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From Labor Rights to the Right to Work: Constituting and Resisting Social Citizenship, 1932–1953

Abstract: The analysis examines the effort to incorporate labor rights into the American conception of civil liberties and the opposition to that endeavor. It focuses on three Senators—Robert Wagner, Robert La Follette, Jr., and Elbert Thomas—and New Deal officials who conceived of the National Labor Relations Act as a cornerstone of the effort to achieve "economic justice" and defended the law against its critics. It examines the opponents, including the National Association of Manufacturers and an anticommunist alliance between southern Democrats and Republicans. An ideological counteroffensive recast the supporters of social rights as un-American opponents of free enterprise and defined civil liberties as protecting the individual from an expansionist state and labor bosses. The analysis demonstrates the multiple causes for the disappearance of ideological space for conceiving that protection from oppressive employers constituted a civil liberty and the displacement of labor rights by the "right to work."

Keywords: New Deal, Right to Work, National Labor Relations Act, Franklin Roosevelt, National Association of Manufacturers, anticommunism, social citizenship, civil liberties, labor unions

Many New Dealers viewed the protections for collective bargaining enacted by the National Labor Relations Act [NLRA] as an important contribution to what President Franklin Roosevelt described as "common justice" when he signed it into law in July 1935. In 1941 he proclaimed four freedoms as the essential foundation for a "good society," insisting on the equal importance of freedom "from want," freedom "from fear," free speech, and religious

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freedom. Roosevelt's 1944 State of the Union address advocated a "Second Bill of Rights" affirming the right to health care, education, employment, housing, and economic security so that every American enjoyed the civil liberties promised in the Declaration of Independence and the first ten amendments. In recognition of this legacy, the *New York Times* included an "economic bill of rights" in its summary of Roosevelt's "American creed." This analysis examines the effort to extend civil liberties into the workplace and the opposition to that effort that contributed to the erasure of class as a "constitutionally suspect classification" requiring affirmative protection.[1]

Three influential Senators and a cohort of New Deal officials conceived of the NLRA as a legislative cornerstone of the effort to achieve "economic justice" in the workplace. Officials aided Senator Robert Wagner in drafting the legislation, oversaw its implementation by the National Labor Relations Board [NLRB], and defended the law against its critics. Invoking both the Declaration of Independence and the Bill of Rights, Senator Robert La Follette, Jr. and Senator Elbert Thomas undertook a multiyear investigation based on the deeply held belief that the "right to organize and bargain collectively" was essential to the protection of free speech and freedom of assembly for workers. They required protection against "the tyranny of small groups vested with great power." The Senators advocated a "balanced system" extending the "democratic processes of debate, compromise, and give and take" into the "economic sphere." Dedicated NLRB staff members collected evidence and organized hearings to demonstrate the necessity of the law and their agency. This New Deal cohort sought to make labor rights into the constitutional equivalents of civil and political rights. Important advocates of an American version of recognition that the exercise of civil liberties depended on access to resources and federal protection, they deserve scholarly attention for their aspirations and for what happened to thwart their efforts.[2]

Proponents of the New Deal conception of social citizenship included unions among the core democratic institutions that helped to create the "infrastructure of public discourse" in Paul Horwitz's phrase. In their view, unequal power relationships in the workplace required countervailing institutions to ensure a just distribution of national resources and a more equitable "balance" between the interests of workers and employers. The absence of unions from Horwitz's discussion indicates that even a contemporary scholar concerned about civil liberties no longer gives recognition to what La Follette and Thomas viewed as essential to democracy.[3]

In place of economic democracy or "labor rights," opponents of the extension of civil liberties into the workplace substituted the "right to work"

as their ideological counterweight in a counterattack against the La Follette Committee and the New Deal. Taking over the leadership of the National Association of Manufacturers [NAM] in the early 1930s, executives like Tom Girdler of Republic Steel insisted that workers derived more benefits from the "right to work" than unionization. Jasper Crane, a DuPont vice president, and J. Howard Pew, Sun Oil president, characterized Roosevelt's commitment to freedom from want and fear as "negative" or forms of incipient tyranny because their attainment required "statism." They endorsed NAM's commitment to "a system of free enterprise founded on the bedrock of a constitutional government designed to protect the individual in his right to life, liberty and the pursuit of happiness."[4] NAM opponents of the NLRA and the La Follette Committee emphasized possessive individualism and employers' rights to control their enterprises without interference from government or unions.

According to contemporary scholars, the dominant understanding of civil liberties now more closely resembles the NAM individualist definition rather than the New Deal stress on the need to promote greater economic equality. Cécile Fabre has made a convincing case for the extinction of social rights from American definitions of civil liberties. Nancy Fraser and Linda Gordon have argued that an individualistic "civil citizenship" has almost entirely eclipsed social citizenship. William Julius Wilson attributed the limited development of social rights in the United States to the widespread belief among Americans that economic inequality is due to the moral deficiencies of the poor rather than class-based discrimination. If the lack of a fully developed understanding of social rights stems, at least in part, from the failure to enact the "Second Bill of Rights" it is important to examine why that revolution remained "unfinished," as Cass Sunstein has argued.[5]

