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GRADUATE COLLEGE

THE TRADE UNION CHARTER: A STRUGGLE FOR LEGAL STATUS 1867-1876

A DISSERTATION

SUBMITTED TO THE GRADUATE FACULTY

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BY

JAMES RAY HARRIS

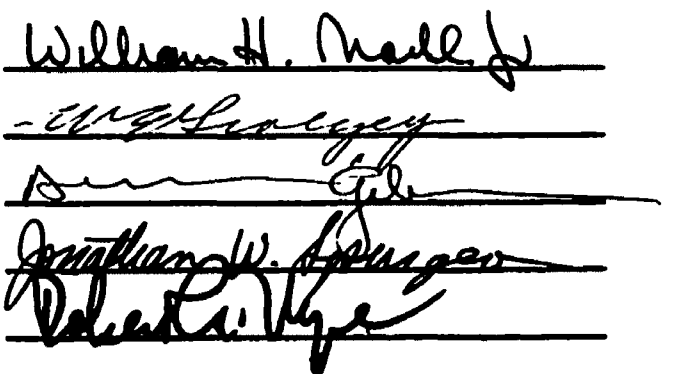
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1971

THE TRADE UNION CHARTER: A STRUGGLE

FOR LEGAL STATUS 1867-1876

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PREFACE

The four labor acts which passed parliament between 1871 and 1876 constitute a charter of trade union rights and, they form a basis for all subsequent union law. The struggle to obtain this charter is one of the most important chapters in the history of British unionism.

After 1867, when judges began to question the unions' legality, trade union officials devoted most of their attention to improving their legal standing. For a decade it was their primary goal, and the main topic of discussion at their meetings. Articles on the subject filled the columns of the workers' journal, the Beehive; unionists sent petitions demanding legal recognition to parliament and to members of the government; and, as the movement gathered momentum, they held demonstrations and giant rallies.

The Trades Union Congress, which is still the central body for unions throughout Britain, originated in 1868 out of the need for collective action to secure passage of a union charter. Two short-lived organizations, the Conference of Amalgamated Trades and the Trades Conference, organized for the same purpose; and this was

also a major point in the Labour Representation League's program. This movement not only drew unions closer together, but it was instrumental in bringing them into politics, for the passage of labor legislation was the most important issue with working class voters in the elections of 1868 and 1874.

The trade union struggle for legal status overshadows all other labor questions at this time, and it merits the study of labor historians. There are a few articles on various aspects of the subject; monographs which mention the union struggle for legal status in connection with other movements--the development of the Trades Union Congress for instance; and there are general histories of trade unionism which briefly cover the trade union charter. No one has written a complete narrative dealing exclusively with the whole topic, however, and for that reason I undertook this study.

It is not my intention to provide a detailed clause-by-clause analysis of the statutes which comprise the trade union charter, since that requires the special knowledge of a lawyer well-versed in the field of labor law. I have concentrated instead on the efforts of unionists themselves to achieve a satisfactory legal position--on their problems and internal dissention, since they were not at first united in their goals; on two royal commissions appointed to study the labor

question and how their reports influenced public opinion toward the unions; on the relationship between the unions and the government; and I have discussed the main features of the union charter and its significance.

The George Howell Collection and the Beehive were most important sources of information. Howell's papers include an extensive correspondence with labor leaders, politicians and others who figured prominently in the labor movement at this time; and as secretary of the Parliamentary Committee of the Trades Union Congress from 1871 until 1875, he kept a record of their activities. He accumulated a large personal library of labor publications, and here I found many valuable pamphlets and trade society circulars. The Beehive, a labor newspaper published from 1861 through 1877, furnished a complete record of everything going on in the labor movement during this period. Frederic Harrison's correspondence contains a wealth of information which has been available to scholars for only a few years and has not been much examined. Also, the reports of the Trades Union Congress, material in the Webb Trade Union Collection, and information from a number of other archives were extremely useful.

I greatly appreciate the assistance of librarians and archivists in London at the British Museum, the London School of Economics, the University of London, Bishopsgate Institute, and the library of the Trades Union Congress.

The library staff at the University of Oklahoma helped in many ways, especially by locating numerous sources through inter-library loan; and librarians at the University of Texas and North Texas State University permitted me to examine their collections of nineteenth century journals. Also, I want to thank the administration of East Central State College at Ada, Oklahoma, for granting me a year's leave of absence to complete research. Above all I am indebted to Professor William Henry Maehl for his patience, criticism and guidance in directing this study.

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THE TRADE UNION CHARTER: A STRUGGLE FOR LEGAL STATUS 1867-1876

CHAPTER I

1867: A YEAR OF CRISIS

In the spring of 1867 the British trade unions confronted their most serious crisis of the nineteenth century. Not since the combination laws outlawed unionism at the start of the century had any problem posed such a threat. Hostile public opinion, adverse legal decisions from the courts, the efforts of employers to clip the wings of union power, and disunity within the labor movement itself created almost insurmountable problems. The government appointed a royal commission to investigate union practice, and nothing less than the unions' existence as effective trade societies with the right to strike and bargain was at stake. Asa Briggs has summed up the gravity of the situation: "In 1867 the trade-unions faced a real crisis--the turning point in their national history."[1]

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[1]Asa Briggs, Victorian People (New York: Harper Colophon Books, 1955), p. 182.

The coming of this crisis was a startling development, and labor leaders were stunned and dismayed. For several years they had worked to improve their image, and gradually they won acceptance, even from many employers. From mid-century onwards the growth of better organized and less militant "new model unions" presented a welcome contrast to the old strike societies typical of the early 19th century.

Following the example set by the engineers in 1851, a number of trades formed great amalgamated unions with large reserve funds and with the same benefits to members as friendly societies. Compared with the small local unions scattered throughout the kingdom, these amalgamated societies and other types of new unions were highly centralized and efficiently managed, usually from a central office in London. Their outlook and their policy was different from more primitive unions, since they tried to negotiate with employers whenever possible, and avoided strikes unless absolutely necessary.[2]

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[2]See James B. Jefferys, The Story of the Engineers (Letchworth: The Garden City Press, Ltd., 1945) for the history of the first amalgamated union. The building trades were the most important group to amalgamate. For their history see R. W. Postgate, The Builders' History (London: The National Federation of Building Trade Operatives, 1923). All general histories of trade unionism stress the importance of the new unions, including Sidney and Beatrice Webb, The History of Trade Unionism (rev. ed., New York: Longmans, Green and Co., 1920), pp. 317-22; and Henry Pelling, A History of British Trades Unionism (London: Macmillan and Co., 1963), pp. 50-58.

Sometimes the mere existence of a powerful union with large funds was sufficient to prevent the lowering of wages, and it was in their "silent exercises of influence" that these unions "effected their greatest benefit."[3]

Most workers still belonged to no union, and only a small minority claimed membership in one of the new model unions, for dues of one shilling per week and rigid entrance requirements excluded all but the well-paid and highly-skilled. Within the ranks of labor there were clear-cut class distinctions, with the craftsmen and other highly trained workers forming a "labor aristocracy" who had more in common with the lower stratum of the middle class than with the day laborer.[4] Nevertheless, the leaders among the labor aristocracy found it politically expedient to consider the working class as a single group, and they often claimed to be the spokesmen for the whole labor movement.[5]

The secretaries of the London-based unions were especially influential, and five of their number, whom the

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[3] Economist, Feb. 2, 1867.

[4] Thomas Wright, "The Composition of the Working Classes," Contemporary Review, XVIII (November, 1871), 515-20; and E. J. Hobsbawm, "The Labour Aristocracy in Nineteenth-century Britain," chapter 15 in Labouring Men: Studies in the History of Labour (New York: Basic Books, 1965), pp. 272-93.

[5] Royden Harrison, Before the Socialists: Studies in Labour and Politics 1861-1881 (London: Routledge & Kegan Paul, 1965), p. 32.

Webbs have called the "Junta," exercised great power during the 1860's: Robert Applegarth of the carpenters, William Allan of the engineers, Daniel Guile of the iron-founders, Edwin Coulson of the bricklayers, and George Odger, secretary of the London Trades Council.[6] Some of the provincial leaders were also important, but they lacked the unity of the London secretaries, who acted together in formulating a common policy. It was through the London Trades Council that they exerted their influence, and after 1864 the Junta virtually dominated the council.[7]

The Junta and their allies represented a new type of union leader--men who were striving for, and getting, respectability. The rough-hewn laborer with calloused hands coming cap in hand to present his fellow workers' demands was a thing of the past. The new union spokesmen were men such as Robert Applegarth, who looked and acted

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[6]Webb, History of Trade Unionism, p. 233. Allan and Odger possibly had more stature in the trade union world, but prior to 1871 Applegarth was the key figure among labor leaders in the effort to get legal recognition. He became secretary of the Conference of Amalgamated Trades, which the Junta organized in January, 1867, and he managed the union case before the royal commission on trade unions 1867-69. A. W. Humphrey, Robert Applegarth (Manchester: The National Labour Press, 1913), is the only biography on a member of the Junta.

[7]Webb, History of Trade Unionism, p. 245. [George Tate], London Trades Council 1860-1950 (London: Lawrence & Wishart, Ltd., 1950); and a brief study by Cicely Richards, A History of Trades Councils from 1860 to 1875 (London: Labour Research Department, 1920), tell the story of the London Trades Council.

like a shrewd bourgeois lawyer; well-read and articulate George Howell; and Alexander MacDonald, who later as a member of parliament fancied frock coats and champagne. These men met middle-class employers as equals, and they won the respect and friendship of several of England's leading industrialists.

