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New Deal Labor Reforms and their Aftermath: The Flawed Evolution of the American Labor- Management Model as Regards Center Firms, 1945-1980

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New Deal Labor Reforms and their Aftermath

*The Flawed Evolution of the American Labor-Management Model as regards Center
Firms, 1945-1980*

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February 2011

Abstract

New Deal Labor Reforms and its Aftermath

The Flawed Evolution of the American Labor-Management Model as regards Center Firms, 1945-1980

Erik de Gier

Research paper American studies

Aim

The aim of this research paper is to provide a historical analysis of the post-war social compact in the U.S. Did a more or less balanced compact between the American administrative complex (Government, Congress and political parties), employers of large center firms and trade unions exist between 1945-1980? To what extent was this period unique in the history and evolution of the American system of labor and industrial relations?

Findings

Between 1945-1980, there existed a social compact between the three main parties involved. However, from the onset one or more of the three parties contested this social compact almost permanently. As a result, about 1980 the social compact had been eroded significantly and seemed no longer viable. This doesn't justify the conclusion drawn by different experts that the New Deal and its aftermath until 1980 should be considered as unique and as an exception in the history of American labor and industrial relations. Rather, it can be contended that if the New Deal had in time adopted more elements of the preceding factory system and welfare capitalism of large firms a less exceptional and also more linear and gradual evolution of the post-war American system of labor and industrial relations would have been more likely.

Research limitations/implications

There is an abundance of literature about the New Deal and its aftermath pointing predominantly into the direction of American exceptionalism.

Originality/value

This study tends to adapt and revise the current dominant interpretation of post-war American labor and industrial relations by combining a thematic and systems approach.

Keywords: American post-war labor relations, economic democracy, welfare capitalism, American labor policy, New Deal, Great Society

“It is impossible to explain satisfactorily the development of the ideas and practices which have made the modern American industrial relations system what it is if the focus is fixed too narrowly on one decade”.

Howell John Harris, *The Right To Manage* (Harris, 1982: 5)

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List of abbreviations

AFL	American Federation of Labor
BRC	Blue Ribbon Committee
CIO	Congress of Industrial Organizations
FEE	Foundation of Economic Education
GE	General Electric
GM	General Motors
IBM	International Business Machines
ILR	School of Labor and Industrial Relations
LLRG	Labor Law Reform Group
NAACP	National Association for the Advancement of Colored People
NAM	National Association of Manufacturers
NIRA	National Industrial Recovery Act
NLRB	National Labor Relations Board
PAC	Political Action Committee
SDS	Students for a Democratic Society
SCC	Special Conference Committee
TVA	Tennessee Valley Authority
UAW	United Auto Workers
U.S.	United States of America
WLB	War Labor Board

Summary

In this research paper I analyze and assess the American labor-management model between 1945 and 1980 at both the company level and the institutional level. This period has been decisive for current American industrial and labor relations. It bridges Roosevelt's important New Deal labor reforms, Johnson's Great Society reform programs and the later decline of a progressive working class and union power. By comparatively analyzing the strategies executed by American center companies¹, organized labor (in particular the United Auto Workers, UAW) and the state I demonstrate the gradual eclipse of the American labor-management model as created by these three actors. First of all, it turns out that this model, from the beginning, has been flawed by conflicts between the three institutional players as well as by internal conflicts². Secondly, the eclipse of the model has also been caused by contingent external factors such as the issue of race and civil rights, the historical split between the Old and New Left, and the rather unexpected and sudden advent of flexible Japanese production systems from the 1970s. However, most important for the ultimate eclipse of the model has been the flawed reception of pre-New Deal experiences in the system of industrial and labor relations in the U.S. in the postwar labor-management model. In hindsight, it is rather exceptional that welfare capitalist experiences of American center companies were almost completely absent in the New Deal labor reforms and the subsequent labor-management model between 1945 and 1980.

¹ Harris refers to Richard T. Averitt's definition of "center firms": "The center firm is large in economic size as measured by number of employees, total assets, and in economic size and yearly sales... Center firms excel in managerial and technical talent; their financial resources are abundant... Center managements combine a long-run with a short-run perspective... Their markets are commonly concentrated" (Harris, 1982: 12). In this paper I use alternately the terms center firms and large American companies. By center firms I mean companies as GE, GM and U.S. Steel.

² In this paper I don't pay as such explicit attention to internal conflicts in trade union organizations and center companies. Much has been written about this elsewhere. See for example the various publications of Nelson Lichtenstein as well as Fraser (1991), and on internal conflicts in GM, Freeland (2001).

1. Introduction

In my recent case study *Paradise Lost Revisited: GM & the UAW in Historical Perspective* I described and analyzed the evolving relationship between the UAW and GM (De Gier, 2010). Between 1936 and 2009 this relationship took three consecutive, but fundamentally different forms. In the first decade between 1936 and 1945 the most important objective of the UAW was recognition of the then new union by GM. From the second half of the 1940s until the 1970s the main attention of both parties shifted towards a more dynamic wage policy as well as towards the construction of a 'private welfare state' inside GM. Finally, from the 1970s onwards the safeguarding of job security became the main objective of the UAW, whereas GM tried to maximize its maneuvering room to transform its until then dominant Fordist production system into a more flexible one.

What became also obvious in this study is that the main parties involved, along with the UAW and GM, this was also the American government and its administrative apparatus, all had their own specific strategies with respect to each other. These strategies differed over time. The question then arises to what extent these strategies were interwoven and caused a certain output with respect to the dominant labor-management model in a certain period. Moreover, has there been one party which was more powerful than the other two or could we speak of a more or less balanced power relationship between the three main players? In other words, did a balanced social compact exist in the U.S during the so-called golden post-war years between 1945-1980?

2. Research objective and research questions

The time period between 1945-1980 is usually considered as the heyday of mass production and mass consumption. By contrast, the period after 1980 until to-day, differs radically from the foregoing period of mass production and mass consumption. Fordism became rather rapidly replaced by Post-Fordism. The core of Post-Fordism is flexible production and globalization of production systems with far reaching consequences for the labor-management model and the employment relationship. The rapid overnight change from Fordism into Post-Fordism was caused largely by technological developments, changing markets and the rise and increasing influence of Japanese lean production systems. In the era of Post-Fordism the power of unions decreased substantially, whereas at the same time the influence of management, but also to some extent individual workers on labor relations increased. In this study I will not focus my attention on the Post-Fordist period, but on the Fordist era, 1945-1980. More in particular, I will analyze the American corporate labor-management model in this period. The main question to be answered is if there existed between 1945-1980 a more or less balanced social compact in the U.S. between trade unions, employers and the government, comparable to corporatist social compacts that existed in Europe then?

As a more or less provoking starting point for this study I will take the theoretical concept of the “New Industrial State” as developed by the late famous Harvard economist John Kenneth Galbraith. In his seminal book *The New Industrial State* he defined the New Industrial State as characterized by a close fusion of the industrial system with the state. Modern big American corporations, such as GM, collaborated narrowly with their public counterparts “not only in the development and manufacture of products but in advising them of their needs” (Galbraith, 1967: 392). In the end, Galbraith stated, the mature corporation will become part of the larger administrative complex associated with the state: “In time the line between the two will disappear” (Galbraith 1967: 393).

It is important to realize that Galbraith wrote his book during the turbulent Vietnam War days. Perhaps, at the time he was overstating a bit the importance of the state. Nevertheless, the large postwar modern American (center) corporation had strong links indeed with the state and the government. As an example Galbraith mentioned the rather easy moves across the lines of retired admirals and generals, but also high civil servants. What is more, the

relationship of the industrial system with the state over time also negatively influenced the relationship between the unions on the one hand and the large corporations and the state on the other hand.

What we can particularly learn from Galbraith's approach is the important role of the state in the US in this time period as regards the then dominant labor-management model. Business historians Tolliday and Zeitlin confirm this (Tolliday & Zeitlin, 1991). They contend that, in general, models of enterprise management are shaped to a large extent by a distinctive set of environmental conditions, such as technological factors and economic factors. As such, the development of the American mass production system is a result of, for example, a vast national market, a relatively egalitarian income distribution and peculiarities of the American labor market. But apart from that, also the wider institutional and political environment has been extremely relevant in the US: "... the labor policies of US companies were decisively influenced by legal and political intervention at the local and the national levels. For example, many of the difficulties of American unions before the 1930s arose directly from judicial hostility to any form of collective worker action, and from the willingness of elected officials and government officers to use the police and the military for strike-breaking purposes. Government policies and judicial decisions during and after the New Deal were likewise crucial for the development of the legalistic, contractual system of industrial relations that came to regulate labour management in unionized companies" (Tolliday & Zeitlin, 1991: 286-287). In other words, "without the political context of the New Deal and the support of the Federal government, first under the Wagner Act and then under the War Labor Board, it is unlikely that the newly formed industrial unions could have overcome the resistance of the giant corporations such as GM and Ford" (Tolliday & Zeitlin 1986: 7-8).

In sum, the American labor-management model between 1945-1980 was not only a result of the struggle between employers and workers and their unions, but also of state intervention or initially also the lack of state intervention. Extremely relevant in this respect are not only the New Deal labor policy and its aftermath, which marks the beginning of this period, but also President Johnson's Great Society programs, which in turn mark the beginning of the end of the liberal political era from the 1960s onward. What is more, if the observation of Tolliday and Zeitlin is correct, the influence and behavior of the state has been decisive in shaping and regulating the American labor management model between 1945-1980. In the years prior to the New Deal, as a consequence of a lack of government intervention the voice of workers remained weak and consequently the voice of the American employers remained relatively

strong. The employers' voice, in turn, was influenced "by their deep attachment to individualist values and unilateral control associated with a liberal conception of property rights" (Tolliday & Zeitlin, 1991: 288).

In this study I will analyze more in detail the American labor-management model in the so-called Fordist period between 1945-1980 by focusing on corporate America. For example, GM was not only for quite a long time the largest corporation in the US in this period, also labor relations in the car industry, the related steel industry and a corporation as GM were exemplary for the relationships in the New Industrial State between this corporation, the Union of Automobile Workers (UAW) and the state.

My research question is based on the outcome of my former case study *Paradise Lost Revisited* (De Gier 2010) and more in particular also on the conclusion that the historic relationship between UAW and GM and other big American corporations between 1945-1980 was co-created and influenced strongly by the state. By the state I mean the American political and administrative system consisting of the three branches: law making, the executive branch and the judiciary branch. More specifically, I want to know to what extent the state in this period was decisive in shaping the resulting management-labor model and, as a corollary also gave direction to the attitude of both organized labor and the management of GM and of other large industrial corporations in the U.S.

In order to be able to address this question properly I will analyze the following two related issues.

(a): The development and significance of liberalism for the American labor-management model between 1945-1980 and in particular, the role played by the UAW in this broader context.

As *Paradise Lost Revisited* has shown the UAW rather quickly left the path of shop floor militancy and from 1945 onward developed itself primarily into a large and centralist bargaining machinery vis-à-vis the management of GM at the national and company level. Katz has summarized this bargaining machine strikingly with the following three key features: "the determination of wages through formula-like wage rules in multi-year national contracts; a connective bargaining system structure defining the relationship between national and plant-level bargaining; and a job-control focus premised on the contractual resolution of disagreement and the linking of worker rights to strict job definitions" (Katz, 1986: 282). On

top of this, the UAW and more in particular its powerful chairman Walter Reuther propagated a system of economic democracy in the U.S., which should further enlarge workers' influence and wealth. The goal of economic democracy was to broaden the germinating 'private welfare state' inside GM towards a social welfare state in the U.S. In the end, Reutherism³ as far as the development of economic democracy in the U.S. is concerned, became a failure. This was not only caused by a shrinking political interest in the idea of economic democracy, but also by the 'end of liberalism' in due course (Boyle, 1995; Brinkley, 1998). The question is which factors enabled the rise and decline of the idea of economic democracy and what can be said in this respect about the relationship between the UAW and the state?

