February 22, 1937:

*New York Times:* "sit-down strikers still defying an injunction to vacate;" "Demands which are called conditions of settlement," January 4, 1937, pg. 1; "Alfred P. Sloan, president of General Motors, accepted the gage of battle offered by the United Automobile Workers of the Committed for Industrial Organizing," January 5, 1937, pg. 1; "General Motors held out little hope tonight of an early settlement of the strike which has thrown more than 52,000 men out of work," January 8, 1937, pg. 1; "every effort will be made to get men back to work and General Motors will never tolerate the domination of its employees by a small minority" January 17, 1937, pg. 1; "employees are engaged in a back to work movement," January 22, 1937, pg. 1; "the President’s statement was a rebuke to John L. Lewis," January 23, 1937, pg. 1; "the strike is an issue between property rights and no property rights," January 24, 1937, pg. 1; "employees being deprived of the right to work by a small minority who have seized certain plants and are holding them as ransom," January 28, 1937, pg. 1; "Sloan applauded the demonstration of loyalty and described that over 100,000 have signaled their desire to return to work," ibid; "these strikes have passed beyond the sit down stage into the occupational stage," February 1, 1937, pg. 1; "Congressman Reed of New York said that the sit-down strikes were the most un-American thing in America,” February 5, 1937, pg 1;

*New York Herald Tribune:* "The union has made collective bargaining impossible by using coercion,” pg.1; "The General Motors corporation today made public telegrams sent to it by leaders of craft unions opposed to the United Auto Workers of the Congress for Industrial Organizing, January 9, 1937, pg. 1; "The auto strike situation was worse here in its potentiality for violence tonight than at any point since its beginning,” January 29, 1937, pg. 1; "Sheriff Thomas Walcott mobilized the entire police force here to enforce an injunction order as Governor Frank Murphy ignored an entreaty by the Sheriff to send troops,” February 4, 1937; "John L. Lewis, the man behind the strike which has paralyzed General Motors and the Governor,” February 8, 1937, pg. 1.

*Chicago Tribune:* "the UAW-CIO met to coordinate the movement they started and which has gone somewhat our of hand,” January 1, 1937, pg. 1; "the manufacturers do not want a showdown but Lewis is forcing one,” ibid; "being led by a private group of labor dictators,” January 6, 1937, pg. 1; "the strikes which are an unlawful occupation of General Motors plants,” January 10, 1937, pg. 1; "the strikers mixed in riotous melees,” January 12,1937, pg. 1; "The strike of General Motors that has kept 115,000 out of work and has cost workers and the corporation 10 million dollars moved toward a definite conclusion,” January 16, 1937, pg. 1; "John L. Lewis said we helped Roosevelt lick industry, now let him help us lick industry,” January 22, 1937, pg. 1; "Lewis had baldly attempted to force upon the Roosevelt administration the obligation of repaying the political debt arising out of the support Lewis gave,”
January 23, 1937, pg. 1; ”General Motors corporation will continue its efforts Monday to reopening of plants not closed by direct strikes in order to give work to as many employees as possible,” January 24, 1937, pg. 1; ”The violence flared out of control with the suddenness of a cyclone resulting in a new sit-down strike,” February 2, 1937, pg. 1.

*Baltimore Sun:* ”Charging their enforced idleness to the dictates of a small group of radical agitators,” January 22, 1937, pg. 1; ”C.I.O. is a group of agitators and racketeers,” ibid; ”General Motors says a back to work movement is supported by 123,724 workers,” January 31, 1937, pg. 1; ”John L. Lewis strike dictator-general,” February 10, 1937, pg. 1.


*Christian Science Monitor:* ”the seizure and possession of plants is not sufficient to club an illegitimate demand out of employers when they have public opinion back of them,” February 12, 1937, pg. 1.

*Boston Globe:* ”John L. Lewis, generalissimo of the strike,” January 22, 1937, pg.1;


*Wall Street Journal:* ”United Auto Worker chieftains drafted a program of far-reaching demands, threatening a company-wide walkout as an alternative to employer capitoluation,” January 4, 1937, pg. 1; ”John L. Lewis knit more closely the divisions of the army he is hurling at the mass production industries,” ibid; ”A rising tide of resentment on the part of employees thrown out of work because of strikes engineered by a minority was seen yesterday,” January 8, 1937, pg. 1; ”the corporation released figures showing that 79 percent of employees have protested against strikes,” January 22, 1937, pg. 1.

**Lewis and Hillman, 1937-1940:**

*New York Times:* ”’Hillman has declined to go along with Mr. Lewis is attacking the New Deal,’ January 30, 1940, pg. 1; ”Lewis is Rebuffed on Defense Post,” August 11, 1940, pg. 1; ”Hillman’s Union Will Stay in CIO, in Reply to Lewis Taunts,” November 21, 1940, pg. 1.