The emergence of "new model employers" paralleled the rise of the new model unions and their able officials. In the 1860's and 70's some of the larger employers of labor gave up their opposition to unionism and turned instead to co-operation and conciliation. A. J. Mundella, Samuel Morley, Thomas Brassey, Lord Elcho and others favored high wages for their workers, recognition for the unions and collective bargaining. Some even wrote for the working class newspapers and contributed financially to working class political groups. Their motives were not entirely altruistic, but their actions were none the less commendable. Between them and the new labor leaders the tendency was toward co-operation and understanding rather than strikes and bitter disputes.[8]

Both new model unionists and new model employers were still a minority of the employer and worker classes. The vast majority of workingmen were not yet in any union, and among the employers it was only the heads of large well-established firms, who no longer feared that an

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[8]Harrison, Before the Socialists, pp. 37-39.

increase in wages or a reduction of hours would ruin their business, who could afford benevolence. But a trend was established, and the larger unions and the larger employers set the example of better relations between master and men.[9]

If some employers could accept the unions, so could the general public. As early as 1861 the pro-unionist Professor Beesly observed that "public opinion has hitherto condemned trades unions unreservedly. But signs of a change are every day becoming more visible."[10] By 1866 the change was widely recognized. Even a member of the Anglican clergy--a group not noted for its friendliness to unions--openly praised unionists for their law-abiding ways, their good manners and their respect for authority.[11] During the same year J. M. Ludlow and Lloyd Jones began writing Progress of the Working Class, a book which traced the advances made by

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[9] Ibid. In Builders' History, pp. 198-200, Postgate presents a somewhat different view from Harrison. Although employers generally had given up hope of crushing the unions, they did not cease opposition to unionism. They changed their tactics rather than their attitude, and the new policy was "disarming and taming rather than fighting their employees."

[10] E. S. Beesly, "Trades' Unions," Westminster Review, Vol. XX, No. 2 (October, 1861), p. 510.

[11] The Reverend Harry Jones, "Working Men: Some of Their Ways and Their Wants," Macmillan's Magazine, XIII (January, 1866), 243.

labor since 1832.[12] George Howell, secretary of the Reform League and a leading union figure, later wrote: "At no period in the history of labour up to 1867 had labour leaders stood higher in public estimation, or were trade unions more free from vituperative attack than in the autumn of 1866."[13]

This spirit of harmony ended abruptly in October, 1866, with the dramatic disclosure of a labor outrage at Sheffield; and the public outcry against unionism which followed threatened to destroy all that labor had achieved within the past decade. The honeymoon between the unions and the general public was over before it really began.

In the early morning hours of October 8 a can of gunpowder, tightly wrapped with cord, was thrown into the cellar of a house on Hereford Street belonging to Thomas Fearneyhough, a Sheffield saw-grinder who had severed relations with his union. None of the seven inhabitants was injured, but the tremendous explosion collapsed one wall of the home and separated the remaining walls from the roof.[14]

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[12] J. M. Ludlow and Lloyd Jones, Progress of the Working Class, 1832-1867 (London: Alexander Strahan, 1867).

[13] George Howell, Labour Legislation, Labour Movements and Labour Leaders (2 vols.; London: T. Fisher Unwin, 1905), I, 158.

[14] The Times (London), October 9, 1866; and Beehive, October 13, 1866.

The Hereford Street incident was by no means the first act of terror perpetrated by the Sheffield cutlery unions. The town had a reputation of violence stemming from a long series of outrages in recent years. Sheffield unions were generally more zealous in enforcing payment of union dues and in punishing offenders than unionists elsewhere, and between 1850 and 1866 several hundred incidents of intimidation occurred.[15]

Just why the Hereford Street outrage of October, 1866, had such impact on public opinion is an interesting question. After the recent Fenian terrorism in Ireland people were inclined to be more sensitive about violence, and as one labor leader sadly observed: "To be a Trades Unionist now was as bad as being a Fenian, and Unionists now seemed to walk the streets in shame since the crimes had come to light."[16] This outrage was more dramatic than most earlier incidents, and the magnitude of the crime was greater because the lives of a whole family were endangered by the explosion. Also, it came at a time when people had begun to expect more of unions, and now they started to wonder if unions had reformed after all. Trade unions were still suspect, like criminals on parole for good behavior, and the outrage brought back

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[15]Sidney Pollard, A History of Labour in Sheffield (Liverpool: Liverpool University Press, 1959), pp. 154-55.

[16]Beehive, June 29, 1867.

long-harbored fears that secretly all unions were violent organizations prone to acts of terrorism. The result was a general condemnation of unions, and the many were now made to suffer for the acts of a few. It scarcely occurred to most people that there was a vast difference between the small saw-grinders union and the amalgamated engineers or carpenters.

The London unions were eager to clear themselves from the taint of guilt which stuck to all unions after the incident. The London Trades Council and the Amalgamated Society of Engineers rushed a joint committee of inquiry to Sheffield to make an investigation. Their report, signed by Robert Danter, president of the engineers, and George Odger, secretary of the council, issued a sharp warning against the common practice of hiding a non-union worker's tools, but it cleared the Sheffield unions from any complicity in the outrage.[17]

Sheffield city officials, employers and unions all agreed that there must be a thorough investigation, and a royal commission seemed the best solution. On November 13 a deputation from the Sheffield Town Council,

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[17]London Trades Council Minutes, November 21, 1866, Webb Trade Union Collection (British Library of Political and Economic Science, London, England), Sec. A, Vol. III. (Cited hereafter as WTUC.) The printed report of the joint committee is found in the London Trades Council Reports (1866), George Howell Collection (Bishopsgate Institute, London, England), pp. 6-7. (Cited hereafter as GHC.)

Cutlers' Company and the Chamber of Commerce called on the home secretary, Spencer Walpole, to ask for a commission of inquiry. Four days later a deputation from the Sheffield and London trade unions arrived at the home office with the same request. Mr. Walpole indicated that the government would act on the matter when parliament convened early the next year.[18]

The almost simultaneous demands from employers and unionists for a royal commission did not mean that they sought the same goal. Bringing the culprits of the Sheffield outrage to justice was not the main purpose of either party. The unionists were not as much interested in washing their dirty linen in public as clearing their record and proving their innocence. Employers, on the other hand, saw the incident as a chance to crush, or at least cripple, unionism. The royal commission could easily be turned into an inquisition aimed at exposing the evils of unionism in general. Applegarth saw the danger and expressed his fears to the home secretary during the interview on November 17;[19] and the Beehive, the leading labor newspaper, sounded the same warning.[20]

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[18] The Times (London), November 5 and 20, 1866; and Beehive, November 24, 1866.

[19] Report of the Various Proceedings Taken by the London Trades Council and the Conference of Amalgamated Trades in Reference to the Royal Commission on Trades' Unions and Other Subjects in Connection Therewith (London: London Trades Council, 1867), p. 17.

[20] Beehive, October 20, 1866.

The middle-class press launched a bitter attack calling for the suppression of trade unions. The Times denounced workers' combinations as "an empire which necessarily involves a large amount of terrorism, and necessarily leads to crime";[21] and the Daily News stated bluntly that "the unions must be stamped out as a public nuisance."[22] Punch was also hostile and lambasted union violence and intimidation with cartoons and verse.[23] William Blaikie's comments in The North British Review were typical of those in the journals: "Trades-unions have lately become far more offensive than ever they were formerly."[24] The outrages were even presented as a reason for withholding the vote from the working class.[25]

The clamor in the press had not subsided before the unions suffered another and more serious setback. On January 16 the lord chief justice ruled that trade unions were illegal, and could not use the courts to recover embezzled funds. Hornby v. Close, the case at issue,

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[21] The Times (London), November 20, 1866.

[22] Cited in Howell, Labour Legislation, I, 162.

[23] Charles Graves, Mr. Punch's History of Modern England (4 vols.; New York: Frederick A. Stokes Co., n.d.), II, 85-86.

[24] W. G. Blaikie, "The Policy of Trades' Unions," The North British Review, XLVI (March, 1867), 3.

[25] Beehive, October 13, 1866; and Frances Emma Gillespie, Labour and Politics in England, 1850-1867 (Durham: Duke University Press, 1927), p. 208.

involved legal action against the treasurer of the Bradford boilermakers' union, accused of taking twenty-four pounds from the union till. The union brought suit to recover their money--first at Bradford, where the case was rejected, and then on appeal to the Court of Queen's Bench. It was here that the lord chief justice decided that some of the union's rules were "in restraint of trade," and therefore the union itself was illegal, although not necessarily criminal.[26]

The significance of this decision was profound. Union funds, in some cases amounting to thousands of pounds, were now unprotected and at the mercy of dishonest officials who might steal and embezzle at will with no fear of prosecution. The decision also meant that the unions, as illegal societies, could not use the courts for any purpose. They were beyond the law and could neither sue nor be sued. Furthermore, this case set a precedent, and other judges and lesser magistrates were likely to cite Hornby v. Close in similar cases.

Since the passage of the Friendly Societies Act in 1855 unions had assumed that their funds were protected by law. Section forty-four of the act enabled trade unions, as well as friendly societies, to file copies of

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[26]The Times (London), January 19, 1867; and Beehive, January 19, 1867.

their rules with the registrar and receive certification; and section twenty-four provided for legal action against defaulting officials. After 1864 many unions found additional security for their funds by depositing them in post office savings banks, under a special arrangement worked out with the government. Hornby v. Close stripped away all protection of the Friendly Societies Act, and even the funds in savings banks were no longer secure, for there was nothing to stop a union secretary or treasurer from withdrawing the money.[27]

The danger to union funds increased as the courts continued rendering decisions based on Hornby v. Close. A few days later a case against a carpenters' union official, accused of embezzlement, was dismissed on similar grounds. Since the union engaged in strikes it was declared in restraint of trade and not covered by provisions of the Friendly Societies Act.[28] A year later, however, the treasurer of a housepainters' union was sentenced to five years' imprisonment for misappropriation of union

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[27]For an analysis of the significance of Hornby v. Close see Frederic Harrison, "The Illegality of Unionism: The Case of Hornby v. Close," Beehive, January 26, 1867; Ludwig Brentano, "The Growth of a Trades Union," The North British Review, LIII (October, 1870), 59-114; Mss. notes on the Friendly Societies Bill, WTUC, Sec. A, Vol. II, Item 2, pp. 191-92; and R. Y. Hedges and Allan Winterbottom, The Legal History of Trade Unionism (London: Longmans, Green and Co., 1930), pp. 55-56.

[28]The Times (London), February 11, 1867.

funds. The court held that the union could not claim protection of the Friendly Societies Act, but nevertheless union property was still protected from theft by statute law. One of the judges who gave the verdict in this case, R. v. Dodd, sat on the bench during Hornby v. Close and had agreed then with the lord chief justice that unions were illegal and not within the scope of the law.[29] Apparently the judges themselves were confused. The law on trade unions was more confused than ever, and it was obvious that new legislation was badly needed.