(b): The development of personnel management in large American corporations as related to the bargaining policy of trade unions, such as the UAW and the institutionalized employment relations in the U.S.

The core of the latter are the historically important Wagner Act (1935) which facilitated the recognition of trade unions by company management from 1935 onward, the Taft-Hartley Act (1947) which restricted worker militancy at the shop floor level, but also later legislation in the field of labor law (Gross, 1995; Hogler, 2004). Also, the judiciary and in particular the Supreme Court has exerted a strong influence on American employment relations at several moments in time. Initially, this was mainly a negative influence. But after Roosevelt's 'court-packing plan' in 1937, the Supreme Court became more supportive to American liberalism (Shesol, 2010).

In addition to the recognition of the UAW as the sole bargaining party by GM, GM's labor policy, but also personnel management of other large industrial corporations, focused itself on winning back and maintaining shop floor control. Traditionally, the foreman had played a crucial role in this respect. After the implementation of the Taft-Hartley Act it became easier for GM and other industrial corporations to roll back worker militancy at the shop floor level (Lichtenstein 1980). At the same time, UAW's focus on bargaining at the national and company level as well as its striving for economic democracy in the country left a separate

³ The term Reutherism is used by Lichtenstein: "Reutherism came to combine the tactical approach of traditional business unionism with the political economy of liberal Keynesianism and the social vision of Western European social democracy. Through the 1940s and even well into the 1950s, the UAW sought to use the tools of collective bargaining as a lever that could shift the balance of forces in the political economy and open wide the welfare state" (Lichtenstein 1986: 122).

competitive playing field to the company with respect to the development of its own labor policy or personnel management (Chandler, 1977; Chandler, 1990; Lazonick, 1991). For example, already before 1935, the Big Three car producers GM, Ford and Chrysler developed rather extensive employee or personnel policies on which they could further elaborate after World War II. These policies are called welfare capitalism.

3. Conceptual model

The main research question in this study is to what extent the strategies of the three principal parties which traditionally have been shaping the American system of labor and industrial relations were interwoven between 1945 and 1980 and created a particular output with respect to the dominant labor-management model of this specific time period. The dominant labor management model may differ over time. That is, the balance of power between the three main parties may shift between one and the other party and moreover, the balance of power is co-influenced by occasional coalitions between two or all three parties as regards certain more specific themes.

Two of the three parties are considered as the primary bargaining parties. These are the management of center corporations and organized labor. With respect to the employer and organized labor, the third party, the state, isn't primarily a bargaining party but a regulatory party. Therefore, the state apparatus consisting of the law making actors, the executive and the judiciary, can also be considered as a crucial 'external' political factor.

In order to be able to give an answer to the main research question this question is subdivided in the following two more specific research questions:

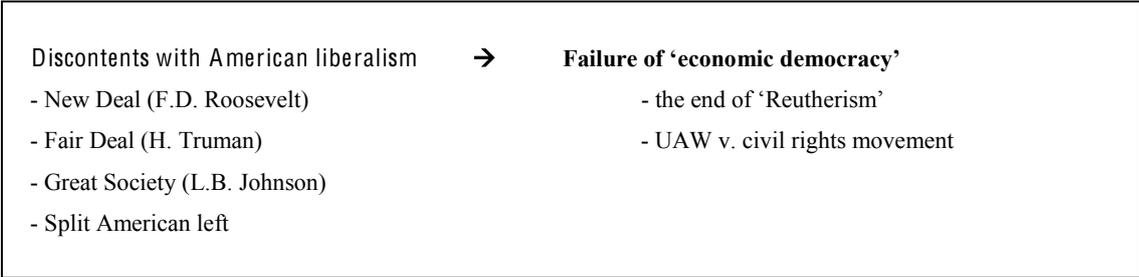
(a) How can the ultimate failure of Reutherism, or the striving of the UAW for realizing *economic democracy* in the US after 1945, be explained?

It is likely that increasing discontents about liberalism in the American society form a substantial part of the explanation of the eventual failure of Reutherism (Boyle, 2005; Brinkley, 1998). How precisely this has been the case will be the main subject of Chapter 5. In that chapter I will not only pay attention to the gradual evolution of the main ideas behind the New Deal during and after Roosevelt's administration until the 1960s. I will also pay attention to the fundamental split between the Old Left, represented by the trade unions and more in particular the UAW, and the New Left mainly consisting of intellectuals from the 1960s onward. The New Left embodied strong discontents with the social reform oriented Old Left. Instead, the main focus of the New Left was not the realization of economic democracy in the US but the realization of equal civil rights of all American citizens. According to the late American philosopher Richard Rorty the structural division on the left between social reformers and civil rights activists is an important explanation of the increasing weakness of

the American trade unions since the 1960s. What is more, it also explains the decreasing reform capacity of American society until today (Rorty, 1999).

Figure 1 pictures and further specifies the relationship between discontents about American liberalism and the ultimate failure of UAW's ideal of economic democracy in the US.

Figure 1: Relationship between liberalism and economic democracy

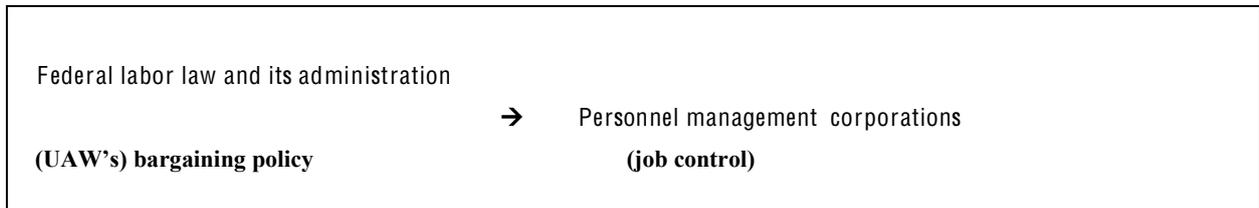


(b) Which factors explain the dominance of GM and other large industrial corporations with respect to job control at the shop floor level after 1945 until about 1980?

This question, which will be dealt with in Chapter 6, is closely related to the actual development of personnel management of large American corporations before and after 1945 and supported by federal labor law initiatives of which the Taft Hartley Act (1947) is the most substantial piece of labor law. In fact, personnel management of big American industrial corporations initially focused on rolling back worker militancy at the shop floor level by reinstating and confirming the lowest managerial role in the company. That was the role of the foreman. This was supported by the introduction of legal grievance procedures in order to prevent spontaneous militant work stoppages. For example, also the UAW agreed to this in exchange for more bargaining power at the corporate level and more political influence. Nevertheless, the continuing tension between shop floor control and collective bargaining at the corporate and company level remained a permanent dilemma to the UAW.

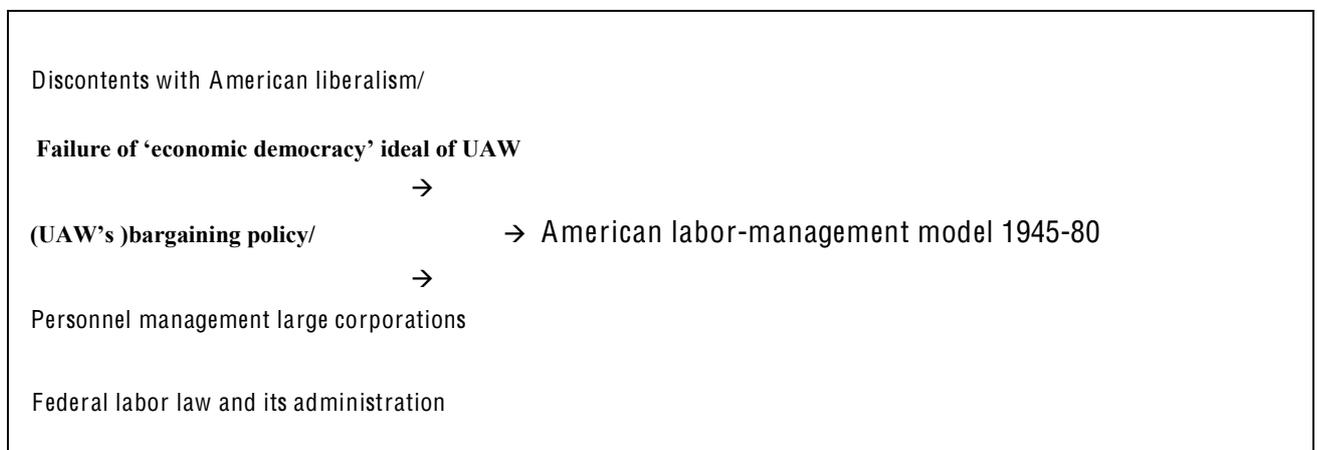
Figure 2 pictures and further specifies the relationship between post-war political initiatives, organized labor's post-war bargaining policy and personnel management of center companies.

Figure 2: Relationship between political initiatives, organized labor’s bargaining policy and personnel or employee policy of center companies



Taken together, combining Figures 1 and 2, Figure 3 pictures the conceptual model, which will be applied in this study.

Figure 3: Conceptual model The American labor-management model 1945 – 1980



In Chapter 7, I will combine the results of Chapters 5 and 6 in order to capture more fully the rather intricate American labor management-model between 1945 and 1980. Also, the question will be raised if this model was time bound and uniquely American, so that it may be considered as a unique and temporary form of American exceptionalism. More in particular, the recent and provoking hypothesis of labor historians Cowie & Salvatore will be assessed (Cowie & Salvatore, 2008). With hindsight, both historians consider the New Deal and its aftermath primarily as an exceptional and accidental byproduct of the massive crisis of the Great Depression and not so much as a part of a potential linear development towards an American welfare state.

4. A brief note on methodology

The methodology used in this research study is basically desk-research of available secondary sources.

Part of the work has been administered during a stay of four weeks of the author as visiting fellow at Cornell's School of Labor and Industrial Relations (ILR) in September 2010. This made it not only possible to have an additional oral exchange of ideas with some of the school's renowned industrial relations experts, but also to make use of its extensive Martin P. Catherwood Library.

This is primarily a historical study. Although it has a descriptive character, in the background I also use some theoretical notions. In particular, systems- or institutional theory, stating that personnel or employee policies of companies to a large extent are influenced by several external factors such as political, social and moral factors, is relevant (Scott, 2001). On the other hand, also discretionary power of organizations remains substantial. Their behavior and policies are not fully externally determined. Organizations also act as autonomous agents.

The available scientific literature about the New Deal and its post-war aftermath is abundant and mainly historical, social scientific and economic. In addition, over time the assessment of the time period 1945-1980 has changed from a mainly positive interpretation of social reforms directly after World War II towards a more critical and sometimes even negative interpretation of that period nowadays. Therefore, in this study it has been tried to make a deliberate selection of the available literature primarily by selecting three important historical issues related to one of each of the three main parties involved. These are, the increasing discontents with American liberalism (government, administration and political parties), the striving of the UAW after economic democracy in the U.S. related to its company bargaining policy and finally, the development of personnel management of large center firms⁴ related to lobbying initiatives of employer interest groups at the federal state level.

I realize that the choices I made are subjective and therefore disputable. For example, researching the nature of a social compact usually includes a balanced analysis of activities of

⁴ Personnel management of large corporations has a long and remarkable pre-war history in the U.S. dating back to the end of the 19th and the first decades of the 20th century. Therefore, in Chapter 6 (Paragraph 6.1) I will have to take a longer time period as a starting point. I will do the same in Paragraph 6.2 on the role and significance of the National Labor Relations Board (NLRB). The pre-war history of the NLRB is important for understanding correctly its post-war fortunes.

the three parties involved at the soc-called macro level (Dunlop, 1958). However, by choosing instead different thematic subjects and by analyzing these alternately both at the company and state level I hope to have added a new viewpoint to the interpretation of post-war American labor relations.