Fortunately, scholars have offered possible explanations for the unfinished concept of social citizenship and the erosion of labor rights that this analysis can test. Ira Katznelson discussed how a "Jim Crow Congress" became a dominant force in opposition to unions and challenges to white supremacy in the late 1930s. Jill Quadagno referred to a "stakeholder mobilization against the welfare state." Arguing that the warfare state supplanted the New Deal welfare state, James T. Sparrow pointed to World War II as constraining the development of social citizenship. Katznelson added the Cold War to assert that the "national security state" supplanted the New Deal social activist state in combination with southern opposition to unions and racial equality. Explaining the underdevelopment of social citizenship thus requires an analysis of both the New Deal effort to embed the concept into federal law and public culture in the 1930s and its enemies.[6]

THE REVOLUTIONARIES OF 1935

Among those who sought to establish and defend the concept of social citizenship during the New Deal were mid-level officials who advised the "wielders of power" in the Roosevelt administration and the Congress on legislation, administration, and implementation social policy. Heber Blankenhorn's support for labor rights stemmed from a horrifying discovery, made during wartime service in 1918, about Military Intelligence's uncritical reliance upon "undercover reports" from corporations to target union activists as subversives. Born in Kiev, David Saposs developed his views as a Milwaukee trade unionist, student of labor economist and historian John R. Commons, and investigator for the U.S. Commission on Industrial Relations. Blankenhorn and Saposs belonged to a progressive generation of social scientists, journalists, settlement house workers, and lawyers who found the New Deal either "ideologically compatible" or "sufficiently fluid to permit them" to pursue their ideological commitments.[7]

Blankenhorn and Saposs first joined forces in a five-month investigation into the tactics used by steel corporations to defeat the steel strike of 1919. Conducting the investigation made Saposs and Blankenhorn acutely aware of corporate violations of civil liberties, industrial espionage, strike-breaking, vigilante violence, blacklisting, and antiunion Red Scare propaganda. They concurred with journalist William Hard's assertion that steelworkers lived under a "class-government" that turned free speech into the "exclusive private property" of corporations and welcomed Sidney Howard's parallel series on labor espionage that appeared in the *New Republic* in 1921. A NAM-sponsored anticommunist backlash destroyed their sponsor and doomed their investigation.[8] Witnessing the destruction of the strike, Blankenhorn and Saposs became more determined to develop a successful strategy to defend labor rights whenever they could find an opportunity.

After the steel strike investigation, Blankenhorn conducted industrial research while Saposs worked in labor education with the Amalgamated Clothing Workers of America [ACWA] before departing for a period as a labor educator at Brookwood Labor College. He studied economics and labor history at Columbia University, traveled to France to investigate labor conditions, and returned to undertake research for the Twentieth Century Fund. Convinced that corporations denied free speech and assembly to their workers, Blankenhorn became a labor journalist. In 1933, he joined the National Labor Board staff at the request of Senator Wagner and remained in close touch with him assisting in drafting the NLRA to protect the right to

organize. Like Wagner, Blankenhorn believed that federal regulatory power could protect the right to organize, eliminate a major cause of industrial unrest, and prevent employers from repeating the tactics the steel corporations had used in 1919.[9]

Blankenhorn was not the only contributor to the drafting and implementation of the NLRA. Leon Keyserling, a youthful economist and lawyer, arrived in Washington in 1933 to become Wagner's legislative aide. Francis Biddle left a prominent family firm in Philadelphia to gain the "sense of freedom, the feeling of power, and the experience of the enlarging horizons of public work" in Washington. He accepted Roosevelt's offer of a position as NLRB chairman in 1934, becoming disturbed by its inability to protect workers' rights. He directed the NLRB's staff to aid Wagner and Keyserling in preparing legislation to give the agency judicial and administrative powers. Thomas Emerson joined the NLRB in the belief that law could become "an instrument by which change can be effectuated." Together with other likeminded officials, this New Deal cohort committed themselves to achieving what Biddle described as a "more even balance of power between employers" and unions, liberate workers from "fear and intimidation," and set limits on the destructive force of "unregulated" competition.[10]

Wagner overcame vociferous opposition getting the NLRA passed. The Senator's debates with James Emery, NAM counsel, provided a foretaste of the opposition to the NLRA. In Emery's assessment, the legislation gave "monopolistic power" to unions and the NLRB. Steel company officials pronounced the NLRA "vicious," "destructive," and "grossly unfair." The American Federation of Labor [AFL] enthusiastically endorsed what its leaders described as a "bill of rights," whereas Sidney Hillman of the ACWA slammed antiunion employers and NAM as the "wrecking crew." Wagner carried on the onerous task of persuading Senators and Congressmen, giving speeches and interviews, and writing articles to ensure the passage of the legislation. The episode demonstrated that an important New Deal initiative was the product of a determined Senator, his only staff member, and officials like Biddle and Blankenhorn who wanted to extend democracy into the workplace.[11]

Although the NLRA omitted agriculture, household service, and public employment from NLRB protections to ensure sufficient support, it outlawed many "unfair labor practices" that Saposs and Blankenhorn had documented fifteen years earlier. Wagner viewed it as promoting "industrial democracy" and "economic welfare," whereas Emery lambasted the "coercion" granted the NLRB and predicted a "revolutionary" effect on "private life." Taking advantage of the new legislative framework, proponents of industrial organization

quickly formed the Committee for Industrial Organization (CIO) to organize the major industries.[12]

Contemporary observers noted the significance of the NLRA. The AFL heralded it as the "new Magna Charta," whereas NAM denounced it as "undesirable and unconstitutional.". The newly formed National Lawyers Vigilance Committee, chaired by Earl F. Reed, issued a report pronouncing the law unconstitutional in September 1935. Circulated by the Liberty League in which DuPonts and Pew were prominent members, the lawyers insisted that their corporate clients could disregard the "illegal" NLRA. Ernest T. Weir, National Steel Corporation president and a Reed client, urged industrialists to fight New Deal "autocracy," warning that the NLRA represented a drive toward "dictatorship." NAM denounced the legislation while individual companies vowed defiance and applied to the courts for injunctions to prevent the NLRB from fulfilling its statutory duties.[13] For those committed to labor rights, it became obvious that employers and their legal teams would try to destroy the law and the agency it had reinvigorated.