As late as January, 1867, however, the unionists felt secure under the existing law. They had not the least suspicion that any judge would question their legality or their right to accumulate a treasury and defend it against peculation. In the January issue of the Amalgamated Society of Carpenters and Joiners Monthly Report Robert Applegarth wrote of "the many advantages our Society enjoys by our rules being deposited with Tidd Pratt, the Registrar-General, not the least of which is, that our funds are fully protected by law."[30] Shortly after Hornby v. Close Applegarth's complacency gave way to anger, and he wrote that "it is a standing disgrace to the country in which we live, that every other

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[29]Beehive, March 28, 1868.

[30]Amalgamated Society of Carpenters and Joiners Monthly Report, No. 49 (January, 1867), p. 13.

Institution can invest its funds as its members think fit, while Trades' Unions stand out in the cold."[31]

Applegarth's union and the other amalgamated unions were especially vulnerable to the court's ruling as they had accumulated vast treasuries--the engineers alone claimed to have no less than 140,000 pounds.[32] The general secretaries of four of the great unions and the secretary of the London Trades Council were already acting together in handling common problems; and this Junta decided to formalize their relations into a new and more cohesive organization to deal with difficulties arising from Hornby v. Close and the public reaction to the Sheffield outrages. In the afternoon of January 28 they met with a few close allies and formed the Conference of Amalgamated Trades, with William Allan as chairman and Robert Applegarth as secretary.[33] Their first action was to call at the home office on February 1 and explain their position to Mr. Walpole. He suggested that they state in writing exactly what legislation they desired to protect union funds; and he further indicated that the royal commission, which they requested,

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[31] Ibid., No. 50 (February, 1867), p. 36.

[32] Report of the Various Proceedings Taken . . . In Reference to the Royal Commission, p. 28.

[33] Conference of Amalgamated Trades Minutes, January 28, 1867, WTUC, Sec. B, Vol. XVIII.

would soon be appointed by the government to conduct a full hearing on the subject of unionism.[34]

Unfortunately the labor leadership did not meet the threat to unionism with a united front, and a few weeks later the London Working Men's Association, an organization headed by George Potter, called a meeting at St. Martin's Hall and formed a rival group known as the Trades Conference.[35] Potter's four-day conference during the first week of March was one of the largest trade meetings ever held.[36] Over a hundred trade societies and trade councils from throughout Britain sent delegates to discuss the legal status of unionism and the royal commission, which by this time had already been appointed. As chairman Potter managed things to his own liking, and before the meeting adjourned he saw to it that a permanent committee was appointed to observe the hearings of the royal commission. Although

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[34]Report of the Various Proceedings Taken . . . in Reference to the Royal Commission, pp. 27-30; and Beehive, February 2, 1867.

[35]The Trades Conference had no exact title and was also called the Trades Delegates' Conference, the Conference of United Trades of Great Britain, and the St. Martin's Hall Conference.

[36]B. C. Roberts, The Trades Union Congress (Cambridge, Mass.: Harvard University Press, 1958), p. 37, says it was "the largest and most representative gathering of trade union leaders ever held." The men who organized the conference made a more modest claim that it was "one of the most numerous and influential ever known." See Beehive, March 9, 1867.

he declined to serve as head of the committee, he nevertheless dominated it as he had dominated the Working Men's Association and the Trades Conference itself.[37]

Therefore, during the spring of 1867 two labor conferences organized for the same reason and with the same purpose. The controlling group of the London Trades Council recast itself as the Conference of Amalgamated Trades; and the London Working Men's Association formed a Trades Conference with the added backing of some provincial unions. Both groups claimed to speak for the whole trade union world, and yet their jealousy rent the union movement into two factions which denounced each other more bitterly than the legal injustice which they sought to correct. There was great need for union leaders to stand united to meet the crisis at hand, but unity was a long time in coming. In the meantime it was little short of miraculous that either group was able to operate effectively.

Some of the delegates from provincial unions, who were in London to attend the St. Martin's Hall Conference, tried to promote harmony by suggesting that the two organizations work together. Twenty-five provincial labor leaders met with the London Trades Council on March 7 and

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[37]A full record of the proceedings was published as Report of the Trade Conference at St. Martin's Hall on March 5, 6, 7, 8, 1867 (London: Hall and Foxter, 1867).

pleaded for co-operation. They pointed out that only slight differences divided the council and the Working Men's Association, and they suggested a merger. The Junta replied that the Working Men's Association did not represent unionists, that it was an irresponsible group, and that it had no authority to call a conference.[38] It was clear that the Junta would have nothing to do with anything promoted by Potter and his friends.

Throughout the month of March the two groups hurled charges and counter-charges at each other, and indulged in the worst sort of name-calling. The Junta scoffed that members of the Working Men's Association were non-unionists, and the Working Men's Association retaliated by calling their critics liars and slanderers.[39] Robert Hartwell, secretary of both the Working Men's Association and the Trades Conference, described Odger as "plausible and Jesuitical," Applegarth as "conceited and priggish," Allan as "full-bodied, but empty-headed," and Coulson as "stolid and obstinate."[40]

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[38]Conference of Amalgamated Trades Minutes, March 8, 1867, WTUC; and Beehive, March 9, 1867. After calling on the London Trades Council on March 7, the would-be peacemakers met with the Conference of Amalgamated Trades the following day. On neither occasion did they have the least success.

[39]The LWMA claimed that all but two of sixteen on their executive committee were unionists, and that nineteen out of every twenty members belonged to a union. See Beehive, March 9, 1867.

[40]Robert Hartwell, "A Slander Refuted," Beehive, March 16, 1867.

At the same time Hartwell challenged Applegarth to a public debate to prove his claim that the Working Men's Association did not represent unionists.[41] Applegarth maintained his dignity and refused the challenge, commenting only that his statements were misquoted.[42]

The conflict of Potter and his friends with the Junta reached the boiling point during the spring of 1867, although there had been earlier clashes dating to 1864. George Potter was a member of a small carpenters' union, who gained national attention as leader of the building trades strike in 1859. Two years later he founded the Beehive, and as general manager of this most influential of labor newspapers he played a major role in union affairs.[43] His policy was generally more militant than the Junta--more inclined to sanction strikes--and it was this issue which caused a rupture.

In 1864 Potter thwarted Applegarth's efforts to mediate in a building trades dispute at Birmingham.[44] In 1865 the London Trades Council charged Potter with blocking arbitration during a strike of the iron trades

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[41]Robert Hartwell, "A Challenge to Mr. Applegarth," Beehive, March 16, 1867.

[42]Robert Applegarth, "Mr. Applegarth's Reply to Mr. Hartwell's Challenge," Beehive, March 23, 1867.

[43]There is no published biography of Potter, but a brief biographical sketch appeared in the Beehive, August 2, 1873.

[44]Postgate, Builder's History, p. 214.

at Staffordshire, and denounced him for by-passing the council and calling a meeting on his own authority to back the strikers.[45] The president of the amalgamated engineers said that Potter was the "aider and abettor of strikes. He thought of nothing else; he followed no other business; strikes were his bread and cheese; in short, he was a strike-jobber."[46] Potter was expelled from the council, but the next year he organized the London Working Men's Association and became its chairman. Robert Hartwell and George Troup, Potter's co-workers on the Beehive, were secretary and treasurer of the organization. By 1867 Potter had considerable support from provincial unions, and he was more widely-known to the middle and upper classes than any other trade union leader.[47] Even Gladstone thought of Potter as the pre-eminent trade unionist and dismayed Applegarth by asking naively if Potter was not "the far-famed secretary of the Trade Unions."[48]

Potter's reputation suffered, however, when the Webbs published their general history of unionism in 1894.

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[45] London Trades Council Reports (1865), p. 3; and printed circular, Mr. Potter and the London Trades Council, filed with ibid., GHC.

[46] London Trades Council Minutes, March, 1865, WTUC (The exact date of this meeting is not given.). Later, in his testimony before the Royal Commission, Potter denied that he had encouraged strikes.

[47] Gillespie, Labour and Politics, p. 211.

[48] Postgate, Builders' History, p. 194.

Their account was highly favorable to the Junta and downgraded Potter's achievement, stating that "he at no time represented any genuine trade organization, the 'Working Men's Association,' of which he was president, being an unimportant society of nondescript persons."[49] The Webbs had interviewed Robert Applegarth in 1893, and he biased their views against his old enemy. After twenty-six years Applegarth still had not forgiven Potter and dismissed him as "a fraud from the first."[50] The opinion of more recent historians is that the Webbs dealt too harshly with Potter, and his role in the labor movement of the 1860's is now more widely recognized than it was during his lifetime.[51]

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[49]Webb, History of Trade Unionism, pp. 254-55.

[50]Webbs' interview with Robert Applegarth, 1893, WTUC, Sec. A, Vol. I, Item 6, p. 423. When Henry Broadhurst was asked to read the manuscript of the Webbs' history he commented that their statement that the Trades Conference did nothing was incorrect; furthermore, "the building trades were entirely with George Potter, and did not regard Applegarth and Allan as their exponents." Henry Broadhurst's notes on Mss. "History of Trade Unionism," WTUC, Sec. A, Vol. I, Item 6, p. 446.

[51]A. W. Humphrey, A History of Labour Representation (London: Constable and Co., 1912), p. 11, says the Webbs' view of the LWMA was "unduly contemptuous," and that it was "the first organization to attempt a national movement for Labour Representation." B. C. Roberts, Trade Union Congress, p. 31, reaches the same conclusion, and in the same words. Postgate, Builders' History, is generally favorable to Potter. Stephen Coltham, in a lengthy two-part article based on his dissertation research, "George Potter, the Junta, and the Bee-Hive," International Review of Social History, Part I, Vol. IX (1964) and Part II, Vol. X (1965), finds none of the

The dangers of a division in the labor leadership became apparent as the first effort was made to secure new legislation to protect union funds. When the deputation from the Conference of Amalgamated Trades conferred at the home office on February 1, Mr. Walpole had asked them to present their proposals in writing. They did better than that. A bill was drafted and introduced before parliament by Charles Neate on February 14.[52] Neate's (Association of Workmen) bill was designed as a temporary measure to restore the protection of the Friendly Societies Act and, in effect, to reverse Hornby v. Close.[53] The bill would be operative for

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writing on Potter entirely satisfactory. His main contention is that Potter had reached prominence before the Junta even organized, that success "turned his head" and he tried to maintain leadership without the ability. Coltham minimizes the differences between Potter and the Junta and leaves the impression that their rivalry was more than anything a struggle for control of the union movement. He thinks that the Webbs were too harsh on Potter, but believes that Applegarth and his colleagues had the better policy--"the insistence on building up centralised national unions, moderate in outlook and using the strike weapon sparingly."