5. American liberalism and the UAW after World war II

In this chapter I will deal with the role and influence of progressive liberalism on American politics. First, I will pay attention to the changing importance of the concept of economic democracy in the political strategy of the AFL-CIO and the UAW in the post-war years. Then I will move to the 1960s and 1970s. These were the years of the second big wave of liberal reforms after Roosevelt's New Deal in the 1930s. Paragraphs 5.1 and par 5.2 are mainly historical-descriptive. Therefore, in the concluding Paragraph 5.3 I will summarize and assess the historical development of postwar liberalism and more in particular, the role of organized labor in this respect.

5.1 Economic democracy and discontents with liberalism

The post-war period before the start of the Reagan presidency in 1981 is generally considered as the golden age of American liberalism. It was also the heyday of the American labor movement. Particularly, the larger and more important American industrial trade unions, such as the UAW, booked far-reaching bargaining results for their members at the company level (De Gier, 2010). By 1945 about thirty percent of American workers were organized. This organization density for the first time in history approached the organization density of Northern Europe (Lichtenstein, 2002: 100).

Fraser and Gerstle refer to this period as the 'Third Republic of the United States'⁵. They consider it as the product of the New Deal and the civil rights revolution, spanning the presidencies of F.D. Roosevelt and L.B. Johnson (Fraser & Gerstle, 2005: 254). If we stretch this period a bit to 1930-1981 a more appropriate circumscription is 'the New Deal Order' (Fraser & Gerstle, 1989).

Although seen as the golden age of American liberalism, the New Deal Order was not a period without conflict and change. On the contrary, after initial successes the New Deal Order rapidly came under severe pressure, both from within liberalism and from without, and in due course collapsed.

Fraser and Gerstle discern at least two successive periods: the New Deal era from Roosevelt

⁵ The First Republic covers the period from the independence until the Civil War. The Second Republic lasted until the Great Depression in the 1930s (Fraser & Gerstle 2005: 254).

to Johnson and the conservative era thereafter (Fraser and Gerstle 2005: 285). After the decline of the New Deal Order a conservative revolution took place in the U.S. that primarily favored the interests of the big corporations and minimized labor's voice.

The perception of the sustainability of the New Deal Order was completely different directly after World War II and to some extent all the way until the 1970s. For example, industrial relations expert Sumner H. Schlichter contended in 1948 that the union movement had placed the U.S. "on the threshold of major changes in its economic and political institutions" (cit. Brody, 1993: 239). In 1969, J. David Greenstone went even further in his *Labor in American Politics* and defined labor as an organized constituency of the Democratic Party which not only protected the interests of a specific group of workers, but also the broader general interest. He perceived American labor as being on the verge of creating a new form of class politics against producers (Greenstone, 1969: 361-362).

All in all, the trade unions had captured for themselves an important role in American political life (Brody, 1993: 218). This new extended role of labor, in addition to company bargaining, is called 'new unionism' and has a history dating back to the period before World War II (Howe, 1991). After World War II the UAW and its chairman Walter Reuther mainly embodied the new unionism. At that moment, the UAW had 1.3 million members, and was the biggest union in the U.S., encompassing five percent of the American electorate. The challenges Reuther met were huge: "a poisoned legacy of an obsessive anticommunism, an alliance with an unreformed Democratic party and the transformation and demobilization of the UAW itself" (Lichtenstein, 1995: 300).

The new unionism within American labor developed first in the 1930s in the wake of Franklin D. Roosevelt's New Deal, on the basis of the extension of labor rights (Wagner Act 1935) as well as the recognition of trade unions by the employers after 1937 (De Gier, 2010). One of the first trade unionists that propagated the new unionism was the president of the AFL-Amalgamated Clothing Workers, Sidney Hillman. Hillman, a former Eastern-European Jewish immigrant to the U.S., favored state capitalist planning or 'social Keynesianism' and because of that was inclined to participate in the New Deal in order to contribute to the realization of a real American welfare state (Howe 1991; Fraser, 1991). During the Second World War, according to Howe, he had become a "labor statesman", "serving as labor's representative on various boards where he collaborated, if not quite on equal terms, with William Knudsen, head of General Motors" (Howe, 1991).

The broader context of the pre-1945 efforts of American labor to acquire a voice in the political process has been meticulously described by David Brody and Nelson Lichtenstein and will be summarized briefly hereafter (Brody, 1993: 199-241; Lichtenstein, 1989: 122-152).

It started in the beginning of the Twentieth Century when Congress became gradually more involved in labor matters. But only from the 1930s onward did the labor movement widen its political activities from mere 'interest-group politicking' to a 'broader range of social issues'. The labor movement, and more in particular the AFL and the CIO, discovered during the Great Depression that the general well-being of workers is served by connecting labor matters with the functioning of the national economy and the larger society. Roosevelt's New Deal offered the right vehicle to realize labor's new ambition. Goal was the realization of a welfare state program consisting of a combination of national planning and a full employment policy. From a practical viewpoint, the reelection of Franklin D. Roosevelt after his first term as President became an important objective of organized labor. It therefore took the initiative of a Political Action Committee (PAC), organized by the CIO. In addition, directly after World War II the AFL also started Labor's League for Political Education.

One of the important discussion points for some time has been the question if labor's political action required its own labor party, as was the case in Great-Britain. The alternative was to capture sufficient influence on the existing two political parties. Although an American Labor party had been set up in 1936, a new third party didn't get enough support inside the labor movement. Important labor leaders, such as Sidney Hillman, CIO-president Philip Murray and finally after World War II also Walter Reuther, preferred a tight connection of labor with the Democratic Party. Reuther had been puzzling about the third party question for some time. He favored explicitly a new progressive party entailing all liberal American groups, but whether this should be a reformed Democratic party or a new labor party remained long ambiguous (Lichtenstein, 1995: 304).

Labor's most decisive argument against a third party was the risk of a division between labor and other progressives and because of that a loss of political power. An essential moment in the discussion about a third party arose anew after the succession of Franklin D. Roosevelt by Harry S. Truman. In 1946 he dismissed "New Deal symbol" Henry Wallace from his cabinet. At the same time, Truman didn't succeed to carry through important post-war reforms, such as tax reform and unemployment insurance. This raised new voices in support of a new

political party. One of them was Walter Reuther's brother and UAW-activist Victor Reuther. Also the newly set up Progressive Citizens of America (PCA) argued for the possibility of an alternative for the politically weakened Democratic Party in December 1946.

Finally, the discussion about an eventual new third and labor-friendly political party came to an end definitively in 1955 when the two national federated trade unions AFL and CIO merged with Walter Reuther as its new president. With hindsight, this 'strategic' decision would have far-reaching consequences for labor's voice in national politics.

As Brody contends, by not creating its own labor party, organized American labor accommodated itself "to a secondary place" as regards political life as well as a more limited "controlling force within the Democratic party". From that moment onward, in Walter Reuther's own words, the labor movement had to fulfill its political destiny within a Democratic party that served as the American equivalent of a European social-democratic party (Brody, 1993: 199, 218, 238).

Walter Reuther wasn't only involved in the discussion of a new American labor party that could act as a vehicle for bringing into reach a welfare state in the U.S. He was also the most outspoken labor leader in post-war America who tried to further concretize and subsequently, to implement this ideal.

Earlier, during the war, the CIO already propagated a social agenda not only encompassing wage bargaining, but also the political planning of the economy and a further expansion of the corporatist New Deal welfare state. The objective was to give organized labor a voice in "the production goals, investment decisions, and employment patterns of the nation's core industries" (Lichtenstein, 1989: 126). During the war organized labor had gained experience with tripartite corporatist bargaining and negotiating in the important War Labor Board. The tripartite WLB had set a national wage policy during the war. In the wake of this experience CIO-president Philip Murray put forward the so-called Industry Council Plan, which propagated "the fusion of economic and political bargaining at the very highest levels of industry governance" (Lichtenstein, 1989: 126).

Walter Reuther's own ideal was 'industrial or economic democracy' (See Boyle, 1995; Brinkley, 1995; Brinkley, 1998; Lichtenstein, 1989; Lichtenstein, 1995; Lichtenstein 2002). By this he meant a sort of a welfare state characterized by planning of the national economy and the creation of a situation of full employment.

Based on Murray's Industry Council Plan Reuther in 1940/1941 proposed a tripartite Aircraft

Production Board. This Board “would have the power to reorganize production facilities without regard for corporate boundaries, markets or personnel. It would conscript labor and work space where and when needed and secure for the UAW at least a veto over a wide range of managerial functions” (Lichtenstein, 1989: 126).

Reuther’s inspiration came partly from planning experiences during the pre-war New Deal with the Tennessee Valley Authority (TVA) entailing dam-construction and flood control in the Tennessee River in the South. The other half of Reuther’s inspiration came later from France’s post-war experience with planning the national French economy by the important so-called ‘Commissariat General du Plan’. The Commissariat operated close to the French prime minister and made four-year plans for the development of the French economy.

In fact, Walter Reuther propagated a corporatist middle ground or third way between private property interests and public interests. The TVA-concept should be applied to creating public corporations in basic key industries. Planning could take the form of smaller planning boards responsible for production quantities and pricing, with which the World War I and World War II Wilson- and Roosevelt-administrations already had gained experience.

As a result, an important part of power was taken away from private corporations in favor of the common good. As Reuther contended, a planned economy “would begin the breaking down of narrow fixed economic pressure groups ... (and) begin to draw into active participation of all those elements whose welfare is affected by the over-all economic pattern established” (cit. Boyle, 1995: 25).

In sum, Reuther’s ideas are in conformity with what is called ‘social Keynesianism’. This is primarily a social-democratic vision, which aligns with the ideas behind the first New Deal period between 1932 and 1934.

Social Keynesianism was directed at stimulating economic growth to levels that would only allow low levels of unemployment (Brinkley, 1998: 96). As Brinkley contends, behind social Keynesianism existed at the time a broad coalition of economists, union leaders, agricultural activists, consumer groups and others that ultimately led to the Employment Act of 1946. The preceding Full Employment Bill of 1945 still contained the idea of national economic planning “to ensure a job for every American” (Boyle, 1995: 47). The ultimate Act didn’t have this clause. Conservative Democrats from the South, the so-called Dixiecrats, opposed the idea of planning the economy. Additionally, an important battle surged between two groups of reformers, the ‘social or regulatory Keynesians’ and the ‘commercial Keynesians’.

The last group, consisting of a new generation of progressive New Dealers, also disliked the idea of industrial democracy and abstained from the idea that the state should control and regulate the corporations. Instead, they preferred indirect fiscal stimulation of the economy and stimulation of private consumption, which would turn out being substantially less threatening to private property. Brinkley contends that in their view the state had already succeeded sufficiently in regulating employer's behavior through the regulatory initiatives and labor law in the 1930s, such as the National Industrial Recovery Act (NIRA) and the National Labor Relations Act (Wagner Act). Instead, the remaining flaws of capitalism had to be solved through expanded welfare, social insurance and fiscal policies: "the task was to build not a corporate state, not a regulatory state, but a compensatory state" (Brinkley, 1998: 92).

This idea was translated into the so-called Fair Deal, the 'new liberal reforms agenda' of president Harry Truman and the Democratic party, consisting of a broad pallet of reform intentions, such as: "the expansion of social security, the creation of national health insurance, the construction of public housing, the protection of the consumer" (Brinkley, 1998: 92). Boyle argues that the new liberal agenda became the dominant force in the American political discourse in the years to come, whereas the social democratic agenda of the Social Keynesians, including the UAW and Walter Reuther, became less influential in American politics (Boyle, 1995: 60). Nevertheless, Reuther cum suis largely remained stuck in the social democratic agenda, with as its core idea the creation of economic democracy in the U.S. Time and again, he and the UAW would try to realize parts of this agenda. Walter Reuther continued to play an important role with respect to Democratic legislative initiatives "from the Employment Act in 1946 to the Great Society Programs of the mid 1960s" and by trying to "build a cross-class, biracial reform coalition" (Boyle, 1995: 4-5).

