



**Certified
Construction
Associate**
Educational Program

Labor Relations



NAWIC Education Foundation

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CERTIFIED CONSTRUCTION ASSOCIATE
Educational Program SM

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Labor Relations

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PREFACE

The CERTIFIED CONSTRUCTION ASSOCIATE program is an advanced, six-part home study course in construction terminology, procedures and processes. To give further merit to the title CCA in the construction industry, The NAWIC Education Foundation (NEF) made CERTIFIED CONSTRUCTION ASSOCIATE Foundation available to the public in 1982. Now, any person interested in moving into positions of management and administration in the construction industry may enroll in the program. The CERTIFIED CONSTRUCTION ASSOCIATE will learn to exercise judgment and expertise in administrative affairs when dealing with employees, governmental units, professional associations, contractors, the public and customers

Certification examinations are administered under the auspices of local NAWIC chapters. Clemson University is responsible for preparing examination booklets, handling security and scoring exams. After successfully passing certification exams in all six parts, enrollees receive a CERTIFIED CONSTRUCTION ASSOCIATE certificate and may use the letters CCA after their name.

Such educational programs are an important part of NAWIC. In 1971, NAWIC's president surveyed the construction industry and recognized the need for a guided study series for those interested in moving from secondary to management positions. The NAWIC Education Committee was appointed in 1972 to develop educational programs, among them, CCA.

The program was originally designed over an eight-year period by Northeast Louisiana University. In 1981, Cogswell College in San Francisco, California, began revising the program to lessen the dependency of the courses on textbooks and enable participants to qualify for accreditation. In 2005, the books were updated and revalidated by Clemson University.

The NAWIC Education Foundation gratefully acknowledges Northeast Louisiana University, members of the NAWIC Education Committee, Cogswell College, and those writers who were instrumental in making this six-part series a valuable tool for the entire construction industry.

STUDY TOPICS

Construction Environs

Effective Communications

Management Techniques

Labor Relations

Business Analysis

Construction Principles

LABOR RELATIONS

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LABOR RELATIONS

LESSON 1 Labor Unions

Objectives

After completing this lesson, you will be able to:

- Identify the principal reasons for the emergence of labor unions
- Describe the historical attitude of management towards unions
- Characterize current management-union relations

Current Status of Unions

In the past one hundred and fifty years, the American population has increased nearly twenty fold. The percent of population in the labor market has increased faster than the increase in population, however. The population in the labor market has increased due in large part to the greater number of women entering the labor market in recent years. This increased labor market has produced an apparent paradox, though. The percentage of American workers who are members of unions has decreased in recent years. In 1983 the Department of Labor estimated only 20% of the workforce belonged to labor unions. As recently as 2004, only 12.5% of all workers were union members. Women are not joining the unions as they join the labor force! This is one of a number of demographic changes occurring during the past 150 years that we must look at in order to appreciate both the origin and present conditions of the labor unions.

In 1830 over 70% of the workers were self-employed in agriculture with the balance involved in entrepreneurial/shop-keeper employ. The worker of 1830 owned his "means of livelihood." A profile of the typical worker revealed a male breadwinner, an immigrant from Western Europe who lived in a rural environment.

Over the past one hundred and fifty years trends have reversed themselves. Present day work is urban in setting and no longer self-employed in nature. Today's worker is as likely to be female as male. A large number of families possess two or more breadwinners. Statistically the country is moving closer to becoming a "melting pot" of minorities. Only 3% of the population still earns a living in agriculture. The class of entrepreneurs not only has changed but has also decreased percentage-wise. Today, a large number of people are employed by organizations in which they possess little or no ownership interest. Thus the American worker has become highly dependent upon others for the necessities and luxuries of life.