[52]Great Britain, 3 Hansard's Parliamentary Debates, CLXXXV (1867), 299. Charles Neate was a former professor of political economy at Oxford and, from 1863 to 1868 sat in parliament for Oxford. He sympathized with the union position and protested the decision of Hornby v. Close. See his letter to The Times (London), February 7, 1867. The bill was co-sponsored by Thomas Hughes, another union supporter.

[53]"Association of Workmen Bill 1867," Great Britain, Parliamentary Papers, 1867, I, 129. The bill was written by Henry Crompton, a lawyer, at the request of the Conference of Amalgamated Trades. See Howell, Labour Legislation, I, 175.

only a year, and whether the unions hoped to get a permanent bill when it expired or have this measure renewed from year to year is uncertain, but even temporary protection was better than none at all.

Towards the end of February the Conference of Amalgamated Trades called a meeting of unionists to win support for the bill. They filled Exeter Hall, the largest in London,[54] and a resolution introduced by Applegarth to petition for the government's backing of Neate's bill was enthusiastically adopted.[55] When Potter convened his Trades Conference in early March, however, he stated in the opening address that he was against the bill: "Now I don't like temporary measures; nor do I think it wise to sanction temporary measures when we can get permanent ones."[56] One delegate had the temerity to ask why Neate's bill would not satisfy all their requirements, and was told that the measure would not protect the trade functions (i.e., strikes) of unions.[57]

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[54] Full and Authentic Report of the Speeches Delivered at the Great Demonstration of Trade Societies in Exeter Hall, London, on Thursday, 21st February, 1867 (London: Amalgamated Society of Engineers General Office, 1867), p. 5.

[55] Ibid., p. 17. Accounts of the demonstration also appeared in The Times (London), February 22, 1867; and the Beehive, February 23, 1867.

[56] Report of the Trades Conference Held at St. Martin's Hall, p. 3.

[57] Ibid., p. 19.

Since the Conference of Amalgamated Trades refused to recognize Potter's conference, he refused to support any measure proposed by the Junta. Potter, however, had no alternative plan to propose, and although the Trades Conference drew up a rough outline of a bill, there was never a serious effort to have it introduced in parliament. Finally the Trades Conference committee contented itself with a petition to commons calling on the house to present its own measure![58]

Neate's bill passed the first reading without discussion, but it never gained official backing of the government. The Junta also petitioned the leader of the opposition asking for his support,[59] but with the same lack of success. On the second reading in April the attorney general objected to the bill on grounds that the courts had held unions to be outside the law, and this measure would grant protection to illegal societies. Even the persuasive arguments of Thomas Hughes and the logic of John Stuart Mill failed to save the bill, and at the end of debate it was rejected.[60] This marked the first of three unsuccessful attempts by the Conference

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[58] Ibid., pp. 18-19, 22.

[59] Conference of Amalgamated Trades Minutes, March 1, 1867, WTUC.

[60] Great Britain, 3 Hansard's Parliamentary Debates, CLXXXVI (1867), 1449-53.

of Amalgamated Trades to get a measure through parliament, and part of that failure was due to the inability of labor leaders to unite behind a common policy.

The schism within labor ranks was a serious handicap to effective action, but Potter's refusal to work with the Junta in their initial efforts at legislation was more than offset by the support of certain middle class friends of labor. Their adhesion to the union movement and their co-operation with the Junta was of far greater importance than the enmity of the Trades Conference. The drafting of legislation, introducing bills before parliament, and writing articles for the newspapers and journals to sway public opinion were necessary and vital tasks, but beyond the abilities of most labor leaders.[61] Applegarth, Allan, Odger, and the other union secretaries were capable and clever men, but they had a workingman's background and little formal education. The advice and assistance of educated middle class friends was essential; and a number of lawyers,

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[61]George Howell praised the services of the middle class friends of labor: "The working men of London, and indeed the country owe a debt of gratitude to men in their position who stood forward to do battle for their cause in newspapers which would have taken no notice of the workmen's claims, because perhaps we were not able to put our views before the public with all the graces of a literary style as those gentlemen were able to do." George Howell, "Autobiography," Vol. II, GHC. (There are several versions of the autobiography in manuscript form, but chapter and page numbers are usually omitted.)

members of parliament, and even some benevolent and enlightened employers rendered invaluable service during the struggle for union legalization. Of all the middle class friends of labor, the Positivists and the Christian Socialists were the most dedicated; and without their aid the unions would not have survived the crisis of 1867 unscathed, nor would the unions have won their charter by the 1870's.

Christian Socialism began in 1848 when J. M. Ludlow, inspired by the Paris revolt, enlisted F. D. Maurice and Charles Kingsley in a new movement for social and economic reform in Britain. These men deplored the general and almost unquestioned acceptance of laissez-faire economics, and they did not agree with the Church of England's opposition to workers' combinations.[62] Ludlow regarded the whole competitive system as contrary to Christian principles,[63] and he and Maurice, who became leader of the movement, agreed on a common goal of Christianizing socialism.[64]

Their main efforts were directed towards setting up workers' co-operatives, but after 1852 Ludlow and

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[62]Maurice B. Reckitt, "Christian Socialism," Encyclopaedia of the Social Sciences (New York: Macmillan Co., 1930), III, 449-50.

[63]Charles Raven, "John Malcolm Ludlow," Christian Social Reformers of the Nineteenth Century, ed. by Hugh Martin (London: Student Christian Movement, 1927), p. 155.

[64]Harmon Grisewood, "The Christian Socialists," Quarterly Review, CCLXXXVIII (October, 1950), 527.

Thomas Hughes, another convert to the movement, involved themselves in trade union problems. They both served on a committee appointed by the Social Science Association to investigate unions, a forerunner of the government commission of 1867, and they favored legal recognition for unions.[65] Ludlow befriended Applegarth and other new model unionists and, as a lawyer, he served as legal adviser to the engineers. He claimed to be the first person to propose that unions should be legalized, and in 1869 he drafted a government bill that granted temporary protection for union funds.[66] Later, in the 1870's, he was registrar for friendly and trade societies.

Thomas Hughes was an even more valuable ally to the Junta than Ludlow. Educated at Rugby and Oxford, and trained as a barrister, Hughes was best known as author of Tom Brown's Schooldays. He campaigned for parliament in 1865, and won with working class support.[67]

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[65]Philip N. Backstrom, "The Practical Side of Christian Socialism in Victorian England," Victorian Studies, VI (June, 1963), 317-18. Backstrom's claims for the Christian Socialists are exaggerated, and he fails to stress Hughes' and Ludlow's later careers when their enthusiasm for the union cause waned.

[66]Neville C. Masterman, J. M. Ludlow (Cambridge: University Press, 1963), pp. 180-84. Before 1852 Ludlow believed that unions would soon be replaced by co-operative workshops, but his opinion changed and he became one of their leading champions.

[67]See Edward C. Mack and W. H. G. Armytage, Thomas Hughes (London: Ernest Benn, Ltd., 1952), for a full account of Hughes' career.

Hughes was a poor speaker and stated his views so bluntly that he offended almost every vested interest in parliament.[68] Furthermore, he was at times vain and pompous,[69] but none the less his was a tireless voice for the working men in a legislature packed with industrialists and their friends. During strikes he helped the unions raise funds, and long before unionism attracted other middle class supporters he was their staunch defender.[70] Along with Ludlow he offered legal advice, assisted with the drafting of union legislation, and as a member of parliament was willing to introduce trade union bills.[71] He served on both royal commissions set up to investigate the unions--in 1867-69 and again in 1874-75.

Christian Socialism was already declining before the end of the 1850's, and only Ludlow and Hughes made practical contributions to the union movement.[72] At

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[68] Ibid., p. 196.

[69] This conclusion is based upon a revealing letter from Hughes to George Robinson (Lord Ripon), June 1, 1869, British Museum, Add. Mss. 43548. Additional Manuscripts cited are all in the British Museum.

[70] W. H. G. Armytage, "New Light on the English Background of Thomas Hughes' Rugby Colony in Tennessee," East Tennessee Historical Society's Publications, No. 21 (1949), p. 69.

[71] R. J. Hinton, English Radical Leaders (New York: G. P. Putnam's Sons, 1875), p. 111.

[72] George Howell, who was well-acquainted with all middle-class friends of labor, praised Ludlow and Hughes for their work on labor's behalf, but he did not even

least five or six of the Positivists, however, played a major role in union affairs. They became active in the trade union movement a decade later than the Christian Socialists, but their involvement was more enduring and their contribution was greater.

The philosophic basis for Positivism came from Auguste Comte, who made a religion of humanity and set as his ultimate aim the reorganization of society based on laws discovered by sociology.[73] In his General View of Positivism Comte devoted a full chapter to "The Action of Positivism Upon the Working Classes," and stated that Positivists would find converts among the working class more readily than among aristocrats or the middle class.[74] The best way to realize universal Positivism was through "an alliance between philosophers and the working classes."[75]

Comtist thought took root in England, as it had in France, and a small but influential group of London

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know Maurice and Kingsley. See Howell's "Autobiography," Vol. II, GHC. Only Ludlow, Hughes and Edward V. Neale were responsible for the practical uses of Christian Socialism, and Neale was primarily interested in the co-operative movement rather than unionism. Backstrom, "The Practical Side of Christian Socialism," p. 307.

[73]Walter M. Simon, Positivism in 19th Century Europe (Ithaca, New York: Cornell University Press, 1963), pp. 6, 33.

[74]Auguste Comte, A General View of Positivism, trans. by J. H. Bridges (London: Trubner and Co., 1865), pp. 134-36.

[75]Ibid., p. 146.

Positivists organized under the leadership of Richard Congreve. Three of Congreve's former pupils at Oxford--Frederic Harrison, E. S. Beesly, and J. H. Bridges--were converted, and they along with Henry Crompton and the brothers Vernon and Godfrey Lushington formed a Positivist circle which did more than any other intellectual group to help the unions win legal recognition.[76] Bridges was a doctor and Beesly a professor of history at University College in London. The others were lawyers, and they gave freely of their time and legal advice, drafting nearly all of the trade union bills submitted to parliament after 1867.