DEFENDING THE REVOLUTION

Blankenhorn detected the warning signs, and so did the NLRB leadership who dispatched him to investigate employer resistance. He gathered information about detective agencies, industrial spies, gun-toting strikebreakers, "pseudo-patriotic associations," and other methods used to prevent unionization. He also welcomed the arrival of Saposs to head a new Economic Division to help provide useful expertise to the NLRB. Fearful that the opponents might succeed, Blankenhorn looked for allies. Convinced of the need for public relations strategy to "tear open the whole infamous system which rules labor relations" and for congressional help, Blankenhorn lobbied the AFL, the CIO, and Senators.[14]

Insisting that it was an executive branch responsibility, Wagner refused Blankenhorn's entreaties to take a leading role in defending the law. Blankenhorn appealed to La Follette in December but it was difficult to persuade the younger Senator from Wisconsin. After several months of fruitless effort, the distraught Blankenhorn wept on the "indispensable" Wagner's shoulder. The Senator agreed to exert "fatherly" influence on La Follette. A meeting that discussed torture, murder, and other atrocities inflicted on tenant organizers in Arkansas, helped to convince La Follette that an investigation was needed.[15] Blankenhorn began to plan a preliminary hearing to convince the Senate to endorse a comprehensive investigation into violations of labor rights.

Exploratory hearings began in April 1936 with "a mass of data" provided by Blankenhorn. He testified about "paid spies and stool pigeons," blacklisting, the stockpiling of machine guns, and "obstruction" by Liberty League lawyers as interlinked strategies in the attack on the NLRA. Union and religious representatives urged Senators to investigate. Edwin S. Smith, one of the three serving NLRB members, denounced the "sinister" tactics "of entrenched interests" who openly defied the NLRA. According to the *Christian Science Monitor*, the compelling testimony convinced the Senate to switch from investigating radicals to inquire into "reactionaries." Still uncertain about the necessary funding, Blankenhorn compared the potential Senate investigation to a seventeen-year locust that might soon hatch from the investigative eggs originally laid in 1919 with his initial investigation into anti-union tactics.[16]

As Blankenhorn had intended, the initial testimony subjectedcorporations to public criticism by revealing their efforts to subvert labor rights. The efforts to brand the labor movement with Communist affiliations did not succeed, but the investigation only received a meager $15,000 from the Senate to keep it too weak to antagonize powerful interests. To overcome this problem, the NLRB furnished trained investigators and legal counsel. Malcolm Ross, a journalist and author of a critical portrait of labor conditions in Kentucky, became the director of a public relations division for the embattled agency. Meeting regularly with La Follette, Blankenhorn arranged the appointment of Robert Wohlforth, a journalist who had conducted investigations for Senator Gerald Nye's inquiry into the munitions industry, as secretary. Wohlforth's knowledge and skills found a new purpose when La Follette sent him out in June to collect records for the first hearings. A close observer credited Blankenhorn with the "intelligence and social vision" that made it impossible for reluctant Senators to defeat the resolution while also finding ways to conduct an "exhaustive investigation" with minimal funding.[17]

Keeping in close contact with Wohlforth, Blankenhorn advised on the selection of witnesses whose appearance would maximize media attention. He alerted media contacts, including *New Republic* editor George Soule, who had worked on the steel strike investigation. In August 1936, the press heard about subpoenas issued simultaneously on five major detective agencies. The official hearings began in late August. In the Division of Economic Research, Saposs and his staff set about creating a "framework of social and economic facts" that could persuade the Supreme Court that the NLRA met the constitutional test and lessened the likelihood for industrial conflict. Later recalling that period

with Wohlforth, Blankenhorn credited a "host of angels," "Satan," and "many complex forces" with saving the NLRA. Primed by Blankenhorn, Wohlforth, and Ross, journalists shortened the formal title of the Subcommittee to the La Follette Civil Liberties Committee effectively defining "labor rights" as the constitutional equivalents of free speech and assembly.[18]

The first NLRB report placed NAM and the Liberty League in the "category of obstructionists" along with lawyers whose declaration about the unconstitutionality of the NLRA constituted a "virtual incitation" to law-breaking. NAM's "expensive propaganda" had stirred up an "environment of hostility" toward the NLRB. Referring to industrial "intransigence," the NLRB declared that it had decided to reply to the "clamor" by distributing the "facts," undertaking "diligent administration," and providing "respectful" treatment to employers in its investigations. The report discussed the La Follette Committee's disclosures about industrial espionage without mentioning Blankenhorn's involvement. The NLRB report demonstrated the skillful application of public relations arts honed by Blankenhorn and Ross.[19]