According to government statistics, the American economy in 1880 produced \$450 in goods and services per worker. A hundred years later (1980) the value of each worker's production jumped to nearly \$24,000 or \$4,000 in constant 1880 dollars. This represents an incredible 900% (approximate) increase in productivity, or stated another way: an average 9% annual increase in worker's output, over one hundred years. It is not sufficient to try and explain this increase in

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LESSON 2 Historical Background

Objectives

After completing this lesson, you will be able to:

- Articulate the structure of the original labor unions
- Explain why the AFL lost power
- Understand the motivation behind the merger between the two super unions: AFL and CIO

Origin of Labor Movement

Labor unions existed prior to the Revolutionary War. They were organized according to craft and were copies of the European craft guilds, serving both social and practical purposes. The union provided benefits for widows and children of deceased members, and helped members with special problems. Early unions had the additional purpose of regulating the entry of people into various crafts by setting up apprenticeship programs. Thus, unions provided a vehicle for passing on each trade from one generation to another.

The original unions in the 1700's included carpenters, printers, bakers, teamsters, longshoremen and tailors. These organizations did not engage in collective bargaining as we know it today. They posted their prices for individual jobs. Prices generally were not negotiable. If the craftsmen did not get their price, then they withheld their labor.

The nation as a whole took a dim view of striking. In one of the earliest recorded cases, a Philadelphia court ruled that it was an "illegal restraint of trade" for shoemakers to act together in organized concert if their objective was to benefit themselves or injure others. This became known as the "conspiracy doctrine."

In 1842 the Massachusetts Supreme Court ruled in *Commonwealth v. Hunt* that not all strikes were illegal; legality depended upon the objectives of a strike. This case became the precedent for the rest of the state courts.

During the 1830's and 1840's the workers through their local unions formed central trade associations or councils. The purpose of these associations was to coordinate political activities. As early as 1834 members met in New York City and formed the National Trades Union. The depression of 1837 brought about its subsequent collapse.

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LESSON 3 Legal Framework

Objectives

After completing this lesson, you will be able to:

- Identify the most important piece of legislation affecting unions
- Define the role the federal government plays in labor relations
- Identify the act most responsible for bringing about parity in bargaining

Railway Labor Act

Congress passed the Railway Act, forerunner to the National Labor Relations Act, in response to several major strikes, plus strong union pressure. The Act prohibited discrimination against union membership and established a mechanism for dealing with labor disputes. Additionally, it permitted any grievance that could not be solved locally to be submitted to the National Railway Adjustment Board.

Before a strike could occur, the union had to follow certain prescribed procedures. If the unions or carriers did not follow the requirements, severe penalties were assessed. In 1936 the Act was amended to allow airlines to fall within the Act's jurisdiction.

Norris - La Guardia Act

This act gave workers the right of freedom of association for the purpose of collective bargaining or mutual aid. This legislation made "yellow dog contracts" illegal. "Yellow dog contracts" required, as a condition of employment, that an employee pledge in writing not to join a union as long as he or she worked for the company. The law greatly limited the power of the federal courts to issue injunctions in labor disputes.

The National Labor Relations Act

Commonly known as the Wagner Act, this is the most important piece of American labor legislation. It establishes procedures whereby the federal government can enforce the rights of employees to engage in collective bargaining. To accomplish this, it established the National Labor Relations Board. This board is an independent quasi-judicial agency responsible for investigating, holding hearings, and issuing decisions and orders in an effort to encourage collective bargaining.

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LESSON 4

National Labor Relations Board

Objectives

After completing this lesson, you will be able to:

- Describe the purpose of the National Labor Relations Board (NLRB)
- Articulate the history and structure of the NLRB
- Cite examples of NLRB arbitration

History

Congress through the passage of the National Labor Relations Act, or Wagner Act, created the National Labor Relations Board (NLRB) in 1935. The NLRB was to be an independent federal agency, whose purpose was to administer the laws governing relations between labor unions and business enterprises, thus reducing work stoppages due to industrial strife.

The National Labor Relations Act, in Section 7, entitled "Rights of Employees," gave "employees . . . right to self-organization, to join organizations, to bargain collectively, and to engage in other concerted activities..." Section 7 is not self-enforcing. Congress established the NLRB to protect employees in their exercise of Section 7 "rights" and to protect the public from various enumerated unfair labor practices (Section 8). The two primary functions of the NLRB were: 1) to determine through secret ballot elections the intent of employees as to their desire to be represented by unions in their relation with an employer, and 2) to remedy unlawful actions by unions and/or employers.