Beesly's literary talents filled the journals and newspapers with a stirring defence of unionism, and he frequently appeared at union rallies as a key speaker.[77] His close friend and frequent correspondent, Frederic Harrison, was chief legal adviser to the unions during the 1860's and the most important of all middle-class pro-unionists at the time. Within a decade Harrison published over twenty articles, many on the legal status of unionism, and he often wrote for the Beehive and other papers. He

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[76]Harrison, Before the Socialists, gives the best account of the English Positivists and their contribution to the union movement.

[77]Royden Harrison, "Professor Beesly and the Working-class Movement," Essays in Labour History, ed. by Asa Briggs and John Saville (London: Macmillan and Co., 1960), pp. 211-14.

joined two amalgamated unions, and traveled throughout Britain attending union meetings and congresses. From 1867 to 1869 he worked assiduously on the royal commission with Hughes gathering evidence and trying to manage the union case; and he prepared the pro-union minority report which they both signed.[78]

In 1869 Godfrey Lushington became permanent counsel to the home office and, in 1871 drew up the trade union act based largely on Harrison's report.[79] Another Positivist lawyer, Henry Crompton, replaced Harrison as chief legal adviser to the unions during the 1870's,[80] and he also wielded a prolific pen stating the union position in reports and published articles.

The Positivists and the two Christian Socialists joined forces with the new model employers, some of whom like A. J. Mundella and Samuel Morley were in parliament. Even without Potter and the Trades Conference, this combination of middle-class intellectuals, sympathetic legislators, and labor aristocracy led by the Junta formed a powerful coalition capable of fighting the most hostile opposition.

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[78]Frederic Harrison, Autobiographic Memoirs (2 vols.; London: Macmillan and Co., 1911), I, 325-26 and II, 218.

[79]Harrison, Before the Socialists, p. 288.

[80]Harrison, "Professor Beesly and the Working-class Movement," p. 235.

In 1867, however, the opponents of unionism had the upper hand. Public opinion was generally against unions after the Sheffield outrages; Hornby v. Close had destroyed the union legal position; and it was rumored that the royal commission intended to suppress unionism altogether. These factors constituted a formidable threat to the existence of trade societies, and the crisis which began in 1867 did not end until the unions won their charter. The battle between pro-union and anti-union forces was fought out in the press, in the halls of parliament, and in the hearings of the royal commission which continued for the next two years.

CHAPTER II

UNIONISM ON TRIAL: THE ROYAL COMMISSION 1867-69

When parliament convened on February 5, 1867, the queen's speech announced that the government would soon appoint a royal commission to investigate trade unionism.[1] Speaking for the opposition, Mr. Gladstone agreed, saying that it was a subject "of the utmost importance."[2] The government acted quickly and within a week introduced a bill authorizing the commission and granting wide powers of action. Mr. Walpole stated that a comprehensive inquiry by an impartial panel was necessary if this thorny issue of union practice were to be settled on a satisfactory basis. Furthermore, existing law on trade societies was not clear and the commission should recommend new legislation to "draw the line between that which is legal and that which is illegal."[3]

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[1]Great Britain, 3 Hansard's Parliamentary Debates, CLXXXV (1867), 6.

[2]Ibid., p. 71.

[3]Ibid., pp. 182 and 187. H. W. McCready, "British Labour and the Royal Commission on Trade Unions, 1867-69," University of Toronto Quarterly, XXIV (July, 1955), 390-409, is the best study of the commission, although

The commission was to examine both employers' and workmen's associations, their effect upon trade and industry, how relations between the two classes could be improved, and possible changes to be made in the law. A separate inquiry by three examiners at Sheffield would investigate outrages occurring within the past ten years, with the extraordinary power of exempting witnesses from prosecution, including actual perpetrators of the outrages.[4] Parliament was so intent upon resolving the cause of union violence that it was willing to grant immunity for any crime, even murder!

Although the commission was intended as a general inquiry into all aspects of unionism with the purpose of framing new legislation, it was clear from the comments made in parliament that the one thing uppermost in the minds of the legislators was the investigation of outrages.[5] This overshadowed any consideration of the unions' legal position or the unprotected state of union funds. Two years later when the royal commission made

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McCready's use of sources is questionable. He quotes from Frederic Harrison's memoirs without indicating a quote; and elsewhere he pieced together passages from Harrison's correspondence without showing that these references were separated by sentences and sometimes even by paragraphs.

[4]"Trade Union Commission Bill 1867," Great Britain, Parliamentary Papers, 1867, VI, 411-20.

[5]For debates on the Trade Union Commission Bill see Great Britain, 3 Hansard's Parliamentary Debates, CLXXXV (1867), 179-205, 513-529, 993-1000, 1432-1443.

its final report the situation had reversed and outrages were pushed into the background, most of the report centering around proposed labor legislation. But in the spring of 1867 unionists had good reason to be alarmed, for the parliamentary debates on authorizing the commission emphasized that examination of union violence would be the principal work of the commissioners.

George Howell was convinced that "the object of the inquiry by the royal commission was undoubtedly to find a pretext and justification for the suppression of the unions."[6] He was concerned that the real purpose was not to uncover the guilt of Sheffield terrorists, but to lay the groundwork for the government to crush unionism.[7] Union fears gave way to fatalism, and the Beehive summed up in one sentence what many labor leaders were thinking: "It is time that trades' unions were either pronounced altogether unlawful, or allowed to have their due share of the protection of the law."[8]

Neither the Junta nor the Trades Conference was willing to sit idle while the unions were suppressed,

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[6]George Howell, Trade Union Congresses and Social Legislation (Manchester: Trades Union Congress Parliamentary Committee, 1889), p. 5.

[7]Howell, Labour Legislation, I, 162. Postgate, Builders' History, p. 281, states: "The royal commission of 1867 represents the last and most formidable attempt by a section of the employers to return to the old system of suppression of trade unions."

[8]Beehive, February 23, 1867.

however, and both realized that their only chance of influencing the outcome of the commission was for unionists to be represented. Labor commissions of the early 19th century were scarcely impartial, packed as they were with industrialists and middle-class appointees,[9] but in 1867 the trade societies were strong enough to demand a fair hearing.

Shortly after the queen's speech announced that there would be a commission, the Working Men's Association sent a deputation to the home secretary to ask that two or three workingmen be permitted to serve. If this was not possible, then they requested that someone they had confidence in should be appointed. Harrison, Beesly, Ludlow, Godfrey Lushington, and a few other names were mentioned.[10] No one from the working class had ever before served on a royal commission, and this would have broken precedent.[11] Walpole was tactful enough not to mention this, however, and gave other reasons for refusing the request. If a workingman was appointed then he would be forced to

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[9]Howell, Labour Legislation, I, 163, wrote that previous commissions had no labor spokesmen or sympathizers. This was not entirely accurate, for Joseph Hume served on the commission of 1824.

[10]The Times (London), February 9, 1867; and Beehive, February 9, 1867.

[11]In 1870 Robert Applegarth became the first workingman ever appointed to a royal commission when he served on the royal commission on contagious diseases. See Margaret Cole, Makers of the Labour Movement (London: Longmans, Green and Co., 1948), p. 162.

appoint an employer as well, and he desired that the commission remain impartial and unbiased. He did agree to the alternate request and said that Harrison's name would be suggested if that pleased the unions.[12] The Conference of Amalgamated Trades delayed, but a few days later they also called at the home office and were given the same answer.[13]

The Reform League backed up the request for working-class members on the commission,[14] and even the middle-class Economist stated that trade unionism was a technical subject and that both an employer and a unionist should be on the commission.[15] Walpole had already made his decision, however, and the unions would have to be satisfied with one of their middle-class friends as spokesman and representative. Furthermore, he had not been sincere in saying that the presence of a unionist called for the presence of an employer and that he would have neither on the commission, for two employers were appointed. Even that concession to the employers did not please Mr. Watkin,

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[12] Beehive, February 9, 1867.

[13] Conference of Amalgamated Trades Minutes, February 14, 1867, WTUC; and Report of the Various Proceedings Taken . . . in Reference to the Royal Commission, pp. 31-34.

[14] Reform League Papers, minutes of a meeting on February 6, 1867, GHC.

[15] Economist, February 9, 1867.

the member for Stockport, who grumbled that two were not enough.[16]

The composition of the royal commission was a matter of great importance, for their report was more likely to reflect the personal views and prejudices of the commissioners than the evidence they heard. The chairman was Sir William Erle, a noted jurist and an authority on trade union law. Sir William had been chief justice of the court of common pleas and had tried a number of union cases, but according to Frederic Harrison, he was incompetent as chairman and biased against the unions.[17]

Harrison's name was added to the list of commissioners when the Trades Conference petitioned for someone to represent their interests, but no one bothered to inform him and he knew nothing until he saw his name in the newspaper. His father advised him not to accept, and Harrison feared that his legal practice would suffer, but he refused to disappoint the unionists who needed his help.[18] Another union sympathizer, Thomas Hughes, was

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[16]Great Britain, 3 Hansard's Parliamentary Debates, CLXXXV (1867), 515.

[17]Harrison, Memoirs, I, 322. Erle's bias can not be disputed, but he was nevertheless a logical choice for chairman. Henry H. Slesser, Trade Unionism (London: Methuen and Co., 1921), p. 27, states that Erle "had probably the greatest knowledge of trade union law of any judge of the time."

[18]Harrison, Memoirs, I, 316.

also named a commissioner. Hughes was a spokesman for the unions in parliament, well-informed on the subject of unionism, and had served on a union commission established by the Social Science Association in 1858. The employers on the commission, whose views counter-balanced the pro-union members, were Sir Daniel Gooch, chairman of the Great Western Railway, and William Mathews, chairman of the Midland Ironmasters' League.

Two peers, Lords Elcho and Lichfield, received appointments. Elcho had just served as chairman of a parliamentary committee on the master and servant laws, and thus he was experienced in such work as labor commissions. His brother-in-law, Lichfield, was also interested in labor matters and had offered his services as mediator in the great building trades strike of 1865. Other commissioners were Edmund Head, Herman Merivale, and James Booth, former secretary of the board of trade.

Another member, John Arthur Roebuck, deserves special mention.[19] Roebuck started his political career as a Radical and a Chartist, and in 1835 he had defended unionism with a pamphlet entitled Trades' Unions: Their Advantages to the Working Classes.[20] As a member of

[19]John Arthur Roebuck, Life and Letters of John Arthur Roebuck, ed. by Robert E. Leader (London: Edward Arnold, 1897) is old and not very useful. It contains some of Roebuck's letters with brief biographical comments by the editor.