All in all, neither the idea of a corporatist welfare state in the U.S. nor Reuther's idea of economic or industrial democracy received much or lasting support from the Democratic Party in the first post-war years. Commercial Keynesianism defeated social Keynesianism. Moreover, big strikes in the car industry in 1946 and 1948 quickly taught the UAW that crossing the border of management prerogatives, such as deciding about product pricing, market allocation and job-control caused immense difficulties for the trade union. This was reinforced further by the implementation of the Taft-Hartley Act in 1947. This Act limited a number of important labor rights that were regulated in the New Deal Wagner Act. Most

important were: the ban on foreman unionism, the ban on secondary boycotts, and the ban on the closed union shop (Lichtenstein, 1989: 134). One of its consequences was also the purge of communists from union posts (Lichtenstein, 2002: 115).

5.2 From the Great Society towards the breakdown of union power

American post-war liberalism has had two high points. The first one was the onset of the New Deal welfare state during the presidency of Franklin D. Roosevelt and its direct aftermath in the 1940s and the beginning of the 1950s. The second was the period of the Great Society programs of President L.B. Johnson in the 1960s.

In between, there were the Republican presidency of President Dwight Eisenhower and the Democratic Presidency of John F. Kennedy. Eisenhower cherished the maintenance of the New Deal welfare state, but kept it at bay (Boyle, 1995: 85). And Kennedy was not particularly sensitive to further social reforms.

From February 1950 the rise of McCarthyism also influenced progressive politics in a negative sense. It made continuous social reform a suspect affair for a while. According to Boyle McCarthyism made reformers more reluctant to promote further labor-friendly reforms. More importantly, it shifted the vital political center to the right until the advent of Lyndon B. Johnson's administration in 1963 (Boyle, 1995: 71). The merger between the two federated national trade unions AFL and CIO in 1955, intended to reinforce the political power and influence of reformers on the union side, couldn't change this development. At the same time, a new issue manifested itself on the political agenda that eventually would split the progressive forces in American society. This was the issue of civil rights and race. This issue, focused on equal rights of both colored people and gender, would almost completely overrule the then dominant class-based labor problem in a limited number of years. The attention of the Democratic Party shifted likewise. The civil rights question would also exert a strong influence on Johnson's Great Society reform programs.

If he wanted to maintain sufficient (political) support for his social-democratic agenda the apparent lack of support of president Kennedy for social reforms urged UAW's president Walter Reuther to look for other allies "outside the traditional policy boundaries, beyond the White House, beyond the halls of Congress, beyond Americans for Democratic Action and the Democratic party" (Boyle, 1995: 154). He found them in the civil rights movement, more in particular in the National Association for the Advancement of Colored People (NAACP)

and the leftist student organization Students for a Democratic Society (SDS). In August 1963 the UAW even merged with the NAACP during the March on Washington. As Boyle argues, the UAW, the civil rights movement and the SDS succeeded in creating a 'grand' reform coalition, pushing into the center of public debate the crucial question of racial inequality and further social reforms after Kennedy's assassination in November 1963 (Boyle, 1995: 183-184).

It is important to realize that in the beginning of the 1960s the economic situation in the U.S. was radically different from the disastrous economic situation in the 1930s. Prosperity had increased enormously in the postwar years and the American economy was doing very well when Johnson became president of the U.S. In principle, a lot of public money was available at the time for reform programs that could contribute to solving long-time social problems, such as civil rights, race and poverty. Moreover, it was assumed that affluence and economic growth had become lasting and that in this context social engineering could solve all remaining social ills. The accompanying philosophy was 'managerial liberalism' which would further erode the earlier more far-reaching 'social-democratic liberalism' that Walter Reuther propagated. To President Johnson managerial liberalism implied an active top-down role of government primarily directed at fine-tuning the economy and economic growth in order to "produce growth dividend of surplus funds to initiate reforms" (Andrew, 1998: 9, 15).

As a result, in the fall of 1966 Johnson had proposed 200 major pieces of legislation of which Congress had approved 181 entailing civil rights, poverty, education, health, housing, pollution, the arts, cities, occupational safety, and consumer protection (Andrew, 1998: 13; see also Davies, 1996).

Because of this, rather soon the Great Society programs got the image of a large bureaucratic monster. At the same time, because of its accent on civil rights and race, the Great Society raised the criticism and resentment of the Republicans, employers and the white working class. For them, the political and social reforms too one-sidedly benefited the black population of the U.S.

For example, one of the key programs of the Great Society, the War on Poverty, mainly consisting of work-training programs for the unemployed and community action programs, turned out to become highly controversial despite its successes in reducing substantially the poverty rate in the U.S. with about six million Americans between 1964 and 1969⁶ (Andrew,

⁶ Which in fact implied a drop in the poverty rate from 17 to 12 percent of the American population (Andrew, 1998: 187).

1998: 87). The War on Poverty was largely focused on urban African-Americans and therefore ignored the needs of the urban white working class. As a consequence, “within a few years white workers would turn against the Great Society and the president who had created it” (Boyle, 1995: 187). But also the National Association of Manufacturers (NAM) was against the War on Poverty and its background philosophy of eradicating poverty by expensive work programs. Instead, the NAM favored its traditional hobbyhorses, such as reducing taxes, cutting public spending and reducing labor power (Andrew, 1998: 67). After 1966 political support for the Great Society eroded rather quickly due to several reasons. Important was the white backlash, which had split Democratic constituencies. But apart from that, opposition of the Republicans, the employers, the New Left, and academics played a role. Finally, President Johnson himself was forced to move his priorities toward the Vietnam War.

Assessing in hindsight the gains and losses of Johnson’s Great Society, one of its architects Patrick Daniel Moynihan concluded it was a “lost opportunity”. But as Katznelson argues succinctly, there was much more at stake (Katznelson, 1989: 185-211). In his view the Great Society was not just a missed opportunity toward a next step in the historical evolution of social reform in the U.S. On the contrary, it is best seen as a part of a larger framework of postwar reforms starting in the 1940s that undercut, instead of reinforcing, the prospects for American social-democratic politics (Katznelson, 1995: 187). In that sense, it also contributed substantially to the collapse of organized labor as a social-democratic force.

Henry Aaron, a Brookings Institute economist, explains the ultimate eclipse of the Great Society not as primarily caused by intrinsic factors, but first and foremost by external developments, such as the Vietnam War, the dissolution of the civil rights movement and the Watergate scandal (Aaron, 1978).

Having said this, it is obvious that the Great Society marked the end of several decades of post-New Deal reforms. It also implied the eclipse of the idea of industrial democracy or economic democracy as advocated by UAW’s president Walter Reuther. After lack of support of presidents Eisenhower and Kennedy, initially Johnson was very much in favor of the idea of economic planning. From the onset of his presidency Walter Reuther was on very good personal terms with the President for some time and was also regularly consulted by Johnson. Yet in the 1964 State of the Union the president echoed many of the UAW policy priorities by pleading for “an economy of opportunity” allowing “the young, the old, members of minority

groups, the impoverished, the unemployed, the people of depressed areas to contribute constructively, to the maximum of their respective capacities, to the progress of the nation and to share equitably in the abundance which their contribution can help to create” (cit. Boyle, 1995: 183).

After Lyndon B. Johnson left the White House in the spring of 1968 the Great Society gradually came under further attack, in particular from the conservative side. This was undergirded by a conservative change in the mood of the American population, the pivotal role race played in the accomplishment of the Great Society and the confusion of culture and cultural politics with issues of economics and class (Andrew, 1998: 184).

In this light, the 1970s can be viewed as the aftermath of several decades of progressive liberalism and liberal consensus. Recently, Cowie has best analyzed this decade. By describing extensively the further fragmentation of the American working class, the shift of support of the white working class from the Democratic party towards president Richard Nixon and the Conservative party as well as the decline of the trade unions, Cowie argues that the 1970s marked the end of a political order, the end of a movement and the end of an era. But, “most of all, it was the end of a historically elusive ideal: the conscious, diverse, and unified working class acting as a powerful agent in political, social and economic life” (Cowie, 2010: 369).

Cowie divides this decade into two periods. The first period from 1968-1974 is marked by a high strike incidence, such as the memorable strike in GM’s Chevrolet Vega plant in Lordstown, Ohio. This strike once again taught the UAW that the management prerogative of the organization of the production couldn’t be denied. Also, the passage of the Landrum-Griffin Act (1959) providing federal supervision of unions in order to protect workers from communism and corruption proved to be important in this period and particularly benefited the employers. However, most important in the first half of the 1970s was the clash between the New left and organized labor as well as Richard Nixon’s success in transforming the until then dominant materialist concept of workers and working class into a cultural concept, in which national pride prevailed over class conflict (Cowie, 2010: 68-74, 164-165).

The second period, between 1974-1982 was covered by the Democratic Carter presidency and the conservative Reagan presidency. This period was marked by a number of failed labor law reforms, such as the Humphrey-Hawkins Full Employment Bill, as well as by a revival of

business power. The powerful Business Round table⁷, consisting of big American corporations including GM was established and successfully blocked the AFL-CIO struggle to let pass labor law reforms. The Business Round Table also created the Labor Law Study Committee and the March Group. The Labor Law Study Committee tried to reduce organized labor's influence by coming up with alternative reform proposals, whereas the March Group's first objective was trying to improve the damaged image of big business in politics and the media. All came to climax in 1978. That year became a "Waterloo for unions, regulators, Keynesian tax reformers" (Cowie, 2010: 296).

5.3 Summary and conclusions

Ultimately, in the period 1945-1980 organized labor in the U.S. didn't succeed in realizing its objective of economic democracy that would have enabled the development of an American social-democratic welfare state. What is more, by the end of the period in 1980, organized labor had lost completely its privileged position in American politics.

In this chapter, the focus has been on the role of politics. After initial hesitations in the 1930s and 1940s AFL-CIO and the UAW embraced the Democratic Party as its coalition partner. However, by the time this happened, the Democratic Party had already made a major shift from Social Keynesianism towards Commercial Keynesianism. As a consequence, the Democratic Party no longer wanted to change the capitalist order to reach its goals. This culminated in the so-called managerial liberalism of the Johnson era, entailing an active top-down social-economic policy of the government directed at economic growth and solving the remaining social ills in the U.S., mainly racism, poverty and unemployment.

On top of the move towards managerial liberalism, from the mid 1960s, the Democratic Party shifted its attention from the labor question and class politics to race and civil rights.

Although Walter Reuther also had played an active and a decisive role in this shift of attention by building an early cross-class, biracial coalition with the civil rights movement and the New Left, in the end this turned out to have been contra-productive to the AFL-CIO and the UAW. Not in the least, because a large group of white rank and file members of the UAW and other unions were against equal treatment of blacks and whites in the workplace. Furthermore, by its focus on race and civil rights in the wake of the Great Society reform programs, the

⁷ About the role and influence of business interest groups such as the National Association of Manufacturers (NAM), the U.S. Chamber of Commerce and the Business Round Table see also more extensively Chapter 6 and more in particular, Paragraph 6.3.

Democratic Party estranged itself from the white working class.

Finally, 'new unionism' shipwrecked. An intriguing question in this respect remains whether the trade union movement in the 1930s and 1940s had opted for a 'third' labor party, the destiny of 'economic democracy' in America would have been different.

6. The battle of job control

In this chapter, I shift my focus to the eternal battle between management, unions and workers for job control. In Par 6.1, I describe the development and significance of so-called welfare capitalism, which mainly took shape in non-unionized companies in the U.S. After World War II, welfare capitalism gradually evolved into personnel management and human resources management. Welfare capitalism was an alternative to trade unionism for employers. Subsequently, in Par. 6.2, I will return to the national level by describing the role and significance of the National Labor Relations Board. The NLRB was created as the administrative body of the Wagner Act and its main task was settling timely breaks of the Wagner Act, either by employers or workers. With some notable exceptions, it will turn out that the NLRB from the onset played a crucial role with respect to taming union power. In Par. 6.3, partly also devoted to the national level, I will describe and analyze the role and significance of management prerogatives as well as the role of business interest and lobby groups, such as the National Association of Manufacturers (NAM). Business interest and lobby groups intentionally tried to limit union power by administering a twofold strategy. This strategy consisted of influencing directly the law-making process of Government and Congress and in addition, of scrupulously watching over management prerogatives.