*Los Angeles Times:* ”CIO Warned Against Isms Menace to Labor by Hillman, Rejecting the Suggestion of John L. Lewis” November 21, 1940, pg. 1.

*Baltimore Sun:* “Hillman Vies Against Lewis For Contracts,” October 29, 1940, pg. 1.
Wall Street Journal: "New Dealers and members of Congress supporting new wage and labor standards have picked Sidney Hillman to appear before the joint committee meeting and offset the unfavorable reaction that resulted from the testimony of John L. Lewis," June 6, 1937, pg. 1.

Captive Mines, September 21, 1941 to November 23, 1941:
New York Times "President Roosevelt’s plea to Mr. Lewis to arrange for the continued production in the captive mines was supplemented by a plea by Mr. Davis [National Defense Mediation Board Chair],” October 25, 1941, pg. 1; "If a general strike were called the walkout would cripple the entire national defense program,” October 26, 1941, pg. 1; "Steel men look upon the present strike as a culmination of the effort of John L. Lewis to force a closed shop,” ibid; "Mr. Roosevelt appealed tonight to the John L. Lewis of 1941 with the language of the Lewis of 1919, if Mr. Lewis refuses his patriotism will be impugned,” October 27, 1941, page 1; "Come to the aid of your country,” ibid; "Sen. Byrd says there has been no more disgraceful or humiliating episode in American history,” October 28, 1941, pg. 1; "On the heels of John. L. Lewis’s refusal, the storm aroused in Congress beat higher today with suggestions and plans for drastic anti-strike legislation for the defense industries,” Ibid; "Senator Ellender declares John L. Lewis a traitor to our American ideals, and a menace to the peace and prosperity of our nation,” October 30, 1941, pg. 1; ”Sen. Russell deems the walkout sabotage,” October 31, 1937, pg. 1; "The president said the government will never compel the remaining to join the union by a government decree. That would be too much like the Hitler methods toward labor.” November 15, 1941, pg. 1; "Officials of the United Mine Workers of American, defying President Roosevelt, late today ordered 53,000 men in the captive mines to withdraw,” November 16, 1941, pg. 1; "53,000 Told to Quit: UMW Heads Defy Roosevelt Warning,” November 16, 1941, pg. 1; "I don’t mind strikes, but every minute? Why hell’s fire, I’m no rich man. I’m a working man says rank-and-file miner,” November 17, 1941, pg. 1; "FDR described as not a valid point John L. Lewis’s principal gal for insisting upon acceptance of the union shop,” November 19, 1941, pg. 1; "Faced with spreading sympathy stoppages of coal production, President Roosevelt was reported tonight to be nearing the point of cracking down on John L. Lewis,” November 21, 1941, pg. 1; ”Carnegie Illinois says enough steel to build thirty destroyers was irrevocably lost to the national defense effort,” November 23, 1941, pg. 1.

New York Herald Tribune: “For the third time, your government through me asks you and the officers of the United Mine Workers to authorize an immediate resumption of mining,” October 28, 1941, pg. 1; "The president says he is considering legislation to strengthen the powers of the Executive to deal with labor controversies,” October 29, 1941, pg. 1; "The president has very strong cards in his hand with strong popular support for suppression of strikes which hold up defense production,” November 13, 1941, pg. 1; ”Too much like Hitler methods,” November 15, 1941, pg. 1; ”Every [CIO] delegate is asking himself whether such a strike is justified in a time of national emer-
gency,” November 16, 1941, pg. 1; “the president says Lewis strike justifications are not valid,” November 19, 1941, pg. 1; ”Lewis Scorns Two Peace Plans of Roosevelt,” November 20, 1941, pg. 1.

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*Washington Post*: ”Lewis Rejects Plea to End Mine Strike,” September 17, 1941, pg. 1; ”in this crisis of our national life there must be uninterrupted production of coal for making steel,” October 27, 1941, pg. 1; ”Anti-Labor Feeling Sweeps Capitol,” October 28, 1941, pg. 1; ”NAM president says if we can’t lick Lewis, then we better lay off Hitler,” November 19, 1941, pg. 1; ”President calls John L. Lewis’s reasons not valid,” ibid; ”Up to Mr. Lewis,” November 11, 1941, pg. 12; ”Three were shot in striker melee” November 22, 1941, pg. 1.