The two Senators and the staff set about trapping antiunion employers and their unsavory accomplices in compromising denials and admissions. The refusal of the first set of witnesses to appear on the opening day of the hearings in late August 1936 offered the investigators a chance to show the duplicitous nature of industrial espionage. When La Follette interrogated an Atlanta official of a detective agency, the manager insisted that he kept no records in the branch office. The staff produced correspondence "found in a mutilated condition" in the trash, catching the witness in a clumsy act of deceit. Painstakingly glued together, torn paper revealed the placement of informants in unions, the hiring of undercover operatives, the employment of strikebreakers, and the purchase of Thompson machine guns for use against strikers. The attempts to destroy evidence and failure to comply with a subpoena demonstrated what La Follette indignantly described as the "grossest kind of contumacy." The staff demonstrated their ability to outwit duplicitous adversaries while detective agencies found themselves exposed as maladroit lawbreakers earning positive coverage in the press.[20]

Whetting the appetite of reporters for further revelations, the Committee presented shocking examples of detective skullduggery and lethal weapons used in industrial warfare and displayed their knowledge of gangster argot about "stool pigeons," "finks," "goons," and bulls. Thomas enjoyed the response from the audience as he used a salacious-sounding term like "hooker" to refer to a recruitment technique to find informants to spy on union activities. Keeping the hearings under close observation and feeding

tantalizing information to the press, Blankenhorn thrived on the "close" teamwork with Wohlforth, the dedicated investigators, and the hard-working clerical staff whom he encouraged to form a union. He certainly believed that the Supreme Court justices could not avoid awareness of the need to prevent the brazen use of unlawful tactics by corporations and their hired guns.[21]

Deliberately planned to enthrall reporters, the hearings also captivated staff members engaged in the demanding work to investigate undercover operations, prepare questions to trap hostile witnesses, produce detailed briefs for the two Senators, and rapidly turn lengthy hearings into insightful reports. In a staged confrontation between two famous names, La Follette interrogated Robert A. Pinkerton, the fourth and last generation in his family to head Pinkerton's National Detective Agency, revealing that it garnered six million dollars by alarming corporations with warnings about communism. The agency offered its services to eliminate "radicalism," labor "discontent," and "outside disturbers." The two Senators probed into methods including "shadowing" and "roping" to refer to gaining someone's trust to extract intelligence. Repeatedly demanding a definition of communism, the interrogation revealed that Pinkerton agents used the term indiscriminately to boost profits.

La Follette pointedly asked a Pinkerton official, "Do you not regard, and do you not characterize, activity on the part of workers to organize

Robert A. Pinkerton, President of the Pinkerton Detective Agency, and Vice President Asher Rossiter, September 25, 1936.[22]

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independent unions as communistic or radical activity?" The Pinkerton official replied ungrammatically, "Where it is radical until we find out different, sir." Having shown the Communist catch cry to be the equivalent of crying wolf, the Committee arranged another Pinkerton interrogation with a plentiful supply of exhibits to expose the agency's undercover methods and its clientele.[23]

The Committee inquired into the punishments dished out to individuals considered subversive, the role of police in "trailing communists and union labor people," the arrest of advocates of racial equality, and the jailing of defenders of civil liberties in Alabama. Beatings, floggings, dynamite, machine guns, and raids into homes without search warrants combined old and new methods for preventing unionization and stopping public meetings disapproved by authorities. An attorney explained that local authorities believed that "some things are law that are not constitutional." Witnesses graphically testified about being subject to vigilante violence and threats for attempting to investigate outrages perpetrated by National Guardsmen hired by a coal company. A thoughtful reporter pondered the meaning of murders, "tyrannies," and "usurpations of civil rights" committed with impunity on behalf of a company that paid a local sheriff to deputize its private police. He noted that the company employed a Liberty League-affiliated lawyer.[24] Perceptive readers undoubtedly understood the insinuation about the hypocrisy of the League's claim to defend the Constitution while its legal associates colluded in the systematic violation of civil liberties.

Poet, author, and short-term staff member, Marion Calkins Merrell recorded her impressions of dramatic clashes that provided "not the illusion of conflict but its reality" at hearings. Writing as Clinch Calkins to protect her social standing in suburban Virginia, Merrell described the protagonists in the confrontations as "people against property in its most intelligible terms of dollars, purchased violence, and betrayal." Her book, *Spy Overhead*, communicated the findings about industrial espionage to a popular audience in 1937. Later, the industrious team of Nancy A. Haycock, Della C. Kessler, and Marian F. Roach edited the multivolume analysis of antiunion strategies and violations of civil liberties that continued to appear until 1944. The La Follette staff produced what a Californian historian described as "documentary art" that represented "history as the search for fact" and "moral meaning," while detailing the systematic violations of civil rights by private interests and their law enforcement collaborators.[25]

In April 1937, Blankenhorn, Wohlforth, and Saposs celebrated when the Supreme Court decided *NLRB v. Jones & Laughlin Steel Corporation* in favor

of the constitutionality of the NLRA despite contrary arguments put forward by Reed. In Blankenhorn's assessment, the Court had recognized the need for the NLRA to keep industrial unrest from damaging a fragile economy, which Saposs and the NLRB staff had meticulously documented. Backing up the NLRB, the La Follette Committee had provided irrefutable proof about the need to constrain corporate law-breaking.[26] Blankenhorn relished the defeat of entrenched corporate power for which he had been seeking since 1919.