The NLRB was an outgrowth of the National Labor Board (NLB), which was established in 1933. Senator Wagner, destined to write the 1935 legislation, was the chairman. The Board was almost wholly ineffective because employers openly resisted unionization of their employees and the Board did not have enforcement powers to compel acceptance. In early 1934 President Roosevelt tried unsuccessfully to strengthen the NLB through executive order by providing it with enforcement powers. Congress, in late 1934, tried through joint resolution to add appropriate powers. Though the Supreme Court declared this NLB effort unconstitutional in 1935, nineteen months after Congressional passage of legislation establishing the NLRB, the Supreme Court upheld the Constitutionality of the NLRB. The Board began officially functioning in 1937.

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LESSON 5 Unfair Labor Practices

Objectives

After completing this lesson, you will be able to:

- Name the five different types of employer activity proscribed by the National Labor Relations Act
- Name the eight different types of union activity proscribed by the NLRA
- Define "hot cargo"
- Classify the topics proper to bargaining

Definition

The Wagner Act put teeth in the government's pledge to protect employee collective bargaining rights. The Act specifically banned five types of management conduct. These five types of employer conduct were designated statutory wrongs. Although not crimes, these statutory wrongs were labeled as unfair labor practices by Congress. Additionally, Congress gave the Board (NLRB) broad remedial powers to shape decrees to protect employees engaged in "protected" activities.

Unfair Labor Practices by Employers

Section 8(a) of the National Labor Relations Act proscribes five different types of employer activity. Employees are prohibited from:

1. Interfering with, coercing, or restraining employees in the exercise of their rights to join or assist labor organizations, or not to join or assist (Section 8(a) (1)).
2. Assisting, dominating or contributing financially to labor unions (Section 8(a) (2)).
3. Discriminating against employees to discourage or encourage union membership, except as provided by a valid union security clause in a collective bargaining agreement (Section 8(a) (3)).
4. Discriminating against employees because they have filed charges or given testimony to the NLRB (Section 8(a) (4)).
5. Refusing to bargain in good faith with the representatives of employees (Section 8(a) (5)).

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LESSON 6

Dynamics of a Labor Union

Objectives

After completing this lesson, you will be able to:

- Identify the membership of the labor movement
- Distinguish the differences between a national union and a local union
- Explain the means unions employ to finance operations

Union Membership

In 1980 there were 174 national unions headquartered in the United States, with reported membership of just over 20 million members. Of the 174, 34 were professional or state employee associations. In 2004 there were 15 million union members. Not only has membership declined but, due to changes in types of employment, all union growth (except in agriculture) has been in the "white collar" areas, for example the growth of the National Educational Association and the American Federation of Teachers, both representing educators.

The national unions vary greatly in size. Five national unions have more than 1 million members and seventeen others had 400,000 or more. The AFL-CIO has over 13 million members as compared to 15.5 million in 1980. The 15 largest national unions have almost 60% of the total union membership. 1980 union membership statistics indicated that women and white-collar workers were grossly underrepresented, constituting 23.5% and 20% respectively. In 2004 only 11% of salaried women workers had membership in a labor union. 60% of all adult women work full time and over 60% of the work force is white collar. Unions have targeted both areas for increased organizing efforts. The number of minority union members (17%) does correspond to demographic breakout. Only in the occupation areas of transportation, contract construction and mining does union membership exceed 75%. Union membership is most heavily concentrated in the West Coast and Great Lakes states.

The National Union

A national union is composed of local unions, which it charters, and is governed by a national convention of local unions. National conventions are held every 1 or 2 years by most unions. The unions and their officers are governed by a constitution. In the convention, the constitution may be amended, resolutions proposed and adopted, officers elected, budgets reviewed and passed, dues set, and other business affairs attended to. In many unions the national defrays all or the lion's share of the cost to maximize local participation.

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LESSON 7 Collective Bargaining

Objectives

After completing this lesson, you will be able to:

- Identify the collective bargaining models appropriate to each industry
- Name strategies employed by management and unions in the collective bargaining process
- Name the elements of collective bargaining

Development

Collective bargaining has evolved through two one hundred year periods: 1790 - 1890 and 1890 - present. Immediately following the Revolutionary War workers and employers did not engage in the "give and take" that has come to characterize modern collective bargaining. The latter part of the nineteenth century was characterized by unilateralism on both sides. If the times were hard, employers dictated economic conditions. If there was prosperity, workers, on a "take it or leave it" basis, could extract concessions from their employers. Employers who acceded to demands would get back their footing by unilaterally abolishing prior gains during subsequent downturns in the economy.