[20]See John Arthur Roebuck, Trades' Unions: Their Advantages to the Working Classes (London: C. & W. Reynell, 1835).

parliament for Sheffield he had singular interest in the commission, established as it was to investigate the outrages; although it was not to defend the unions as he had done in his youth, but to lead the attack against them, for by 1867 he was conservative and bitterly anti-union. Roebuck was a dangerous opponent, not hesitating in parliament to attack such giants as Palmerston, Bright, or Disraeli, who once compared Roebuck with the "tyrant of a two-penny theatre."[21] During the sessions of the royal commission more than a few meetings boiled down to verbal duels between Roebuck and Harrison, with the witnesses caught in between the cross fire.

Most of the members, in one way or another, had a special interest in trade unionism and industry, or by their background had qualifications which recommended their appointment. Two members were known to be pro-union, and the two employers could be counted on to represent the manufacturers' point of view. There is every reason to believe that the government made a genuine effort to form a balanced board of inquiry and was seriously trying to resolve a grave problem which had so recently commanded national attention.

The eleven commissioners held their initial meeting on March 15, and the first order of business was to receive deputations from both the Trades Conference

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[21]Hinton, English Radical Leaders, p. 135.

committee and the Conference of Amalgamated Trades. Having failed in their original efforts to get a bona fide workingman on the commission, the two labor conferences now requested that their representatives be allowed to attend the hearings in an unofficial capacity as observers.[22] The anti-union commissioners were delighted at seeing the ranks of labor so divided that they must send two separate deputations with the same request, and they did not let the opportunity pass to taunt Potter about the matter.[23] The request was granted, however, and Thomas Connolly was selected as observer for the Trades Conference, while Robert Applegarth, who was the first witness called before the commission, stayed on permanently as the Junta's representative.[24]

The actual hearings of evidence began on March 18, and since the commission was especially interested in the purpose of trade societies, their first questions were on this point. Applegarth explained that the objects of the Amalgamated Society of Carpenters and Joiners were "to raise funds for the mutual support of its members in case of sickness, accident, superannuation, and for the burial

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[22]See Conference of Amalgamated Trades Minutes, March 14 and 16, 1867, WTUC, on the deputation from that group. The Trades Conference deputation was reported in the Beehive, March 16, 1867.

[23]Beehive, March 23, 1867.

[24]Ibid., and Conference of Amalgamated Trades Minutes, March 20, 1867, WTUC.

of members and their wives . . . and for assistance in cases of extreme distress."[25] He said nothing of strikes or trade functions, and from his statement the commissioners might conclude that the carpenters union was nothing more than a large friendly society. When questioned about strikes, he readily admitted that a number of strikes had occurred during the past year and that strikers had been supported by the society, but he contended that strikes were generally shorter and less frequent than before the union was organized.[26] Later he clarified his original statement on the objects of the union by saying that "pure and simple ours is a trade society, and as such I wish it to be regarded, although we have a number of excellent benefits in connection with it."[27] Allan's testimony supported this view when he

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[25]Great Britain, Parliament, House of Commons, Parliamentary Papers, "Reports of the Commissioners Appointed to Inquire into the Organization and Rules of Trades Unions and Other Associations Together With Minutes of Evidence," testimony of Robert Applegarth, March 18, 1867; 1867, Vol. XXXII, question 12. There are ten reports of the royal commission on trades unions 1867-69 containing minutes of evidence, and an eleventh and final report with the commissioners' conclusions and recommendations for legislation. All references are from the House of Commons Parliamentary Papers, and questions asked witnesses are numbered consecutively throughout the first ten reports. Reports of the royal commission on trade unions and minutes of evidence. (Hereafter cited as "R. C. 1867-69 Reports.")

[26]"R. C. 1867-69 Reports," testimony of Robert Applegarth, March 18, 1867; 1867, Vol. XXXII, qs. 61-62, 142.

[27]Ibid., testimony of Robert Applegarth, July 9, 1867; 1867, Vol. XXXII, q. 6539.

declared that the engineers union was primarily a trade society with benefits added, but pointed out that more money was spent on benefits to members than on trade functions.[28] The other union secretaries said much the same thing, thus creating a favorable impression of the purpose of their unions.

This was no small achievement, for Sir William Erle believed that the purpose of a union was the sole test of whether that union was legal or not;[29] and once they had established satisfactorily the raison d'etre for trade societies the union secretaries were able to plead for their two main goals: legalization and protection of funds. Persuading the commission to recognize these two principles in the final report was primarily what the unionists hoped to accomplish.

The extent to which unions were legal or illegal was more in doubt between 1825 and 1871 than at any time before or since. During the 18th century parliament passed a series of measures prohibiting workers' combinations in certain individual trades, and then in 1799 and 1800 the Combination Acts outlawed all unions, making it illegal for workers to combine for any purpose of increasing wages or altering conditions of labor. This

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[28] Ibid., testimony of William Allan on March 26, 1867; 1867, Vol. XXXII, qs. 812-14.

[29] Sir William Erle, The Law Relating to Trade Unions (London: Macmillan and Co., 1869), pp. 1-5.

restriction was relaxed in 1824 when the ban against unions was removed, but a rash of strikes followed and within a year parliament hurriedly passed a new combination act limiting union action to the raising of wages and the shortening of working hours.[30]

After the Combination Act of 1825 the unions' legal position depended on how the courts chose to interpret the law. Difficulties arose more from the common law than from statute law, with the ancient doctrines of restraint of trade and criminal conspiracy creating the most trouble. The idea that workers' combinations were in restraint of trade and thus conspiricies at common law was nothing new, but there were never convictions until after 1825. During the next four or five decades, however, a number of convictions were upheld on these grounds.[31]

The paradox was that unions had limited legality under the statute law of 1825, and yet at the same time they were illegal at common law. It is not surprising that judges and magistrates were confused and rendered

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[30]A summary of early union legislation through the Combination Act of 1825 is found in Sir James Fitzjames Stephen, A History of the Criminal Law of England (3 vols.; London: Macmillan and Co., 1883), III, 206-27; Hedges and Winterbottom, Legal History of Trade Unionism, pp. 3-49; and Norman Arthur Citrine, Trade Union Law (London: Stevens and Sons, Ltd., 1950), pp. 4-9.

[31]Stephen, History of Criminal Law, III, 209, 226-27.

conflicting decisions. Strike action and picketing sometimes led to prosecutions under the charges of molestation, intimidation, or obstruction, and unions often felt that they were harassed by the courts. But not until Hornby v. Close had any judge ventured so far as to state unequivocally that unions were illegal. This was why the need for definite legalization by statute law was so urgent after 1867.

The second major goal of the unionists--protection of their funds--was closely linked with legalization. If unions were considered illegal then there was no protection for funds, but if they were legal then the existing law gave them that protection. The two questions were really one and the same, as the second goal would be achieved when unions won their first goal.

No one was more aware of how vital it was to have security for their treasuries than the union secretaries. A large embezzlement would disable, perhaps even ruin a union. Certainly it would destroy the faith of the members in the ability of the union to provide the benefits they were guaranteed. In response to a questionaire sent to union secretaries throughout the kingdom, the majority listed the legal protection of funds as their main goal.[32]

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[32]"R. C. 1867-69 Reports," Answers to Paper of Questions Addressed to Secretaries of Trade Societies, Appendix D of the final report; 1868-69, XXXIX, 420-49.

William Allan straightforwardly told the commission that "what we want is security for our funds, that is the pith and marrow of the whole affair, and I hope that the commissioners will not lose sight of it."[33] Harrison argued that the unprotected state of funds threatened the large amalgamated unions which used their money primarily for benefit purposes much more than it did the small militant unions which had little money and used what they had for strikes. He tried to persuade his colleagues on the commission that protection for funds would result in better unions and fewer strikes.[34]

The majority of the commissioners were not easily convinced, however, and they frequently questioned witnesses on the misuse of union funds. After all, what assurance was there that the unions would not spend their money on strikes rather than benefits? On the first day of the hearings Applegarth was forced to admit that his society supported workers on strike;[35] and when the secretary of the Sheffield sawgrinders

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[33] Ibid., testimony of William Allan, August 1, 1867; 1867, Vol. XXXII, q. 7504.

[34] Ibid., testimony of William Allan, March 26, 1867; 1867, Vol. XXXII, qs. 818-27. Harrison's questions were actually statements, and Allan merely affirmed what was said.

[35] Ibid., testimony of Robert Applegarth, March 18, 1867; 1867, Vol. XXXII, qs. 61-62.

confessed that he financed the outrages from the union treasury,[36] there was a strong case against granting legal protection.

Despite the damning evidence that union funds were sometimes misused, there was strong sentiment in favor of granting protection. On the same day that the sawgrinders' secretary made his startling confession, a member of the royal commission, Lord Lichfield, announced in parliament that he was prepared to introduce a bill protecting all societies which registered under the Friendly Societies Act of 1855.[37] Professor Beesly accused the government of encouraging fraud and embezzlement by their refusal to grant protection.[38] Just because some unions spent their subscriptions for purposes which were considered contrary to public policy, it was unfair to penalize all unions. "What sort of

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[36]"R. C. 1867-69 Reports," testimony of William Broadhead, June 20, 1867, Report Presented to The Trades Unions Commissioners by the Examiners Appointed to Inquire into Acts of Intimidation, Outrage, or Wrong Alleged to Have Been Promoted, or Connived at by Trades Unions in the Town of Sheffield, Vol. II, Evidence: 1867, Vol. XXXII, qs. 12,007-12,578. The Sheffield subcommission issued a two-volume report: Vol. I contained a seventeen-page report and Vol. II contained minutes of evidence. These were issued as part of the "R. C. 1867-69 Reports." (Hereafter cited as Sheffield subcommission.) See pages 65-68, hereof for additional information on the confession of the sawgrinders' secretary.

[37]The Times (London), June 21, 1867.

[38]E. S. Beesly, The Amalgamated Society of Carpenters and Joiners (London: J. Kenny, 1867), p. 9.

'public policy,'" he asked, "is that which calls in the thief to its assistance?"[39] The Economist agreed that it was only fair to grant the unions that protection they sought, and so long as the unions did not engage in criminal activity, then the government should not deny their grievance.[40]

The problem posed by the need to protect funds and at the same time prevent their misuse occupied considerable time in the questioning. The odds were good that the commission would eventually recommend protection, but it also appeared that the unions would pay a high price for the concession. Since many unions were both benefit and trade societies, several commissioners suggested by their questions that the unions should maintain two accounts, with benefit funds separate from the trade funds.