6.1 Welfare capitalism and personnel management versus bargaining policies

The pre-eminent example of successful postwar bargaining policies of trade unions in the U.S. until the 1980s was definitely General Motors. As I described elsewhere, the UAW realized a fully-fledged private welfare state with all kinds of mainly material provisions inside this company (De Gier, 2010). However, as this paragraph will make clear, UAW's bargaining successes also contained a shadow side, which in the end contributed to the decline of the trade union movement in the U.S., and more in particular also to the waning of power of the UAW at both the national level and the industry and company level.

Before the surge of union power in the 1930s and the 1940s, organized labor was rather weak in the U.S. and with some notable exceptions, such as during and in the wake of World War I, didn't play a very outspoken role at the company level.

Traditionally, in the American factory system of the 19th century and the beginning of the 20th century the foreman played a decisive role. The foreman disposed of great decision latitude

and could hire and fire workers almost autonomously and also decide about work speed. Accordingly, the central company management remained at a distance from the shop floor. From the 1880s onward this started to change, firstly with the initiation of welfare work and later, as a corollary, from the 1920s, with the creation of personnel departments in large companies. Personnel departments would eventually break the powers of the foreman and take over his tasks with respect to hiring and firing personnel. Although welfare work or welfare capitalism was not exclusively American, nowadays it still plays a pre-eminent role in American industrial relations as “modern welfare capitalism” (Jacoby, 1997).

One of the authors, who investigated welfare capitalism extensively for the first time, defined it as: “any service provided for the comfort or improvement of employees which was neither a necessity of the industry nor required by law”. As such, welfare capitalism can be seen as an alternative to trade unions, offered by company management (Brandes, 1976: 5-6).

From a substantive viewpoint welfare capitalism encompassed the following fields: housing, education, religion, recreation, profit sharing and stock ownership plans, medical care, pensions, social work and employee representation.

Moriguchi, in a more recent publication, boils down welfare capitalism to the following three categories:

- (a) the introduction of pecuniary incentive contracts that were contingent on employees’ firm-specific tenure and other desirable characteristics, such as merit, workmanship, and loyalty (for example: retirement pension, employee stock ownership, life and health insurance, paid vacation and housing plans);
- (b) investments in the human capital of blue-collar employees, such as training programs, employee magazines, and health and safety education;
- (c) personnel programs to provide internal contract enforcement, such as recreational facilities (Moriguchi, 2003: 5-6).

Brody, finally, also reduces the wide array of welfare work programs to three categories: schemes to encourage men to acquire property, such as savings plans, home-ownership plans and stock-purchasing plans; programs to protect workmen and their families from losses resulting from accident, illness, old age and death; and finally, employee representation which Brody estimates as the “most celebrated labor experiment of the decade” (Brody, 1993: 54-55).

Welfare work reached its peak during the 1920s. In this decade it obviously offered an alternative to trade unionism. The number of strikes was rather low and less than a third if compared with the number of strikes occurring just before World War I (Brandes, 1976: 136). Also, the level of union membership dropped substantially in this period.

Sumner H. Slichter considered welfare work in 1929 as one of the most ambitious social experiments of that time, “because [it aims], ... to counteract the effect of modern techniques upon the mind of the worker, to prevent him from coming class conscious and from organizing trade unions” (Schlichter, 1929: 432). He discerned six methods: helping employees acquire property, helping workers acquire “a stake” in the enterprise, protecting workers against arbitrary treatment, rewarding continuity of service, giving workers the opportunity to advance to more responsible positions, and giving workers security. As a consequence, between 1922-1929, production increased spectacularly, union membership dropped substantially, the number of strikes decreased significantly, and turnover of labor lowered (Schlichter, 1929: 404).

Clearly, welfare work can be seen as a union evasive strategy. By introducing welfare capitalism in a company, management mostly successfully succeeded in keeping out the trade unions. On the other hand, welfare capitalism also contained a moral dimension. Many experts considered it a paternalistic employer policy, which in a number of cases also implied strict control of the worker outside the company premises.

Brandes as well as others describe one of the first examples of welfare work in the U.S. This was the creation of the new company town of Pullman, Illinois in 1880 by the railroad car company with the same name. Pullman wanted to prevent strikes and also “to exclude all baneful influences” (Brandes, 1976: 16; see on the phenomenon of company towns: Green, 2010). Apart from decent housing, Pullman offered supplementary welfare services to its workers, such as education and ordered surroundings. Many other companies followed Pullman’s example.

As has been argued, union evasion was an important motive for employers to introduce welfare capitalism. That was also the case with respect to the moral dimension. Some employers, like Pullman, propagated the creation of a utopian “New Capitalist Man”, a sort of American model worker, who would be “thrifty, clean, temperate, intelligent, and especially industrious, and loyal” (Brandes, 1976: 16, 33).

A third motive was provided by economic and demographic developments. The rapid

industrialization of America required many workers. This generated big waves of immigrants who had to be 'Americanized' first before they were suited to work in the growing companies. This entailed, for instance, the creation of English learning facilities and the construction of churches. The companies themselves organized all this.

Taken together, in the 1920s a large part of the big American companies had their own welfare capitalist programs. And it seemed that despite critical attitudes, many workers embraced welfare capitalism (Brody, 1993: 48-81; Cohen, 1990). From this perspective, at that specific moment, a surge of power of organized labor, as occurred later on in the wake of the New Deal, seemed highly unrealistic.

However, the economic crisis of 1929 and the subsequent Great Depression made at least a provisional end to welfare capitalist programs of the majority of the big American Companies and induced a rapid and huge increase of union power.

In the context of this paper it is relevant to pay some attention to the assessment, by industrial relations experts and labor historians, of the historic significance of welfare capitalism.

Its most extensive empirical evaluator, Stuart D. Brandes, considers welfare capitalism as it manifested itself before the Great Depression as a "temporary expedient" and as an "interim solution". He contends, "When American workers were finally given an unfettered opportunity - as they were during the New Deal - they shunned welfare capitalism in favor of unionism. To their credit, they opted for industrial democracy" (Brandes, 1976: 136, 147). This was reinforced, so Brandes argues, by "government distaste for some kinds of welfare capitalism" as expressed by the crucial Section 7a of the National Industrial Recovery Act (NIRA) stating that "employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint or coercion of employers ... in the designation of such representatives, etc." (Brandes, 1976: 143).

Also Irving Bernstein talks about welfare capitalism as a transitional stage: "Welfare capitalism, stripped of the verbiage of industrial democracy, was precisely what its critics called it: paternalism. At best it could be more than an unstable system for both employer and employee, a transitional stage ..." (Bernstein, 1960: 186).

More positive about the (continuing) significance of welfare capitalism for American industrial and labor relations are David Brody, Lizabeth Cohen, Elizabeth Fones-Wolf, H.M.

Gitelman and Sanford M. Jacoby (Brody, 1993; Cohen, 1990; Fones-Wolf, 1986; Gitelman, 1992; Jacoby, 1983; Jacoby, 1997; Jacoby, 2004, Jacoby, 2005: 78-100).

Brody contends that in the 1920s welfare capitalism had succeeded in winning the support of most workers, but that eventually the Great Depression killed welfare capitalism. If the Great Depression hadn't occurred, "the paternalistic course of American industrial relations might well have continued ..." (Brody, 1993: 78). To some extent, Brody has been right in his estimation. If we look at the figures, in particular large companies introduced welfare work programs and industrial relations departments. By the end of the 1920s approximately half of the companies employing more than 2000 workers had a personnel department, whereas this was the case with only 6.5 percent of companies employing less than 500 workers. On the other hand, the National Industrial Conference Board reported almost at the same time that more than ninety percent of the companies surveyed administered safety programs; seventy percent operated group insurance; sixty percent, mutual aid associations; and twenty percent, formal loan plans, stock purchase opportunities, or savings and loan facilities (Brody, 1993: 59-60).

According to Brandes, in 1926, about eighty percent of the large American companies had adopted at least one form of welfare capitalism. This implied more than four million workers at the time (Brandes, 1976: 28). Finally, also Jacoby argues that welfare capitalism was an influential movement for the first three decades of the 20th century, encompassing in the 1920s millions of workers and thousands of firms. Welfare capitalism wasn't only embraced by employers, but also by numerous workers as well as by intellectuals and social reformers, such as the philosopher John Dewey, management theorist Mary Parker Follet and the Taylor Society⁸. Therefore, it can also be considered as a distinctive American approach. That is, "private, not governmental; and, managerial, not laborist" (Jacoby, 1997: 4, 14, 17).

As early as 1904 employers created a committee on welfare work, mainly consisting of anti-union employers. In 1911, this committee represented more than 500 leading employers and public officials. It got also support from the AFL until the outbreak of World War I (Brandes,

⁸ According to Jacoby, the Taylor Society (originally the Society for the promotion of Scientific Management) had been a hotbed of liberal corporatism since 1915. Taken over by progressive engineers, the Taylor Society "produced a fascination with the idea that industrial democracy was the key to industrial efficiency. Company unions, works councils, and employee participation in time studies were justified as stimulants to productivity" (Jacoby, 1997": 17; Jacoby, 1983: 18-33). About the rivalry and trade-off between Taylorism and Welfare Work at the company level, see: Nelson, 1972: 1-16. According to Nelson a process of accommodating Taylorism and Welfare Work had gotten underway since World War I.

1976: 23). In 1916, employers were also represented extensively in the Committee on Welfare and Work, which was related to the Council of National Defense, established by Congress. The objective of this committee was: “to bring home to employers, in the most forceful way, the necessity of establishing correct standards, in the end that the Government will receive from the industries, the best possible results and at the same time conserve the health and efficiency of the working population” (Brandes 1976: 25).

Finally, in the 1920s the Special Conference Committee (SCC) organized the core of the large companies, including GM and US Steel with respect to welfare capitalism. This committee advocated the so-called “American Plan”, to a large extent identical to welfare capitalist programs, but also at the same time with a strong inclination to shun trade unionism (Brody, 1997: 21-25; see about the American Plan also Bernstein, 1960; Fraser, 1991).

In accordance with Brody, also Lizabeth Cohen in her study on industrial workers in Chicago, 1919-1939, contends that welfare capitalism conquered the hearts of industrial workers, particularly in the 1920s until the outbreak of the Great Depression in 1929 and the early 1930s (Cohen, 1990: 159-211). But even after the crumbling of the majority of capitalist welfare capitalist programs brought about by the Great Depression many workers retained their confidence in welfare capitalism.

Cohen makes an important distinction between welfare capitalism before and after World War I. Before this war, she argues, the significance of welfare work was limited. This was caused by the ongoing dominant position on the shop floor of the foreman, combined with the lasting factory or “drive system” (on the origins of the factory system see: Nelson, 1975). The drive system implied close supervision of the foreman, and likewise abuse, profanity and threats and perpetuated itself in a situation of unstable and unpredictable employment conditions. As Jacoby argues, “the worker’s economic success and job satisfaction depended on a highly personal relationship with his foreman, with management and the company playing only a minor role” (Brody, 2004: 13-18; also Schlichter, 1929: 393-435; Lichtenstein, 2002: 121-122).

After the Great War larger employers, such as International Harvester, Swift Armour, US Steel and Chicago’s largest employer, the Hawthorne Works of Western Electric, recognized the significance of human relations and took seriously worker complaints for the first time in history. In this respect, World War I operated as a sea change with regard to industrial relations and more in particular to the dominant managerial ideology. In order to establish

welfare capitalism after World War I, Chicagoan employers tried to dismantle as quick as possible the powerful and apparently untouchable position of foremen on the shop floor. Although the new welfare capitalist programs still contained many flaws and remained contested to some extent by workers, employers, nevertheless, succeeded in gaining sustainable worker support. As a result, the enlightened corporation arose. This implied that from then on the “enlightened corporation, not the labor union or the state, would spearhead the creation of a more benign industrial society” (Cohen, 1990: 161). In the end, enlightened industrial employers “provided workers with a new set of standards for evaluating a good job: steady work, high wages, opportunity for advancement, decent conditions, generous benefits” (Cohen, 1990: 206).