There were not formal agreements between workers and employers. Agreements were individual and verbal. Existing unions did not sit down with employers to discuss wages and other economic condition. Despite substantial changes that occurred in other aspects of labor relations, there was little change in the collective bargaining process during the first one hundred year period.

With the emergence of the AFL, collective bargaining agreements during the period of 1890 - 1920 began to emerge. The process started with the stone molders agreement that was concluded in 1891. Trade agreements spread to other major industries: clothing, coal mining, rail- roads and building construction. Even the Federal Government which had originally been anti-union, as evidenced by the use of Federal troops during the Pullman strike of 1894, adopted a neutral stance. This included the passage of the Railway Labor Act of 1927. Government's neutrality coupled with the social, economic and political forces which operated from the beginning of the Depression through the end of World War II, prompted a greater spirit of cooperation between labor and management.

This period was by no means free from confrontation, though the respectability of collective bargaining did emerge. With the passage of the Norris-La Guardia Act, the National Industrial Recovery Act and the National Labor Relations Act, the government was squarely behind the policy of "collective bargaining." The following language (Section 8(d)) of the National Labor Relations Act (1935) indicates the new Federal attitude:

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LESSON 8

Collective Bargaining: Contract Administration

Objectives

After completing this lesson, you will be able to:

- Understand the aspects of a project labor agreement
- Understand the different characteristics of union workers and job site labor posture
- Identify the steps through which a collective bargaining agreement is administered
- Describe available grievance procedures
- Characterize the resolution of contractual disputes

Project Labor Agreement

A project labor agreement (PLA) is a contract between the contractor and union requiring certain responsibilities of both parties such as the union agrees to provide trained craftspeople and the contractor agrees to provide specific wage rates, fringe benefits and working conditions. A project labor agreement applies to a particular project and is negotiated with all of the basic crafts expected to be employed on that particular project. Thus, when the project is finished, the agreement is automatically terminated. A general contractor typically will have a project labor agreement with only a few unions: carpenters, laborers, cement masons, ironworkers, and operating engineers.

Project labor agreements usually include the following provisions:

- Wage and benefit rates, overtime pay, and shift pay.
- Workday, workweek, work times and holiday provisions.
- Work rules and manning provisions – provisions for required number of foremen, required number of workers in a standard crew and requirements for employing apprentices and helpers. These manning provisions can restrict a contractor's ability to staff a project in terms of being forced to employ more people than needed to perform a task (i.e. a crew of 5 is required where a crew of 3 can adequately perform the job). Being forced to use more people than necessary is called "featherbedding" and can greatly affect the cost of labor on a construction project.
- Hiring hall provision – union is exclusive source for hiring construction workers

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LESSON 9 Economic Issues

Objectives

After completing this lesson, you will be able to:

- Describe the process of arriving at contracted wage provisions
- Identify the usual methods of factoring cost of living increases to contracts
- Demonstrate the need to make health/safety issues subject to joint management/union control

Wages

Compensation can be established by one of the following methods: employer unilaterally, employee unilaterally, union unilaterally, government unilaterally, employer-employee jointly or employer-union jointly. The criterion for determining can come from anyone or combination of factors: reaction, surveys, formulas, job evaluation plans or pay for performance. Reaction is where rates are set according to needs of the moment, without any formal process. Surveys determine rates by looking at the pay rate for specific occupations, by industry type and in a particular geographic area. Discretion is still retained as to rates set; the surveys only provide decision background information. Formulas refer to outside factors in a way which permits no discretion concerning the specific level at which rates are set. In job evaluation, rates are set by reference to a list of occupations in which each job is given a rating based on numerical factors intrinsic to each job. Pay scales are then worked out to reflect the various differences in the occupations. Pay by performance is merely payment to an individual or group for the work actually done.