In addition to the inconvenience of such a system, there was the further danger that parliament might give protection to the benefit funds but not to the trade funds. The union secretaries were quick to reject this idea and to show why it was impractical. Allan even argued that the maintenance of one fund diminished the likelihood of strikes, for union members would be reluctant to squander money accumulated for sickness and

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[39] E. S. Beesly, "The Trades' Union Commission," Fortnightly Review, II (July, 1867), 10.

[40] Economist, June 29, 1867.

retirement if all expenditures came from the same account.[41] W. T. Thornton's On Labour also showed that any division of funds would be artificial, and would not in the least reduce strikes.[42]

So far the unionists had come out ahead in the dispute over union funds, but their opponents made one more attempt to discredit the trade societies by questioning their solvency. Two actuaries were called in to show that the unions could not meet their financial obligations and eventually would be bankrupt. In all fairness to the actuaries, it must be said that they based their study on the two largest and wealthiest of the amalgamated unions, the engineers and carpenters; but if they could prove these unions unsound, then they cast doubt on all other unions. Robert Tucker of the Pelican Insurance Company submitted a detailed report on the unions, and he found that their weekly subscriptions were adequate to cover sickness and burial benefits, but not enough for retirement payments.[43]

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[41]"R. C. 1867-69 Reports," testimony of William Allan, August 1, 1867; 1867, Vol. XXXII, q. 7577.

[42]William Thomas Thornton, On Labour (London: Macmillan and Co., 1869), p. 311.

[43]"R. C. 1867-69 Reports," testimony of Robert Tucker, July 9, 1867; 1867, Vol. XXXII, qs. 6409-6538. The other actuary, Alexander Finlaison of the National Debt Office, testified only briefly, but he submitted a written report to the commission stating the same conclusions.

Allan and Applegarth disputed the charges, mostly by showing that the actuaries' calculations were based solely on income from weekly union dues. They mentioned other sources of revenue from entrance fees, fines, bank interest, and the sale of circulars. Also, they claimed that many members either emigrated or dropped membership without receiving in benefits what they had paid into the society. Applegarth further stated that it was unimportant whether there was a thousand pounds in the treasury or ten times that amount, for any extraordinary expense would be met by a special levy on society members.[44]

The actuaries convinced some who read their reports that the unions were poorly supported financially,[45] but there was nothing in their evidence to alter the argument in favor of protecting those finances. In the commission's final conclusions this evidence mattered very little. At most it gave some small comfort to those who wished to believe that unionism would collapse of its own accord.

Although protection of funds and legalization were the primary objects of the unionists and were emphasized

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[44] Ibid., testimony of Robert Applegarth, July 23, 1867; 1867, Vol. XXXII, qs. 7271-7276; and ibid., testimony of William Allan, August 1, 1867; 1867, Vol. XXXII, qs. 7385, 7388-7394, 7410.

[45] Economist, May 30, 1867, accepted the findings of the actuaries that unions might go bankrupt; and so did Frederic Hill, Measures for Putting an End to the Abuses of Trade Unions (London: National Association for the Promotion of Social Science, 1868), p. 2.

in their testimony, the anti-union commissioners and the employers who testified were mainly interested in bringing out instances of union abuse. Roebuck and Mathews, supported by the secretaries of employers' associations, disclosed a list of union practices which restricted trade or which aimed at open intimidation of non-union workers. By making these practices appear typical rather than the exception, they hoped to forestall any attempt to strengthen the union position through new legislation.

During the third month of testimony the commission called Alfred Mault, secretary of the General Builders Association. Employers who testified previously had not prepared their case as well as the union secretaries, but Mault was more knowledgeable. His answers were long statements, all supported by statistics, letters or other documents. Mault was clever, and he knew his business.

Summing up the employers' objections to unions under three headings, he charged that "many of their objects are improper and contrary to public policy," or in other words that unions were in restraint of trade; their objects were "pursued by them by improper means"; and unions promoted bad relations between employers and workers.[46] He concentrated on proving that unions intimidated non-union workers and sought to force all men in a trade to join the union.

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[46]"R. C. 1867-69 Reports," testimony of Alfred Mault, May 7, 1867; 1867, Vol. XXXII, q. 2971.

Mault cited the rule of a plasterers' union that no man could work for more than a week without joining the union, and he presented further evidence that relatives of master plasterers were compelled to become unionists. Similar cases of forced unionization were common among the masons, and after describing several particular incidents Mault stated that the Combination Act of 1825 was not adequate to protect non-unionists from intimidation. Without saying so directly, he implied that the law should be strengthened rather than relaxed.[47]

After he had testified several times, the Beehive raged about Mault's "virulent opposition to trades' unionism, and his highly coloured evidence,"[48] but there was no denying the truth of his accusations. Frederic Harrison was aware of how much this testimony had injured the union case, and he even confessed to having some doubts himself after hearing Mault.

> His evidence is serious. He has a mass of cases of petty exactions all over the North chiefly against the masons and plasterers. . . . I am free to say that if the unions cannot get over it, some of them and certainly the Masons deserve all that was ever said of them and are as mere organs of class tyranny. My God! Think if I were to publish a formal Recantation. But I keep my counsel as yet.[49]

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[47] Ibid., qs. 2971-3007.

[48] Beehive, June 6, 1868.

[49] F. Harrison to E. S. Beesly, n.d., but written May 15, 1867, Frederic Harrison Collection (British Library of Political and Economic Science, London, England). (Hereafter cited as Harrison Collection.)

Of course the union witnesses denied that any attempts were made to coerce or intimidate non-unionists, admitting only that union workers sometimes refused to speak or associate with the non-unionists, thus putting them "in Coventry" as the workers called it.[50] Their sincerity was not convincing, however, for Mault exposed a bona fide complaint when he cited examples of forced unionization. Whenever they were in the majority the unionists had no intention of working with non-union men or of allowing their fellow workers to remain outside the union, for otherwise they could not have been successful.[51] The Beehive officially supported this policy, and considered it unfair for non-unionists to reap the benefits of higher wages and shorter hours which resulted from union activity.[52]

The alleged trade union tyranny was not so widespread as Mault and other employers would have the commission believe, however, and one independent laborer who testified stated that he was never harassed. Thomas Prowse, a mason, told the commissioners that he was asked to join a union and refused, and yet there was never any

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[50]"R. C. 1867-69 Reports," testimony of Robert Applegarth, March 18, 1867; 1867, Vol. XXXII, qs. 169-74; and ibid., testimony of William Allan, March 18, 1867; 1867, Vol. XXXII, qs. 627-29.

[51]Webb, History of Trade Unionism, pp. 295-97.

[52]Beehive, November 3, 1866.

attempt to intimidate him nor did the unionists object to working with him.[53] As a pro-union pamphleteer pointed out, it was only the employers who complained about unions interfering with the liberty of independent workingmen and not the workingmen themselves.[54]

Indeed, one of the employers' favorite gambits was to pose as defenders of the non-union workingman, who had no one to protect him from union injustice. Rarely did the employers claim to speak for their own interest alone, but the interests of the mass of workers and of industry and trade.[55] It was also seldom that they spoke harshly of the ordinary unionist; but their most virulent attacks were reserved for union officials. Hardworking and underpaid union secretaries (when they were paid at all)[56]

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[53]"R. C. 1867-69 Reports," testimony of Thomas Prowse, August 1, 1867; 1867, Vol. XXXII, qs. 7633-7639.

[54]William Romaine Callendar, Trades Unions Defended: A Review of the Evidence Laid Before the Royal Commission 1867-8 (Manchester: H. Snope and Son, 1870), p. 7.

[55]In 1873 when the employers established their own journal, Capital and Labour, it pretended to be the organ of independent workingmen and employers. In his opening remarks to the royal commission Mr. Mault stated that he was speaking not only for the employers, but on behalf of the great mass of workingmen who were non-unionists. See "R. C. 1867-69 Reports," testimony of Alfred Mault, May 7, 1867; 1867, Vol. XXXII, q. 2969.

[56]As secretary of the wealthiest amalgamated society, the engineers, William Allan received only about 200 pounds per year, and "for it he worked like a slave." In 1865 the secretary of the London Trades Council was promised only six pounds a year, and he was rarely paid. George Howell hesitated to accept the secretaryship of

must have been amused to hear themselves described as "unscrupulous men, leading a half idle life and feeding on the contributions of their dupes."[57]

Employers complained about a number of practices promoted by these union officials: the limitation of apprentices, opposition to the introduction of machinery, refusal to accept piecework, and demands for a minimum wage and set hours of labor. These were all cited as being in restraint of trade. The president of the Glasgow Master Bricklayers' Association charged that unions sought to establish a monopoly of labor by limiting the number of apprentices.[58] Some unions admitted this was their policy, while others denied having any rules restricting apprentices. Where the practice did exist, it was for the purpose of keeping up wages of the skilled workers, since boys could be hired more cheaply than men.[59] Other unions, especially the masons and brickmakers, were accused of opposing the introduction

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the Reform League because he doubted that he would receive a salary. See Howell, "Autobiography," Vol. I, GHC.

[57]Hill, Measures for Putting an End to the Abuses of Trade Unions, p. 7.

[58]"R. C. 1867-69 Reports," testimony of John McDonald, May 21, 1867; 1867, Vol. XXXII, q. 3468.

[59]Ibid., testimony of Robert Applegarth, March 18, 1867; 1867, Vol. XXXII, qs. 247-50; ibid., testimony of William Allan, March 26, 1867; 1867, Vol. XXXII, q. 927; and ibid., testimony of Edwin Coulson, April 2, 1867; 1867, Vol. XXXII, qs. 1494-1495.

of machinery, which lowered costs but at the same time threw some men out of work.[60]

In some trades, such as tailoring and shoemaking, piecework was common practice and was preferred by the workmen to day-work,[61] but the building trades were strongly opposed to this method of payment and all their unions had rules against it.[62] George Potter pointed out that payment by the amount of work done rather than a daily wage had the tendency to lower wages. Some men contracted to produce a given amount of work at a set price, and by working harder and longer than they should finished in less time than if they had been paid by the day. This led the employer to think they were receiving too much, and wages were lowered. It was also not uncommon for men on piecework to labor long hours on some days and then to take time off on other days and drink. Furthermore, piecework led to inferior workmanship, as the men were careless with details in their rush to finish the job.[63]

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[60] Ibid., testimony of Alfred Mault, May 14, 1867; 1867, Vol. XXXII, qs. 3205-3275. The next week, however, John McDonald of the Glasgow Master Bricklayers' Association testified that all bricks in his area were produced by machine and the unions offered no objection. See ibid., testimony of John McDonald, May 21, 1867; 1867, Vol. XXXII, qs. 3581-3583.