Elizabeth Fones-Wolf also disputes the death of welfare capitalism during the Great Depression. Although the depression years brought about major changes to welfare work, she argues that these by no means ended it entirely, despite serious financial setbacks and industrial union successes.

By the end of World War II, she contends, “a sophisticated system of employer-controlled welfarism had regained legitimacy and proved successful in helping stifle a postwar resurgence”. In particular, large companies, such as General Electric (GE), GM and IBM, helped reviving welfare capitalism after World War II. (Fones-Wolf, 1986: 232). Positive experiences with recreational programs during the war played an important role. Taken together, in 1954 industry spent approximately 20 percent of employers’ pay rolls for nonwage incentives, such as pensions, child care, group insurance, improved working conditions, educational assistance, vacations and recreational programs. By 1980 this had increased to 37 percent. Nor did employers’ motives differ fundamentally from pre-war motives, that is: gaining greater productivity, gaining employee loyalty, higher morale and undermining unionism (Fones-Wolf, 1986: 256).

In a critical argumentation H.M. Gitelman concludes that after temporary retreat welfare capitalist programs survived the Great Depression, albeit in a transformed way. Based on figures, collected by the Conference Board among 2454 companies in 1927 and subsequently in 1935, nine of on the whole twelve welfare capitalist activities expanded in 1935 and three contracted. For example, employee representation, group/health insurance, group life insurance and saving plans expanded. In contrast, stock purchase plan, attendance bonus and length of service bonus declined. As in the 1920s, employer’s motives could be divided into

two broad contrasting categories. In case of “paternalistic” motives employers believed they had to contribute to assist and uplift the unfortunate, whereas “liberalist” employers viewed the standards of the day as unacceptably low (Gitelman, 1992: 21, 29-30; see about corporate liberalism also McQuaid, 1978: 342-368).

Finally, Sanford M. Jacoby has put American welfare capitalism in a wider historical perspective than the other authors mentioned. This resulted in a relevant distinction between (classical) welfare capitalism and modern welfare capitalism. The latter developed after World War II and doesn't concern so much the substantive part of welfare capitalism as its reinforced political dimension and the changed economic context (also Harris, 1982: 180-184).

In the transfiguration of classical welfare capitalism into modern welfare capitalism after World War II a limited number of large non-unionized American companies, such as Eastman Kodak, Sears Roebuck and Thompson Products played a pivotal role. This group of companies, marked by Jacoby as “modern manors”, belonged to the vanguard of modernizing welfare capitalism. In contrast, highly unionized firms, such as GM, belonged to the laggards in this modernizing process. At best, as was the case with GM and other car companies, laggards developed a double-faced modern welfare capitalism, consisting of an institutionalized bargaining relationship with the UAW as well as an employee relations department, responsible for day-to-day employee matters (also: Harris, 1982: 168-175).

Survey data about 40 companies show that between 1920-1940 GM was a laggard with respect to welfare capitalism. After 1935 GM's welfare expenditures remained below pre-depression levels. In addition, there evolved a growing difference between the treatment of white-collar and blue-collar workers within the company. The only blue-collar-directed welfare program that survived was the group insurance plan. In the end, GM maintained implicit contractual relations with its white-collar workers, whereas blue-collar worker relations evolved towards explicit contracts and jurisprudence (Moriguchi, 2003: 27-28).

As Jacoby argues, “the GM-approach was Janus-like: the company's unions faced a tough adversary in bargaining and contract administration, while the employees were shown a more human visage as the company sought to establish direct personal ties with them” (Jacoby, 1997: 245). This approach brought about irritation on the side of the UAW as, for example, was the case with the “My Job Contest” which was initiated in 1947 by the employee

relations department. GM-workers were asked to write an essay about their job and why they liked it. Subsequently, these essays were judged and among the winners \$ 150,000 in prizes were distributed. The judging process was assigned to five prominent external individuals, such as famous management guru Peter Drucker, a renowned journalist, a U.S. Commissioner of Education and two academics. GM's main objective with the contest was to improve worker's morale, but also creating a good impression of GM at the same time (also Raucher, 1987: 221-232).

As has been argued, after World War II the political dimension of welfare capitalism became more apparent.

According to Jacoby, modern welfare capitalism emerged as an alternative to liberalism and laborism. In fact, modern welfare capitalism developed as a separate but overlapping employment system to industrial unionism. By the 1950s, "the union approach embodied the dynamics of labor-management conflict, emphasizing legality and industrial solidarity, while welfare capitalism accented the corporative side of the workplace and was psychological in nature and enterprise-oriented" (Jacoby, 1997: 236).

Against the backdrop of the battle between employers and unions over the Taft-Hartley Act in the second half of the 1940s, the new employment system also expressed itself in the 1950s by transferring union jobs to the less unionized South (Jacoby, 1997: 255).

The economic context also changed dramatically after World War II, if compared with the 1920s and 1930s. Fordism was ultimately replaced by Post-Fordism. Likewise, the composition of the workforce altered to more white-collar and less blue collar and as a consequence became also more feminized.

Taken together, according to Jacoby, this implied that modern welfare capitalism fitted much better with the economic and social trends of the 1970s, whereas trade unionism succeeded in filling the gap of broken promises of employers during and in the wake of the Great Depression (Jacoby, 1997: 238, 258).

To wrap up this paragraph on welfare capitalism the following conclusions can be drawn. First of all, it can be argued that, although there are some differences of opinion between labor and industrial experts, welfare capitalism clearly survived World War II. Also between 1950 and 1980 it played a pivotal role in American industrial and labor relations. Therefore, at least in large American corporations, welfare capitalism remained a viable employment system aimed mainly at union evasion and improvement of production after World War II. As

a consequence, with respect to job and worker control, it operated as a serious competitor vis-à-vis trade unionism and the collective bargaining system dominated by the unions.

What is more, likewise the political dimension of welfare capitalism as a serious alternative to liberalism and laborism got more weight and significance after World War II. In that respect, it is justified to contend that modern welfare capitalism also contributed to the gradual postwar decline of unionism and the power of organized labor in the U.S. In contrast to unionism, modern welfare capitalism not only fitted better with the economic and social trends of the 1970s. In a wider historical perspective the paternalist and social reform aspects inherent to welfare capitalism continued to appeal to many workers at the same time.

6.2 Role and significance of the National Labor Relations Board (NLRB)⁹

The National Labor Relations Board (NLRB), still operational today, was the administrative agency that carried out the National Labor Relations Act (Wagner Act) of 1937 and its successor the Taft-Hartley Act (1947).

The main task of the NLRB was determining appropriate units for collective bargaining, conducting secret ballot representation elections to determine if a labor organization had majority support, and prosecuting unfair labor practices provisions of the Wagner Act and its successor (Gross, 2010: 63).

Because of the fact that the interpretation of Taft-Hartley has been ambiguous from the onset, the NLRB has played an unusual, but significant role with respect to postwar American labor policy. In order to understand this significance, first of all, the relevant history of these laws will be sketched, including the passage and immediate aftermath of the Wagner Act and the Taft-Hartley Act. Then, I will describe briefly the historical development of the NLRB until 1980. Finally, I will pay attention to two historic NLRB-law cases that have been co-decisive to American postwar labor politics. These are the so-called Fibreboard case, which prevented union involvement in case of outsourcing of activities by a company and the General Electric (GE) case, which violated its collective bargaining process.

Both cases form the overture to the next paragraph directed at management prerogatives and

⁹ This Paragraph is mainly based on the important work of James A. Gross, professor of labor law at the School of Industrial and Labor Relations, Cornell University (Gross 1974; 1981, 1995; 2010). See also on the New Deal Bargaining Policy until about 1950 Bernstein (Bernstein, 1950) and concerning the whole postwar period Hogler (Hogler 2004).

the influence of interest groups, such as the National Association of Manufacturers (NAM) and the U.S. Chamber of Commerce on politics and public opinion.

After the election of Franklin D. Roosevelt, the new president launched a substantial package of legislation to combat unemployment and other negative social and economic consequences of the Great Depression during his first hundred days. One of its key-pieces was the National Industrial Recovery Act (NIRA) of 16 June 1933. The core of this act was giving the authority to the business community to draft codes for entire industries covering production, prices, labor relations, wages and working hours. Likewise, workers got the right to organize and to collective bargaining. This addition was realized by Democratic senator Robert F. Wagner and included in Section 7a of the NIRA. As Auerbach puts forward, the principles enunciated in Section 7a became the cornerstone of the New Deal bargaining policy (Auerbach, 1969: 363)¹⁰.

Despite the fact that the overwhelmingly conservative Supreme Court declared the NIRA unconstitutional in 1935, NIRA's Section 7a reappeared as Section 7 in the Wagner Act, adopted by Congress in 1935. After Roosevelt's failed attempt by means of his highly disputable "court-packing plan" to appoint six more liberal judges to the on balance conservative Supreme Court in February 1937, nevertheless, the mood of the Supreme Court moved almost overnight into the direction of supporting Roosevelt's New Deal legislation (Shesoll, 2010). This was caused by a sustainable move of swing-Judge Owen Roberts towards the progressive part of the Supreme Court. From then on five of the nine Supreme Court judges endorsed Roosevelt's New Deal to a large extent. As a consequence, the Supreme Court also declared the Wagner Act constitutional in July 1937.

In the wake of the Wagner Act there was an unprecedented upsurge of organized labor at the company level, particularly due to the new Section 7 in the Wagner Act, which read:

"Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection" (Auerbach, 1969: 365).

Senator Robert F. Wagner hoped that the Wagner Act itself would contribute to the

¹⁰ The ideas of worker self-organization and bargaining with management were not completely new. Already the War Labor Board in World War I and later on, several industrial commissions propagated them. They were also included in court decisions and railway legislation (Gross, 1974: 4)

development of industrial democracy in the U.S. by giving workers a voice in industry and welcomed the new law as a “bulwark of industrial peace and justice” (Gross, 2010: 62). From the beginning, Section 7 and its predecessor not only met with fierce resistance of the Supreme Court but also of management and employers. Therefore, in the Wagner Act also a NLRB was introduced as administrative agency in order to quell conflict between management and labor and moreover, to support workers in order to realize their new acquired rights.

The NLRB had two predecessors, the National Labor Board under the NIRA and subsequently the so-called “Old” or first NLRB. The main difference between the two forerunners and the Wagner NLRB was that the new NLRB now also got law enforcing powers. At the time of World War II, the War Labor Board succeeded the NLRB temporarily on January 1942.

In 1947, the Wagner Act was amended fundamentally by its successor the Taft-Hartley Act. On balance, it became more employer-friendly and less labor-friendly.

As Phillips-Fein contends, the Taft-Hartley Act mainly imposed a lot of restrictions on the labor movement: “it prevented sympathy strikes (when one group of workers strikes on behalf of another), banned secondary boycotts (when a union refuses to handle goods made by another, striking union), barred supervisory workers or foremen from joining unions, permitted states to pass right-to-work laws that prohibited contracts with provisions stating that union membership was a mandatory condition of employment, and required all union officers to sign affidavits swearing that they were not Communists” (Phillips-Fein, 2009: 31-32).

In order to understand this development correctly, it is necessary to summarize briefly the evolution and fortunes of the three labor boards until the passage of Taft-Hartley.

As has been contended, the first labor board was established in the context of the NIRA in 1933. Contrary to the later Wagner-NLRB, the National Labor Board didn’t have control of its decisions. This was reserved to the Compliance Division of the National Recovery Act (NRA) and the US Department of Justice. Based on Section 7a NIRA, the Board’s main function was solving conflicts between management and labor. However, its mandate was rather vague: “to consider and settle differences over the interpretation of the President’s Re-employment Act”. NLB’s successes, therefore, depended very much upon voluntary cooperation between employers and unions (Gross, 1974: 17).