Later in 1937, the jubilant mood began to ebb amidst signs of growing public hostility to the CIO due to the sit-down strikes in the automobile industry, opposition to Roosevelt's efforts to enlarge the Supreme Court, a recession that cast doubt on New Deal economic policies, and growing conflict between the AFL and the CIO. NAM assailed the sit-down strikers' violation of private property rights and "ruthlessness of force." NAM, conservative politicians, media allies, and the AFL looked for ways to exploit the growing vulnerability of the New Deal, undermine the NLRB, and curb the CIO.[27]

Unwilling to retreat, the La Follette Committee compelled NAM to testify and subpoenaed records disclosing its public relations strategy. The documents revealed attacks on the NLRA as based on "quack economic theory" and "socialist-communist" conceptions of class conflict. The investigation revealed that George Sokolsky, a *New York Herald-Tribune* columnist, was a NAM mouthpiece paid to speak to community groups and present putatively independent commentary. The NAM records also revealed the publication of the "Weekly Constitutional" to interpret the Constitution and civil liberties as defending property rights rather than the rights of labor. Distilling the testimony from these hearings into a pamphlet, Saposs denounced NAM's resort to "pseudo-patriotic organizations," vigilantism, "red-baiting," fake "citizens' committees," and self-servicing constitutional interpretations.[28] The La Follette Committee and Saposs had given NAM still greater cause to retaliate.

THE AMERICAN WAY

NAM started a billboard campaign for the "American Way" in 1937 as part of an anti-New Deal propaganda offensive. Designed to convince the American public that the Constitution limited the federal government's power, the campaign repeatedly linked civil and religious liberties, democracy, and opportunity to "private" or "free" enterprise. Sokolsky contributed columns

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Dorothea Lange, "Billboard on U.S. Highway 99," Farm Security Administration, March 1937.[29]

John Vachon, "It's the American Way," Farm Security Administration, April 1940.[30]

and speeches to argue that neither government nor labor unions should violate individual liberty by coercing a worker to join a union. He also authored a book asserting that advertising was an indispensable element of the "American way."

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John Vachon, "I'm Glad I'm an American," Farm Security Administration April 1940.[31]

NAM forged a political alliance with likeminded politicians and an AFL leadership convinced that the NLRB favored the CIO. In June 1938 the House approved the formation of the Special Committee to Investigate Un-American Activities chaired by Representative Martin Dies of Texas. As a cynical *Washington Post* reporter described him, Dies enthusiastically "stepped in on one of the oldest rackets in Congress—the perennial red-hunt." Timed to aid conservatives in the 1938 midterm elections, Dies intended to halt the New Deal social agenda that challenged the racial and labor status quo in his region while helping the AFL and NAM constrain the NLRB and the CIO.[32]

Just before the Dies Committee hearings began, the La Follette Committee required Girdler, the personification of Blankenhorn's conception of "Satan," to testify about his previous denials about the use of labor spies in his company. Girdler heard himself described as an "iron-handed ruler," who had presided over an "elaborate system of espionage." La Follette probed into Girdler's involvement with the NAM propaganda campaign and Sokolsky. The hearings produced "startling" insights into the "poisoning" of public opinion by corporate propagandists. NAM, the AFL, corporate executives, and journalistic allies like Sokolsky and *Chicago Tribune* columnists waited impatiently for the Dies Committee to strike back against their "inquisitors" in what a conservative Senator characterized as the spawn of a CIO-Communist plot.[34]

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Thomas Girdler testifies to La Follette Committee, August 11, 1938.[33]

An AFL official and other witnesses took aim at the La Follette Committee, the NLRB, and CIO leaders after the Dies Committee hearings got underway in mid-August. AFL Vice President, John Frey, listed several hundred Communists allegedly employed as CIO organizers and accused the La Follette Committee of employing Communist investigators. Harry Bridges, head of the International Longshoremen and Warehousemen's Union [ILWU] and the CIO's west coast leader, repeatedly surfaced as a multivalent threat, whose lack of American citizenship made him an inviting target for deportation. Simultaneously Dies cast Frances Perkins, the Secretary of Labor, in the role of a subversive New Dealer shielding an undesirable alien by failing to deport Bridges. Demanding impeachment for Perkins and deportation for Bridges, the Dies Committee hurled anti-Communist accusations against the New Deal and the CIO.[35]

Observant journalists noted the "mutual antipathy" between the Dies and La Follette committees. Describing the rivalry as one of the "bitterest, behind-the-scenes controversies in Washington today," journalists observed the Dies Committee's "one-sided and comparatively irresponsible 'smearing' methods." The House committee gave those stigmatized as Communists or "alleged sympathizers" almost no opportunity to defend themselves as denials