Employers and unions make use of the "comparative norm percentage" in wage negotiations. The basic idea behind this concept is the presumption that the economics of a particular collective bargaining relationship should never fall substantially behind nor be greatly superior to that of other employer-union relationships. It is good practice to keep up with the current wage trends. This principle is especially adhered to when the company and/or industry is highly competitive. Here competition and substitute products help set a local and industrial wage pattern. Unions tend to maintain harmony among their members as long as wage conditions are uniform. This is true even when, due to economic conditions, increases have to be foregone and/or there are other givebacks.

A problem occurs when there is not parity in wages and there is not a valid economic justification for the disparity. This theory will only work as long as companies have the economic means to stay current. When an industry, like steel, is hurting, then the theory cannot be applied, at least in relation to competitive products. This leads to another criterion involved in wage determination: the ability of the firm or industry to pay a wage increase. Contractual

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LESSON 10 Strikes and Other Work Stoppages

Objectives

After completing this lesson, you will be able to:

- Identify the different types of work stoppages
- Explain why the United States is strike-prone
- Identify some effective methods for settling strikes

Definitions and Types

A strike is a pressure tactic where a group of employees refuses to work until there are changes made by the employer in compensation or conditions of employment. It is also a highly effective method of notifying others that the dispute exists between the employer and workers. Over the past two decades there has been five to six thousand strikes per year. Approximately two thirds of these were strikes over negotiation of a contract. The remaining third resulted from disputes over contract provisions. The average length of the strike, as measured by loss of worker hours, is between 15 and 20 days.

The number and length of strikes has been declining during the past decade. It remains to be seen whether this is a genuine change in employee attitudes or a commentary on the economy of the times. The employer has a similar form of action available: the "lockout." The employer simply closes the operation to the employees for the duration of the dispute. The employees are unable to work and do not get paid during this time. The lockout is a strong economic weapon to persuade employees into settling the dispute. Since both strikes and lockouts present the most extreme of response, the consequences usually are great. Beyond the bad feelings that develop, there are substantial economic losses to the participants as well as third parties. The end result is that neither the workers or employers re-coup their losses. Both the employer and employees work hard to avoid such actions.

Historically, workers have claimed the right to strike. Despite the common belief, the 13th Amendment, which prohibits involuntary servitude, does not create a right to strike. Thus there is no constitutional right to strike. However, the courts have consistently held that Section 7 of the National Labor Relations Act: "Employees shall have the right...to engage in... concerted actions for the purposes of collective bargaining or other mutual aid or protection..." does create such a right. Bear in mind this is a congressionally created right that can be repealed, as is the employer's corresponding right to lock out employees.

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LESSON 11 Special Topics

Objectives

After completing this lesson, you will be able to:

- Identify the elements of the Scanlon Plan
- Articulate problems facing unions in hiring and promoting women and other minorities
- Characterize the special challenges which now face construction workers

Productivity Improvement Program

The record of union-management joint efforts to improve productivity prior to 1980 was mixed at best. Productivity was viewed by organized labor as a synonym for speed-ups and loss of employment opportunities. Unions historically tried to avoid the issue of productivity. Workers felt that productivity increases came at their expense.

The most frequently used union-management productivity improvement plan was the Scanlon Plan. The plan provides for a joint committee of managers and employees to develop proposals for reducing the cost of production. A formula is established for sharing the benefits of savings in labor costs between the company and labor force. In 54 cases where the plan was used there were 40 reported successes and 14 failures. Success was defined to include greater union/management cooperation, payment of a bonus under the plan and actual cost savings. Critics and proponents of the Plan have suggested that it works best in a small plant where there are 250 or fewer workers.

Success or failure of the Scanlon Plan or something similar depends on:

1. Developing a measurable standard of costs.
2. A favorable attitude of top management to employee participation.
3. Handling of resistance from front and middle supervisors who feel threatened by increased employee involvement.
4. Sufficient financial reward for actual savings.

Quality of work programs has largely replaced Scanlon type plans. These groups are designed like the Scanlon group, except that they consist of individual managers and employees who normally work on a particular aspect of the overall production process together. They have a joint task of improving productivity, quality, communications, safety and increasing worker involvement. Quality-of-work programs are part of the O.D. (organization and development) trend that has characterized much of the employment market since the late 1970's.