Ultimately, the NLB was abolished by Executive Order in June 1934 and succeeded by the “Old” NLRB. Like the NLB, the Old NLRB also missed the compliance authority and because of that likewise failed to enforce Section 7a.

On August 30, 1934 the NLRB decided that Section 7a not only implied a union *right* to bargain, but at the same time an employer *duty* to bargain.

Subsequently, the Wagner Act required a new NLRB that could act as independent labor Supreme Court. This board had to solve two fundamental questions of constitutional law, “whether Congress and, therefore, the NLRB had authority under the commerce clause to apply the provisions of the Wagner Act to employer-employee relations and whether those provisions were valid under the due process requirements of the Constitution” (Gross, 1974: 190).

After the implementation of the Wagner Act in 1937, the new NLRB tried to enforce as stringently as possible the new act and to formulate thus a national labor policy. This gave rise to serious opposition, not only of employers, but also of Republicans in Congress. Most important was the initiative of archconservative Republican senator Howard Smith to formulate a more employer-friendly Wagner Act. This became the Smith Bill that ultimately failed in the Senate Labor Committee. The Smith Committee, which assessed the NLRB and prepared the bill, appeared to be a powerful initiative to “regain, maintain, and increase the power of American industry, business and the AFL” and turned out to be “a watershed in the history of the NLRB and American labor policy” (Gross, 1981: 108). Smith and his committee were helped by pointing their arrows at the presence of communists and political leftists in the administrative apparatus of the NLRB. This contributed to a split of the agency. Its public image became that of a radical and biased agency (Gross, 1981: 150).

After senator Smith also forged an alliance with AFL chairman William Green, the House approved the Smith Bill in the Spring of 1940, but it died later in the Senate. However, as we will see, its principles survived in the 1947 Taft-Hartley Act.

The upsurge of organized labor in the second half of the 1930s substantially enlarged labor’s power at the time and directly after World War II. Likewise, this development elicited the opposition of employers.

In 1945 union membership had increased to fifteen million, five times more than in 1933 (Brody, 1993: 157). At least for a while, labor had become a power to be taken seriously. On November 5, 1945, important unions, AFL, CIO and organized business joined the

National Labor-Management Conference initiated by the new Democratic president Harry F. Truman. Primary goal was settling industrial peace. But the employers also raised anxieties on further expansion of collective bargaining and union power at the cost of a further loss of managerial power or the “right to manage”. In the background, at almost the same time, Walter Reuther and the UAW had challenged GM with a big national strike, requiring a thirty per cent wage increase and no rise in the price of cars. To GM this big strike also implied a challenge of maintaining discretion over important management prerogatives vis-à-vis the unions. In the end, GM accepted wage increases but no price stability. Wages belonged to the bargaining table, whereas pricing remained a management prerogative (Brody, 1993: 159-160). I will return to this issue more extensively in the next paragraph.

According to labor lawyer James Gross the Labor-Management Relations Act or Taft-Hartley Act of 1947, from the onset was ambiguous and due to this, would have far reaching consequences for postwar American labor policy. This ambiguity was caused by the fact that Taft-Hartley on the one side still supported the collective bargaining rights of workers as defined in Section 7 of the Wagner Act, but on the other hand also reinforced the rights of employers vis-à-vis the trade unions of the new act. For example, Taft-Hartley explicitly (re-) installed employer’s right of ‘free speech’ in the new added Section 8c: “the expressing of any views, argument, or opinion, or the dissemination thereof, whether written, printed, graphic, or visual form, shall not constitute or be evidence of any unfair labor practice under any provisions of this Act, if such expression contains no threat of reprisal or force or promise or benefit” (cit. Gross, 2010: 74)

Despite the fact that this amendment could formally be considered as guaranteeing equal employee and employer rights, in practice it didn’t work out neutrally and indulged employer’s power. As Wagner himself argued, it would become “the primary instrument used by employers to discourage unionization and collective bargaining” (cit. Gross, 2010: 74). Section 8c likewise increased employer’s job control at the company level. Furthermore, in the Declaration of Policy of Taft-Hartley, added to the act by Congress, collective bargaining wasn’t mentioned. Instead, it was stated that the purpose of the act was to protect the rights of individual employees in their relations with labor organizations. This would give individual workers the right to refrain from engaging in collective bargaining (also added to Section 7 of Taft-Hartley).

Gross contends that the more employer friendly character of Taft-Hartley was directly

influenced by the critical NLRB investigation by anti-New Deal congressman Howard Smith in 1939-1940: “The Hartley Bill was actually written in Smith’s office using his unsuccessful 1940 labor bill as a model” (Gross, 1995: 2-3).

Many contemporary observers considered Taft-Hartley as an important piece of anti-labor legislation. Most extreme in its forfeit was AFL. It wanted a complete repeal. And although also President Truman vetoed the bill, ultimately it passed Congress by a two third majority. The inherently ambiguous character of Taft-Hartley made it a complicated matter to administer the Act by the new NLRB: “Because there were potentially conflicting statutory purposes in the Taft-Hartley Act, the new five-member NLRB was in the unique position of choosing between different labor policies and, over time and political administrations, of swinging labor policy from one purpose to its direct opposite” (Gross, 1995: 14). That was indeed what happened.

The Democratic or Republican color of the various administrations after the Truman-administration influenced significantly the outcome of the NLRB. Because of that, the NLRB became a highly politicized agency. This was further reinforced by the virtual absence of the presidents themselves and Congress regarding (new initiatives to) labor law making in the decades following the passage of the Taft-Hartley Act. Gross argues that as a result, “the roles of Congress, the NLRB, and the Supreme Court in making national labor policy have been blurred and confused. When Congress abdicates its legislative function, the NLRB assumes a far greater than normal role in making labor policy. Because of the legislative vacuum and ambiguity, moreover, the making of national labor policy has also passed by default from Congress to the Supreme Court” (Gross, 1995: 276).

The most labor-friendly and at the same time least employer-friendly NLRB was the Kennedy-Johnson Board in the 1960s. This board required employers to accept unions as equal bargaining parties with respect to wages, hours and working conditions. Labor-related issues had to be resolved by joint employer-union decision-making (Gross, 1995: 274). In particular, due to this, the Kennedy-Johnson Board also induced a strong and organized opposition of powerful employers.

One significant example in this respect is the so-called Fibreboard Paper Product Corporation case.

The Fibreboard Corporation wanted to contract out its maintenance work against the wish of the union. The Eisenhower Board decided that this matter concerned a management

prerogative and because of that according to the Board, the company didn't have a statutory obligation to bargain about its decision with the trade union. Subsequently, the successive Kennedy-Johnson Board overruled this decision. Finally, due to employer opposition the Fibreboard decision reached the Supreme Court in the mid 1960s.

However, the Supreme Court upheld the Kennedy-Johnson Fibreboard decision in 1964 and emphasized that contracting out maintenance work did not affect "the company's basic operation, that no capital investment was involved, and that the company merely replaced existing employees with those of an independent contractor to do the same work under similar circumstances" Gross, 1995: 192).

Employers and their spokesmen remained fiercely opposed, even arguing that the future of American free enterprise was at stake. The Supreme Court decision marked the beginning of a strong and coordinated employer opposition at the national level (see next paragraph).

Employer opposition became even stronger after the failure of a labor law reform bill propagated by AFL-CIO in 1978 (Gross, 1995: 278).

Finally, successive Republican boards blocked Fibreboard and other pro-labor rulings of the NLRB. These boards reinstated management authority as regards management prerogatives, whilst subordinating at the same time employers' statutory obligation to collective bargaining.

Another significant example of employer resistance against a labor-friendly decision of the NLRB during the Kennedy-Johnson era was the Board's decision that General Electric had violated its collective bargaining process by dealing firstly with its employees and only in second instance with the union. In this particular case, GE applied a "merchandising strategy" which included making use of "an elaborate employee communications system, plant newspapers, daily news digests, employee bulletins, and letters to employees". GE's "merchandising strategy" also got known as Boulwarism, after GE's vice president of employee and community relations Lemuel Ricketts Boulware. Boulwarism didn't only refer to GE's postwar contract negotiations philosophy, but also to a ceaseless education campaign in the ideology of the free market (Phillips-Fein, 2009: 100).

After the decision of the NLRB, GE accused the Board of "dictating the bargaining process to be followed, of assuming powers denied it by the act and the Supreme Court, of limiting freedom of speech, and of imposing new restrictions on the basic rights of management to operate a business responsibly, efficiently, and profitably and to stay competitive and provide jobs" (Gross, 1995: 188-189).

6.3 Management prerogatives and the influence of business interest groups

In his most recent book James Gross touches upon the issue of the significance of private property rights for American business (Gross, 2010: 43-103). History has shown that in American capitalism private property rights have always been primordial and, on balance, much more important than worker rights, such as freedom of association as guaranteed by the Wagner Act. Private property is also seen by the general public as an American value and is part of a broader national philosophy encompassing also the principle of free enterprise, free trade, and a deregulated economy. This free market philosophy is undergirded by the Common law system that is a system of primarily judge-made law. As a result, also the judiciary system supported business on balance by limiting employer's liability for injuries to employees and complementary business-friendly doctrines of the 'fellow servant rule', 'contributory negligence' and the 'assumption of risk'¹¹. Later in time these doctrines were enlarged with the doctrine of freedom of contract, guaranteeing the employer unilateral power to make rules.

It was only during the Great Depression that the Wagner Act for the first time in American history corrected to some extent the power of business by introducing worker rights. This resulted, according to Gross, in a clash of rights and values between employer's freedom of enterprise, freedom of contract, freedom of property and freedom of speech in the one side, and on the other hand worker's freedom of association.

One of the most significant clashes in this respect was the conflict over the scope of collective bargaining. This issue directly touched the issue of employer's prerogatives. Most important was the right to manage as such. But apart from that, also other prerogatives were at stake, such as: determination of products to be manufactured, location of the business, plant lay-out, equipment to be used, methods of production, financial policies, prices, selection of employees for promotion, job duties, work assignments, production standards, scheduling of operations, and the maintenance of discipline (Gross, 2010: 85).

At two moments in the last century enlarging the power of workers and organized labor significantly reduced management prerogatives.

¹¹ The fellow servant rule is the rule under which an employee cannot sue his employer for the injuries caused by the negligence of another employee. Contributory negligence is the doctrine under which an employee cannot recover from an employer if he was negligent himself. The assumption of risk is the doctrine that an employee cannot recover if he had put himself voluntarily in a dangerous position (Gross, 2010: 53-54).

The first moment was the New Deal period with as its most important result the implementation of the Wagner Act in 1937. The second memorable moment was the Kennedy-Johnson period in the 1960s resulting in a labor friendly NLRB and the social programs of the Great Society. Both moments caused a strong employer opposition, both at the company level and at the political level resulting in repairing at least a substantial part of the lost terrain.

Let us first reconsider the aftermath of the Wagner Act.

The principal idea of Senator Wagner was to create in the U.S. a system of corporatist industrial democracy by introducing the freedom of association and collective bargaining. This caused an enormous upsurge of organized labor in the wake of the implementation of the Act until the beginning of the 1950s. As Harris contends, in particular after World War II the stakes were very high, that is: control over the work place, influence in the wider political community and “perhaps the very survival of the free enterprise system itself” (Harris, 1982: 7). Likewise, employers were anxious that the field of collective bargaining would further expand into the domain of management in the postwar years (Brody, 1993: 159). A significant example was the big GM strike of 1945. Walter Reuther, to some extent, crossed the line of perceived management prerogatives by not only demanding a thirty percent wage increase, but also no rise in existing price levels of cars (Brody, 1993: 160; De Gier 2010). GM didn't give in its management prerogative as regards to pricing. What is more, the company also defined future bargaining terms. This included the following subjects: acceptance of the union, prohibition of bargaining on matters belonging to the management sphere, denying the union a place on the management side of the line, and keeping authority over matters of discipline. In other words, GM safeguarded its right to manage, also with respect to employee relations (Brody, 1993: 169).