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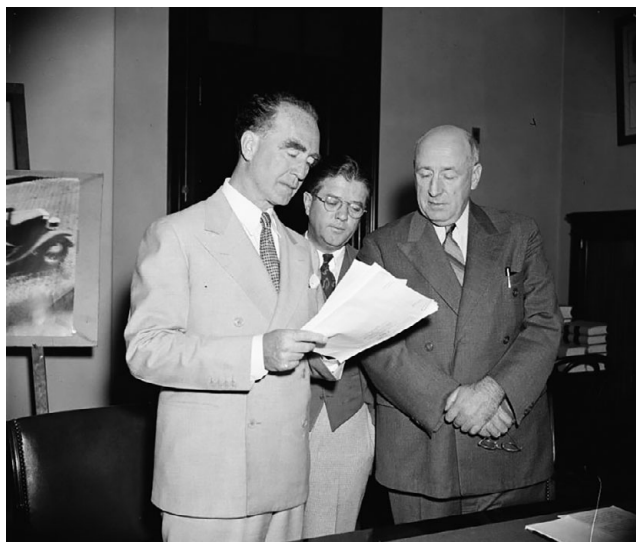
became "swamped by the newer, hotter testimony." Suggesting that the rivalry involved covert surveillance of the other committee's investigation, the La Follette staff began to develop a joint investigation in California with the NLRB even before Dies received a report from an investigator sent to that state. According to sympathetic reporters, the La Follette Committee searched for the "real story" instead of entertaining false claims about the "Communistic" CIO, "cruelty, gangsterism, and depravity," but "truth" found it hard to "catch up with untruth." The Dies Committee won the battle for the front page with shrill claims about Reds, reckless character assassination, and a willingness to take dubious evidence at face value.[36]

In October, attention turned to the sit-down strikes by the United Auto Workers, CIO, Michigan Governor Frank Murphy's refusal to use force against the strikers, and Communists at the NLRB, on the La Follette Committee staff, and in the upcoming California state elections. Witnesses portrayed Murphy as entirely too tolerant of CIO militancy. Called to testify on the day before the election, a witness implicated Saposs by quoting from his 1926 study of "left wing unionism." A Committee investigator quoted from an article written in 1931 to imply that the economist continued to believe that "bourgeois democracy" was a "sham." Dies referred to Saposs as a "symbol" of the "economic crackpots" that the Committee must eradicate. In December the witness returned with another quote to insinuate that Saposs wanted to overthrow "planless, profiteering capitalism" and create a "workers' republic." Having helped to defeat Murphy in the 1938 Michigan election and elect anti-New Deal conservatives, the Dies Committee added Saposs to its hit list.[37]

The fortunes of the two committees dramatically diverged in 1939. The Dies Committee gained more generous funding in 1939. Responding to the rightward electoral shift, Senators refused to renew funding for the La Follette Committee. The AFL and conservative Senators proposed NLRA amendments. Defending the law, CIO President John L. Lewis accused Frey, AFL President William Green, and the AFL's counsel of colluding with NAM, an organization that sought to keep workers in "economic and political serfdom." Green and Frey denied contact with NAM but kept discretely silent about the AFL counsel's contacts in developing the proposals. Ross tried to help the embattled NLRB by publishing an autobiographical account of his reasons for deciding to work for the agency, but earnest advocacy could no longer silence vociferous critics.[38]

Unwilling to concede defeat, La Follette and Thomas proposed legislation to outlaw "oppressive labor practices" including industrial espionage, private

Robert La Follette, Jr. and John L. Lewis confer about the Oppressive Labor Practices bill in La Follette's Senate Office, c. May 1939.[39]



Attorney-General Frank Murphy reading the Oppressive Labor Practices bill, Left to right: Murphy, Robert LaFollette, Jr., and Elbert Thomas, June 2, 1939.[40]

police, and the use of lethal weapons. Lewis emphatically endorsed the bill to guarantee "political and economic freedom" to American workers. Citing La Follette Committee reports, the CIO leader compared the system of "private armies" to the "storm-troop armies of Fascist nations." He urged the Senate to

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provide more funding for the La Follette Committee to uncover "the conspiracy against American rights." The bill gained support from Murphy, the newly appointed attorney general after his Michigan defeat. Unsurprisingly, NAM offered a starkly different interpretation in its testimony. It described the "so-called" Civil Liberties Committee as "oppressive" and warned that the legislation imposed "rigid restraint" on employers and the press. Other critics called the law a "blacklist" and warned that it could prevent the detection of Nazi or Communist saboteurs.[41] Clashing ideas about whose civil liberties needed protection ultimately contributed to the bill's failure to pass, as the outbreak of war caused some New Dealers to see greater need for workplace surveillance than the legislation allowed.

Although persistent lobbying by supporters persuaded the Senate to restore some funding to the La Follette Committee, the Dies Committee gained more resources and another Special Committee began to investigate the NLRB in 1939. The Dies Committee employed J. B. Matthews as a fulltime research director and an equally zealous ex-Communist, Benjamin Mandel, as an investigator while Representative Howard Smith took charge of the NLRB investigation. Smith appointed a counsel, Edmund Toland, with an obvious desire to avenge the NAM defeat in the Supreme Court decision upholding the NLRA. Investigators seized a "truckload" of NLRB files promising "sensations" to the press about finding "rotten things" in the staff filing cabinets. Toland and his large legal team selected documents and witnesses to demonstrate pro-CIO "partiality" and subversive inclinations among NLRB personnel. When the Smith Committee hearings got underway in December, the witnesses aired suspicions about NLRB Secretary, Nathan Witt, NLRB Board member Edwin Smith, and Saposs among other targets. Attention-grabbing reports about NLRB internal conflict ensued as memos rifled from the NLRB files became evidence against its staff.[42]