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*Los Angeles Times*: ”uninterrupted production is essential to the preservation of our freedoms, says President,” October 27, 1941, pg. 1; ”President Again Calls on Lewis to Halt Strike,” October 28, 1941, pg. 1; ”public is against strikes in defense industries,” November 2, 1941, pg. 1; ”An effective CIO strike has slowed the flow of steel and John L. Lewis belligerently defied the government to use troops,” November 18, 1941, pg. 1; ”FDR Rebukes Lewis,” November 19, 1941, pg. 1; ”public hostility toward the unions together with repeated signs the administration is about ready to advocate sharp labor control legislation were believed non factors in the mine workers decision [to abort strike],” November 23, 1941, pg. 1.

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October 29, 1941, pg. 1; "Anti-strike was introduced to crush would-be dictators," November 18, 1941, pg. 1; "FDR Rebukes Lewis," November 19, 1941, pg. 1; "John L. Lewis bowed to the opposition of public opinion," November 23, 1941, pg. 1.

_Boston Globe:_ "uninterrupted production is essential to the preservation of our freedoms, says President," October 27, 1941, pg. 1; "An effective CIO strike has slowed the flow of steel and John L. Lewis belligerently defied the government to use troops," November 18, 1941, pg. 1; "FDR Rebukes Lewis," November 19, 1941, pg. 1; "Gun fire fells 11 pickets in Pennsylvania," November 22, 1941, pg. 1.

_Wall Street Journal:_ "Unions appear to hold the position that mediation is all right when employers lose but it is all wrong when employers win," November 11, 1941, pg. 1; Mr. Lewis clearly wants to maneuver the president into the role of an enemy of organized labor," November 19, 1941, pg. 1.

_Reconversion Strikes:_

_New York Times:_ "President Truman moved today to arrest a spreading wave of industrial strife, ordering a comprehensive reorganization of the labor functions of government," September 18, 1945, pg. 1; "James A. Krug, chairman of the War Production Board, expressed concern that strikes and work stoppages had dealt industrial reconversion a severe blow and that they were the sole obstacle to the swift return of long sought consumer goods," October 6, 1945, pg. 1; "City Faces Milk Supply Cut As Steel Strike Offshoot," January 22, 1946, pg. 1; "Government Calls Soft Coal Strike National Disaster," May 4, 1946, pg. 1; "President Truman denounced the walkout today as nearing the status of a strike against the government," May 9, 1946, pg. 1.

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_Pre-Wagner:

_Atlanta Constitution:_ "The National Association of Manufacturers intends to propose legislation this winter to ban general and sympathetic strikes. Association officials announced the plan tonight along with the opposition to the proposed Wagner labor
disputes bill...” January 15, 1935, pg. 1; ”A long-awaited report on wages in the cotton textile industry today brought from the United Textile Workers a number of fresh demands and a definite threat of another bitter strike unless they are granted,” January 21, 1935, pg. 1.
Chapter 3:

**Figures 1-5; 27:** "Are you in favor of labor unions?"

**Figures 6-10:** January 1937, February 1937 "In the current General Motors strike are your sympathies with the John L. Lewis group of striking employees, or with the employers?" July 1937 "John L. Lewis is trying to organize the workers of the Ford Motor Company into a CIO (Congress of Industrial Organizations) labor union. Do you hope he succeeds?" December 1937 "Would you like to see John L. Lewis succeed in organizing the steel industry?" May 1939 "Which labor leader do you like the best—William Green of the A.F. of L. (American Federation of Labor) or John L. Lewis of the C.I.O. (Congress of Industrial Organizations)?" November 1941 "What is your opinion of John L. Lewis?" April 1942 "John L. Lewis is planning to organize the dairy farmers of the country into a branch of the C.I.O. (Congress of Industrial Organizations) Union. Do you favor or oppose, this movement to organize farmers into unions?" June 1943 "What is your opinion of John L. Lewis?"

**Figures 11-15:** April 1941, May 1941 "Should the Government forbid strikes in industries manufacturing materials for our national defense program, or should the workers in those industries continue to have the right to go on strike?"; June 1941, July 1941, August 1941, September 1941, October 1941, November 1941, December 1941 "Should the government forbid strikes in defense industries, or should the workers in those industries continue to have the right to go on strike?"

**Figures 16-21:** "Do you think the Wagner Labor Act should be revised, repealed or left unchanged?"; "In general, do you approve or disapprove of the Roosevelt Administration?"

**Figures 22-26:** February 1937 "Do you favor President Roosevelt’s plan to increase the size of the Supreme Court to make it liberal?" March 3, 1937 "Are you in favor of President Roosevelt’s proposal to reorganize the Supreme Court?" March 12, 1937 "Are you in favor of President (Franklin) Roosevelt’s proposal regarding the Supreme Court?" April 1937 "Are you in favor of President Roosevelt’s proposal to reorganize the Supreme Court?" May 5, 1937 and May 12, 1937 "Should Congress pass President Roosevelt’s Supreme Court plan?" June 3, 1937 "Should Congress pass the President’s plan to enlarge the Supreme Court?"