More in general, employers' reaction at the company level consisted of various initiatives, such as union evasion, neutralizing the shop steward system, limiting the scope of collective bargaining, automation of production, replacement of employment to the (Mid-)West and the South, etc. (Brody, 1993: 157-198). At the political and administrative level reforming the Wagner Act became employers' top priority (Jacoby, 1997: 193). Ultimately, the 1947 Taft-Hartley Act would recover part of the lost influence of employers. For example, GM, Ford and other large corporations limited and reduced the degree of workers' control “over their own conditions of employment via collective agreement or concerted pressure” (Harris, 1982: 9).

The Kennedy-Johnson period was marked by the struggle for civil rights, the Vietnam War and the upsurge of the New Left. This struggle not only influenced significantly the American political system, but also the position of organized labor and not in the least also the position and public image of employers. Particularly important in this period, was the progressive Kennedy-Johnson NLRB issuing the labor-friendly Fibreboard and Darlington cases. Fibreboard (1962) ruled employer's statutory obligation to bargain with the union the company's decision to contract out its bargaining unit maintenance work. The Darlington case (1962) concerned the initiative of the Darlington Manufacturing Company of South Carolina to close an entire plant to avoid unionization. The NLRB rejected this (Gross, 2010: 88-91).

Both NLRB-cases roused adamant employer opposition because they crossed the line of perceived management prerogatives. This resulted in the mid-1960s in the creation of a steering committee consisting of twelve top management executives. This group became known as the "Twelve Apostles" or "No-Name Committee" and more formally eventually as the Labor Law Reform Group (LLRG). The intention of the LLRG was to bundle the until that moment rather dispersed employer opposition. After adding three more groups, the Blue Ribbon Committee (BRC) of more than one hundred lawyers of large corporations, the Legislative Committee for political lobbying and a Trade Association Coordinating Committee encompassing some forty trade associations, the LLRG initiated a substantial labor law reform project, consisting of:

- (a) a section-by-section analysis of Taft-Hartley and developing amendments;
- (b) a number of attitude surveys to determine ways to influence public opinion favorable respective labor law reforms as proposed by the LLRG;
- (c) the application of a sophisticated public relations campaign (Gross, 2010: 93; Gross, 1995: 202-204).

The reform project resulted on 6 November 1967 in an extensive document entitled 'Labor Law Reform Study'. Gross contends that this report, "in essence, was a catalog of what employers believed the most repugnant McCulloch Board decisions, matched with a series of legislative amendments designed to reverse those decisions" (Gross, 1995: 204).

The LLRG can be considered as the ultimate result of organized political employer resistance against the New Deal and the Great Society or progressive liberalism in the U.S.

In 1972 the LLRG merged with two other organizations, the March Group (a small group of executives) and the Construction Users Anti-Inflation Roundtable (a group of employers

fighting for business-friendly labor laws and against construction unions) into the important and still powerful business lobby organization, the Business Roundtable (Phillips-Fein, 2009: 192).

As Phillips-Fein describes concisely in her recent book on the businessmen's crusade against the New Deal, employer resistance against employee-friendly politics increasingly took shape since the 1930's via the existing important national employer organizations the National Association of Manufacturers (NAM) dating from 1895 and the U.S. Chamber of Commerce, since 1798, as well as new initiatives such as lobby organizations, think tanks, radio stations and magazines (Phillips-Fein, 2009). Important actors in this respect were, for example: the American Liberty League, the Foundation for Economic Education (FEE), the Mont Pelerin Society, the John Birch Society, the American Enterprise Association (later the American Enterprise Institute), the National Heritage Foundation, the National Review and the Business Round Table. The main intellectual inspirators of these groups, often financially supported by big manufacturing firms such as GM, Ford, GE and U.S. Steel, were free market propagating economists Ludwig von Mises and Friedrich von Hayek.

Both representatives of large corporations and small business played an important role in these initiatives (Burch, 1973: 97-130). A substantial part of these persons adhered to the right, and often was archconservative. From the 1960s onward business also merged with the religious right into the New Right. With the endorsement of many corporate Political Action Committees (PAC's), the NAM, and the U.S. Chamber of Commerce this ultimately culminated in Ronald Reagan's presidency in 1980.

Coming back, finally, to the results of the LLRG, it can be argued that this group also influenced the Supreme Court decision on the Fibreboard case in 1965. Despite the fact that the Supreme Court upheld the original NLRB ruling that the employer was obliged to bargain with the union about contracting out bargaining unit maintenance work, the Court restricted its ruling to the specific facts of this case that is requiring the obligation to bargain under the limited circumstances of this particular case. Therefore, to the Supreme Court eventually, employer's interests remained pre-dominant.

This was also the case in Darlington. Here, the Supreme Court decided that "some management decisions are so peculiarly matters of management prerogative that they must be free of government regulation, namely the right to close the business completely even if for anti-union regulation" (Gross, 2010: 98).

Perhaps, it isn't exaggerated to conclude with Steve Fraser and Gary Gerstle that today we live among the ruins of the New Deal (Gerstle & Fraser, 2005: 290). The New Deal policy that was intended to replace industrial autocracy with industrial democracy failed by reversing employee rights into political and administrative protection of management prerogatives after World War II (c.f. Gross, 2010, 102).

6.4 Summary and conclusion

In this chapter I analyzed the second research question with respect to the development of personnel management in large American corporations as related to the bargaining policy of the trade unions. At its core, it concerned the question of which party actually disposes of job and worker control. Are these management and employers or trade unions and organized labor?

It appeared that the historic battle of job and worker control is fought at different levels with different strategies, both at the shop floor and company level and at the institutional and political level. Three parties are involved: organized labor (workers and their unions), employers (management, employer interest and lobby organizations) and the state (Presidents, Congress, Courts and administrative agencies).

With hindsight, it can be argued that despite notable exceptions (New Deal period, Kennedy-Johnson era) trade unions and organized labor ultimately have lost the battle of job control. The causes were many. In this chapter I paid attention to the pivotal importance of welfare capitalism, first of all in non-unionized firms, but also in unionized firms. Also after World War II, modern welfare capitalism remained a serious competitor for unionization in the battle for job control. In particular in unionized firms it supported management to demarcate the lines of pivotal management prerogatives or the rights to manage. Management prerogatives were also safeguarded at the level of national labor policy by correctional legislation (Taft-Hartley Act), cases of the NLRB and Supreme Court Cases.

Even in the case of the relationship between GM and the UAW, the UAW couldn't cross the principal line of management prerogatives.

Another pivotal factor was the evolving collaboration between employers via the U.S. Chamber of Commerce, the NAM and a series of new and ultimately successful business lobby organizations, such as the powerful Business Roundtable. The organized business lobby appeared in particular successful on dismantling the labor-friendly gains of the second liberal reform wave in the 1960s.

7. The intricate and exceptional American labor-management model (1945-1980)

In the preceding two chapters I described and analyzed the labor-management model in the U.S. in the period 1945-1980 as regards center firms. As it turned out, this model hasn't been a homogeneous model in terms of a rather stable tripartite social compact between organized labor, employers and the state. Rather, the model was highly disputed and contested by a large part of the center companies as well as, over time, by an increasing part of politics.

First of all, a substantial part of the center companies remained nonunionized and applied strategies to keep the unions out. Other center companies, such as GM, developed parallel Janus-faced strategies with respect to workers and unions. On the one hand, companies like GM developed an employee-relations strategy based on prewar welfare capitalist traditions. On the other hand, companies like GM, at the same time developed sophisticated bargaining policies in collaboration with its trade unions. From a substantive viewpoint, these bargaining policies focused on a set of material provisions, which in nonunionized companies belonged to welfare work programs.

A third group of center companies, for example GE with its ultimate choice for Boulwarism, shunned earlier bargaining policies and concentrated on capitalist welfare programs.

In all three cases center companies were keen to safeguard management prerogatives. This also implied that collective bargaining was never allowed to cross the confines of management prerogatives. A decisive moment in this respect was the GM-strike of 1945, when UAW's president Walter Reuther intentionally tried to undermine GM's management prerogative on pricing.

Reuther's way of acting was also inspired by the prewar successes of the labor-friendly New Deal. Pivotal in this context was the passage and implementation of the Wagner Act, giving workers legal rights to organize in unions and collective bargaining. This resulted in a significant surge of power of organized labor. This development was reinforced by war experiences of organized labor. Despite a formal ban on strikes, organized labor was recognized for the time being as a 'social partner' in the War Labor Board as well as a social partner in tripartite economic planning activities during World War II.

Also combined with high strike intensity at the end of the war period, this gave organized labor a powerful momentum around 1945. At that moment, it wasn't altogether clear if center employers and center companies would be able to resist the pressure of organized labor and subsequently had to concede with respect to the confines of management prerogatives.

On the other hand, the position of center companies and employers was not that bad. As the conservative pre-war Smith Bill and the Smith Committee make clear, even before the war Republicans were anticipating the end or mitigation of the New Deal after World War II. This resulted ultimately in the more employer-friendly Taft-Hartley Act in 1947. This act restored one of the historical important management prerogatives. That was, employer's right of free speech, embedded in the wider recognition in the law of management's rights to manage.

With hindsight, everything else that occurred between 1945 and 1980 with regard to the American labor-management model seems of secondary importance. In essence, center companies and center employers defended and tried to further safeguard management prerogatives, including job and worker control, by applying a two tier-strategy, at the company level as well as at the state level. Organized labor mirrored this strategy where suited and possible. The AFL-CIO and the UAW, for example, betted, however in vain, on the Democratic Party as a natural partner to reverse first of all Taft-Hartley and additionally, realize an American social-democratic welfare state. The ultimate failure of the coalition between organized labor and the Democratic party wasn't caused so much by an inherent impossibility to realize an American welfare state in the American context. More important were some occurrences this coalition could only partially handle, such as the issue of race and civil rights, the Vietnam War and the rise of the New Left and the gradual erosion of progressive forces in favor of the right in American society.

Moreover, what makes the American management-labor model so special, if compared with postwar labor-management models in European countries, is not the failure to realize social democracy at both the company level and the national level. It is something radically different. When reconstructing the evolution of the American system of industrial and labor relations as regards center firms in a wider time frame (from the factory system to welfare capitalism and from welfare capitalism to the failure of social democracy in the U.S.), what stands out is the missed opportunity to make use of the gains of welfare capitalism in the New Deal- and postwar labor legislation. Perhaps the actual gap between the experiences of center firms with welfare capitalism and the later New Deal order has been too big. Building on the experiences of welfare capitalism could have prevented a lot of the postwar polarization between center employers, organized labor and the state. In the end, a more stable and sustainable labor-management model could have evolved. Another question is, if, for

example, the issue of civil rights and race would also have been formally solved. Surely, contingency always remains an unpredictable factor.

8. Conclusion and debate

I started my paper by citing Cowie and Salvatore's intriguing presumption that, in hindsight, the New Deal period and its aftermath have to be considered primarily an exception and a byproduct of the Great Depression and not a potential linear development towards an (ultimately failed) American welfare state (Cowie & Salvatore, 2008). Although credible and attractive at first glance, I hope to have made clear that this supposition at least contains some flaws. It hasn't been so much the incidence of the New Deal that makes it exceptional as well as the specific substantive course it has taken. If we take seriously the theorem of path-dependency, also in my opinion, a more or less linear evolution over time of the system of industrial and labor relations in the U.S. could decidedly have resulted in a New Deal. However, taking into account the preceding historic phases of the factory system and welfare capitalism, the actual New Deal should have contained more elements of the preceding phases. In particular experiences with welfare capitalism in American center companies after World War I and in the 1920s should have co-created in a more substantive sense Roosevelt's New Deal. That this didn't happen is in fact the real exception in American industrial and labor relations.

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