Joining the attack, AFL and NAM spokesmen vehemently criticized the NLRB of pro-CIO bias. Frey's testimony put the accusations on the public record. Saposs found himself accused of being a Communist or a "Russian-born radical" in the *Chicago Tribune's* geographically inaccurate description. Toland accused Edwin Smith of the NLRB Board of engaging in pro-CIO interventions and favoritism. Blankenhorn received a particularly intense grilling. His unguarded enthusiasm for the CIO and predictions that the sit-down strikes would convince the Supreme Court of the need for the NLRA became evidence of nefarious intent when his memos and letters

surfaced as evidence. Toland forced the NLRB staff to swallow large dollops of the same unpalatable medicine that the La Follette had administered to its targets with their help.[43]

Although the Smith Committee failed to eviscerate the NLRA, its revelations prompted Roosevelt to change the NLRB leadership while the House cut off funding for the Economic Division leading to the dismissal of Saposs. Concerns about strikes in aircraft factories and ports gave the anti-NLRB forces a hitherto unlikely alliance with a president focused on preparedness for war. Roosevelt also transferred the Immigration Bureau to the Department of Justice to put aliens under stricter scrutiny to prevent industrial sabotage. Taking advantage of the public anxiety about spies and disloyalty, Congress passed the Alien Registration Act, popularly called the Smith Act due to Representative Smith's sponsorship. Roosevelt signed it into law to give the FBI greater powers to investigate subversive workers and troublesome labor activists. The NLRB's Smith lost his position and Gerard Reilly, the new chairman, set about constraining the agency's "radical element." Witt, Emerson, and other progressives resigned. Under the new leadership, the

John P. Frey, AFL vice president, and Howard W. Smith, chairman of the House Committee investigating the National Labor Relations Board, December 14, 1939.[44]

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NLRB sought to placate its critics by adopting a neutral position between the CIO, the AFL, and employers while discouraging strikes in vital war industries.[45]

FROM THE RIGHTS OF LABOR TO THE RIGHT TO WORK

Wartime strikes stirred up outrage against "seditious labor" as Thomas discovered as chairman of the Senate Committee on Education and Labor. NAM, industrial lobbyists, and conservative lawmakers set about redefining civil liberties from protection for labor rights to ensuring the individual's "right to work." The final La Follette Committee reports appeared in 1944 but failed to change the hostile attitudes toward labor rights. The wartime climate was no more favorable to social citizenship. Thomas contributed to the passage of a limited version of Roosevelt's Second Bill of Rights applicable only to veterans, the GI Bill of Rights. That same year Florida became the first state to pass "right to work" legislation, inspiring other states to follow its example. In Hollywood, the Motion Picture Alliance for the Preservation of American Ideals (MPA) vowed to use the "powerful medium" to defend the "rights of the individual." Unions that wanted to "infuse the Four Freedoms with reality" confronted a reinvigorated corporate opposition urging Americans to fight for "freedom and the American way" in the words of Cecil B. DeMille, a founding member of the MPA and a staunch advocate of the "right to work." An antiunion backlash, depicting unions as "high pressure minority groups," filled with "un-American elements" bent on "enslaving" unwary workers, gathered momentum.[46]

In April 1945 two critical events helped to seal the fate of social citizenship in the United States. Roosevelt's death dealt a devastating blow to postwar hopes for a Second Bill of Rights for all Americans. That same month the French Communist leader served as a messenger for Stalin. He condemned Earl Browder, the American leader of the Communist Party of the USA (CPUSA), for asserting the potential for "peaceful coexistence" after the war and class harmony at home. Hardliners took control of the CPUSA. Westbrook Pegler was only one of the media commentators attacking progressive politicians like La Follette and the "rackets known as unions." CPUSA sectarianism, conservative hostility to the CIO, and anticommunism began to prepare the ideological context for a postwar Red Scare that would not provide a favorable environment for labor rights.[47]

Recognizing the danger, NLRB stalwarts mounted a defense of the NLRA. Joseph Rosenfarb, a former NLRB senior attorney, reminded readers that

"great corporations" could endanger the "liberties of the people." The NLRA formed a vital part of the struggle for "economic self-determination" by giving workers "the ability to exercise a choice, the nexus of democracy, industrial as well as political." He equated economic liberty with "economic security attained through group action" instead of free enterprise. Such arguments no longer protected New Deal agencies because wartime experiences had constrained the possibility for a fully developed welfare state during the war as it demonstrated that a more ideologically palatable warfare state could achieve economic goals without guaranteeing Roosevelt's Second Bill of Rights to all Americans.[48]

The results of the 1946 elections illustrated the dangers for progressives caught in the crossfire. During the fight for the Republican nomination, CIO affiliates accused La Follette of failing to support a minimum wage and Fair Employment Practices Commission [FEPC] legislation. After losing to Joseph McCarthy, La Follette accused the "Communist-dominated C.I.O. News" of disseminating false information about his record. In November, Richard Nixon defeated Representative Jerry Voorhis after accusing him of "supporting Communist principles" because the CIO's political action committee had endorsed him. Aided by the anti-CIO backlash and the split among their opponents, Republicans gained control of Congress, providing an opportunity for conservative forces to move against the NLRA.[49] Blankenhorn, La Follette, and Thomas would soon face the loss of any hope for the extension of notions of civil liberties into the workplace and enhanced protections for the rights of labor.

Seizing the opportunity, an attorney from Senator Robert Taft's law firm, Reilly of the NLRB, and Nixon drafted an NLRA amendment bill that Taft steered into law over Truman's veto. The Labor Management Relations Act prohibited several CIO organizing strategies as "unfair labor practices," permitted "right to work" laws, required union officials to sign anti-Communist affidavits, and prevented the NLRB from being able to reestablish an economic division. In contrast to the NLRA, what became known as the Taft-Hartley Act allowed employers to impart antiunion messages to their employees, giving employers "free speech" while diminishing union power. Unwilling to implement the new legislation, Blankenhorn and other long-serving NLRB staff resigned while the CIO expelled unions that failed to abide by the anti-Communist requirement, leading to a loss of more than a million members. Twelve years after the passage of the NLRA, its opponents had finally achieved the goal of restoring corporate

power in the workplace and allowing some states to make it easier for employers to eliminate unions altogether.[50]

The postwar Red Scare continued to target the proponents of labor rights and civil liberties in the workplace as part of a retrospective attack on the New Deal, the CIO, and the concept of social citizenship. Testifying to the permanent successor to the Dies Committee, the House Un-American Activities Committee (HUAC), in August 1948, Whittaker Chambers implicated Witt of the NLRB and several La Follette staff members, former CIO counsel Lee Pressman, and Alger Hiss in what the *Los Angeles Times* described as a "spy ring." Avidly pursued by Nixon, aHUAC member, the accusations developed into the Hiss–Chambers case. Nixon gained a national reputation for his relentless pursuit of Hiss while the CIO's simultaneous purge of leftist unions weakened the support base for advocates of social rights.[51]

The midterm election year of 1950 reinforced the negative trends for defenders of social citizenship. A court convicted Hiss of perjury in January, and McCarthy launched his attack against an administration "riddled with Communists" in February. Reinforcing the alleged connection between supporting labor rights and the CPUSA, HUAC called Witt and two La Follette staff to testify in September. The three former officials' refusal to answer questions cast additional suspicion on the NLRB and La Follette Committee. In late October, the *Detroit Free Press* and the *Los Angeles Times* identified them as plotters conspiring to "Communize America." Attacking Thomas as an advocate of "socialized medicine" and an apologist for "Red" labor, a former NAM president wrested away the Utah Senate seat from the former co-chair of the La Follette Committee by accusing him of playing "footsie with strange and foreign ideologies." Senator Claude Pepper of Florida and Senator Frank Porter Graham of North Carolina met a similar fate while Nixon wrested away her Senate seat from Helen Gahagan Douglas, aided by Mandel and HUAC files originally collected by the Dies Committee. The conservative media heralded the Republican victories as the death knell of the New Deal, but the dirge could also be sounded for the Second Bill of Rights, labor rights, and social citizenship.[52]

Anticommunism ensured another Republican triumph in 1952. Publishing an autobiography, Chambers repeated his accusations. Blankenhorn and Wohlforth discussed how to respond should a frightened La Follette "jump on his old staff" by accusing them to protect himself against HUAC and McCarthy. The ex-Senator had reason to fear that he might face an excruciating choice between incriminating former staff members or a conviction for contempt should he be compelled to testify. After the Republican landslide,

La Follette faced the stressful task of attesting to Wohlforth's "loyalty and integrity" in the face of allegations about subversive connections in his previous public service and the La Follette Committee. Whatever his motivations, La Follette's suicide in late February 1953 provided an escape from an intolerable predicament.[53] Resignation, defeat, death, or dismissal in the case of Wohlforth from his federal employment had silenced advocates of social rights.

CONCLUSION

The warfare state flourished in the Cold War context, providing an ideologically preferable alternative to the welfare state for powerful American interest groups. The CPUSA's acceptance of Stalinist strategies combined with anticommunism to fracture the New Deal coalition and the CIO. Employers and their organizations possessed a formidable war chest, and so did the investigative committees that opposed the NLRB and the La Follette Committee's efforts to extend civil liberties into the workplace. Midterm elections proved particularly advantageous for conservative southern Democrats and Republicans. An ideological counteroffensive recast the supporters of social rights as un-American opponents of free enterprise and limited civil liberties to individual protection from an expansionist state and labor bosses rather than defending workers' rights to free speech and unionization.

The ideological space for conceiving of protections from oppressive employers as a civil liberty and a social right contracted. Even the civil rights and feminist movements inadvertently contributed to the excision of class by convincing the Supreme Court of the unconstitutionality of using immutable characteristics to deny equal rights. By contrast the Court came to interpret class as a changeable socioeconomic status in an economy understood to furnish ample opportunity for upward mobility. Class disappeared from the list of constitutionally suspect classifications requiring protection to ensure access to civil and political freedoms.

In addition to the conservative political opposition to the New Deal, and the warfare state substitution for the welfare state, anticommunism was clearly a significant factor in thwarting a more complete development of social citizenship in the United States. Roosevelt's recognition that "economic security" was essential for the attainment of "individual freedom" did not survive the anticommunist onslaught on the New Deal after his death. Instead of being recognized as essential rights for all Americans, social rights became reduced to benefits available to veterans, union members in strong bargaining

positions, or advantaged individuals able to negotiate with employers, although an attenuated Social Security survived. As a result, in almost all American workplaces, many civil liberties ended at the factory gate while employees exercised the "right to work" on conditions set by their employer.[54]

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