[61] George Howell, The Conflicts of Capital and Labour (London: Chatto and Windus, 1878), p. 279.

[62] Postgate, Builders' History, p. 268.

[63] "R. C. 1867-69 Reports," testimony of George Potter, March 19, 1867; 1867, Vol. XXXII, qs. 318-20, 398.

Employers further objected to the union demands for a minimum wage, saying that it discouraged the more able workers from producing more and thus earning more.[64] The unions maintained that a minimum wage was only fair, although they had no objection to more skilled and able workmen earning more than the minimum.[65] What they deplored was the system of "chasing," by which an exceptionally strong and capable worker was paid extra to act as a pace-setter. The other men, in trying to keep up, overtaxed themselves and worked harder than should be expected. None of their rules were intended to stifle initiative, however, and what they expected was a fair day's pay for a honest day's work.[66]

One of the most important problems considered by the commission was the controversial issue of strikes. Excepting union violence and outrages, which were handled by a separate subcommission, questions on strikes accounted for more evidence than any other subject examined by the commission.

Strikes were far more serious than other forms of union action, and the problem had been thoroughly studied

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[64] Ibid., testimony of Alfred Mault, May 7, 1867; 1867, Vol. XXXII, q. 3117.

[65] Ibid., testimony of George Potter, March 19, 1867; 1867, Vol. XXXII, qs. 321-31; and ibid., testimony of George Howell, April 2, 1867; 1867, Vol. XXXII, qs. 1667-1677.

[66] Ibid., testimony of Thomas Connolly, April 2, 1867; 1867, Vol. XXXII, qs. 1325-1331.

before 1867. In 1856 the house of commons appointed a select committee to consider relations between masters and operatives, the causes of strikes, and the feasibility of arbitration as a means of preventing future disputes.[67] Two years later the Social Science Association formed a committee to study the same topic, and in 1860 issued a report of several hundred pages. This committee, which included Hughes and Ludlow as members, stated that the question of strikes was so much in the public mind that it was treated as the only matter of importance in industrial relations. They found that strikes were more frequent than in earlier years, but also less violent, and it was their opinion that the decrease of violence was due to the judicious and moderate leadership of the union officials.[68]

Also in 1860 the venerable and highly respected bookbinders' secretary, T. J. Dunning, published a lengthy pamphlet entitled Trades Unions and Strikes, in which he analysed the pros and cons of strikes and finally concluded that any injury inflicted by capital or labor on the other

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[67] See Masters and Workmen: Evidence Given by Sidney Smith and William Newton Before a Select Committee of the House of Commons on the Cause of Strikes and the Desirability of Establishing Equitable Councils of Conciliation (London: John Kenny, 1856).

[68] Trades Societies and Strikes: Report of the Committee on Trades Societies Appointed by the National Association for the Promotion of Social Science (London: John W. Parker and Son, 1860), pp. xiii, xviii.

would in the long run injure both.[69] Dunning's treatise was but one of many, and the large number of pamphlets and articles on strikes and arbitration which appeared during the third quarter of the nineteenth century attest to the wide interest in this most vexing of all industrial problems.

Almost any disagreement could precipitate a strike, and a group of shipbuilders once struck when their employer tried to enforce a company rule that the men could not use the water closet more than once a day, and then for not more than seven minutes.[70] Most strikes were over wages and hours of labor, however, and Daniel Guile of the iron-founders union told the commission that more often than not strikes were to prevent a lowering of wages rather than for an increase.[71] Economists frequently charged the unions with trying to push wages above their "natural level," but little was said about the times when wages were below that level, and unions sometimes fought to keep the salary scale from dropping.[72]

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[69]T. J. Dunning, Trades Unions and Strikes: Their Philosophy and Intention (2d ed., rev.: London: The Society's House, 1873), p. 31.

[70]Jefferys, The Story of the Engineers, p. 65.

[71]"R. C. 1867-69 Reports," testimony of Daniel Guile, November 20, 1867; 1867, Vol. XXXII, qs. 1861-1863.

[72]William MacDonald, The True Story of Trades Unions: A Reply to Dr. John Watts, Professor Jevons, and Others (Manchester: John Heywood, 1867), p. 11.

One writer claimed that strikes were more disastrous to the men than the masters, since the former were dependent upon their weekly wages to live, but the employers simply had more time during a work stoppage to enjoy their "wine and walnuts."[73] But most writers and most witnesses before the commission agreed with T. J. Dunning that trade disputes were detrimental to the interests of both parties. William Allan said that "all strikes are a complete waste of money," and he claimed that his society had prevented at least twenty strikes within the past two years.[74]

Since 1825 trade action regarding hours of labor and wages was legal in theory, and in 1859 parliament passed the brief Molestation of Workmen Act, which legalized peaceful picketing. But the courts attacked this privilege as they did the sanctity of union funds and union legality, and in effect pickets were frequently prosecuted for the most innocuous offenses.[75] In the summer of 1867 Baron Bramwell's decision in R. v. Druitt convicted pickets of intimidation for their "black looks"

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[73]William Saunders, Trades Unionism. Question: Is the Development of Trades Unionism a Serious National Danger? (London: W. Tweedie and Co., 1878), p. 17.

[74]"R. C. 1867-69 Reports," testimony of William Allan, March 36, 1867; 1867, Vol. XXXII, qs. 827, 830.

[75]Hedges and Winterbottom, Legal History of Trade Unionism, pp. 50-51. In two cases tried in 1851 Erle held that even peaceful persuasion to induce a workman to leave work was obstruction

at the strikebreakers.[76] Beesly was stunned, saying that the decision "completely cripples unionism," and the situation was "absolutely intolerable."[77] In the Beehive he wrote sardonically that hereafter men on strike "must always wear a pleasant smile on their faces."[78] A year later Ernest Jones informed Applegarth of another case where a picket was sentenced to seven days at hard labor for trying to dissuade a strikebreaker from working.[79]

Despite the risks of legal prosecution, strikes and picketing were frequent in the years prior to 1867. The best way out of the morass of ill-feeling and hardship created by these trade disputes seemed to be mediation by impartial boards of arbitration. At least this was the only viable suggestion anyone had to offer at the time.

When the royal commission was established, the home secretary voiced a hope that the feasibility of conciliation courts would be "one of the most important, if not the most important, object of the inquiry."[80] Unionists

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[76] Beehive, August 31, 1867.

[77] E. S. Beesly to H. Crompton, September 6, 1867, E. S. Beesly Papers (University College, London, England). (Hereafter cited as Beesly Papers.)

[78] E. S. Beesly, "Professor Beesly on the New Law of Conspiracy," Beehive, September 21, 1867.

[79] Ernest Jones to R. Applegarth, August 26, 1868, Harrison Collection.

[80] Great Britain, 3 Hansard's Parliamentary Debates, CLXXXV (1867), 167.

--even Potter, who was accused of being a "strike-jobber"--generally favored the idea, although admitting that it would not work in all cases.[81]

The best testimony on arbitration came from two men who had practical experience as mediators in industrial disputes, Rupert Kettle, county court judge at Wolverhampton, and A. J. Mundella, a former worker who had become a wealthy hosiery manufacturer at Nottingham. Kettle told the commission that strikes were frequent in his district, but he had great success in settling these disputes by bringing the masters and men together to iron out their differences.[82] Mundella, one of the last witnesses called before the commission, said that arbitration must be voluntary and the decisions of the arbitration boards upheld by "moral influence" rather than the law, and if an employer failed to live up to his bargain in the settlement then public opinion would go against him.[83]

Harrison was delighted by all that Mundella said, and he wrote Beesly: "Mundella's evidence is first rate.

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[81] "R. C. 1867-69 Reports," testimony of George Potter, March 15, 1867; 1867, Vol. XXXII, q. 378.

[82] Ibid., testimony of Rupert Kettle, July 16, 1867; 1867, Vol. XXXII, qs. 6985-7231.

[83] Ibid., testimony of A. J. Mundella, July 14, 1868; 1867-68, Vol. XXXIX, qs. 19,341-19,349 and 19,480; and ibid., testimony of A. J. Mundella, July 22, 1868; 1867-68, Vol. XXXIX, qs. 19,679 and 19,715. Mundella's views on arbitration were expanded into a pamphlet entitled Arbitration as a Means of Preventing Strikes (Bradford: James Hanson, 1868).

He is a thorough trump--a regular unionist by nature, who . . . 'has taken the demos into partnership' and made a joint union of masters and men."[84] Applegarth praised both Kettle and Mundella for their suggestions, and was so enthusiastic over this system as a way out of trade disputes that he called for a board of arbitration in every town in Britain.[85]

The fly in the ointment was the employers' intransigence to accept any means of settlement which forced them to negotiate with the unions, which they despised. Even voluntary arbitration, such as Mundella proposed, would limit the employers' role as sole arbiter of wages, a privilege many seemed to regard as a God-given right. Their pretense of wanting to bargain with each individual worker without interference from unions or boards of arbitration was a sham, and what they really wanted was the power to determine wages and hours of labor without having to consult the workmen.[86]

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[84]F. Harrison to E. S. Beesly, July 25, 1868, Harrison Collection.

[85]Robert Applegarth in the Eighth Annual Report of the Amalgamated Society of Carpenters and Joiners (London: J. Kenny, 1868), p. 14.

[86]Most employers were against courts of arbitration both before and after the royal commission. During the hearings of the 1856 house of commons committee on strikes, Sidney Smith, secretary of the master engineers, claimed that courts of arbitration were impractical and desired more by the men than by the employers. See Masters and Workmen: Evidence . . . Given Before a Select Committee of the House of Commons, p. 13. Six years after

The question of arbitration was already under official consideration when the commission met, and in 1867 the government passed a conciliation act, but this was ineffective owing to the employers' resistance and to the inadequacy of the act itself. The iron and coal industries frequently resorted to arbitration, however, and wages were often determined by a sliding scale which depended upon the selling price of iron and coal. In 1870 both Leeds and Liverpool set up arbitration courts, but these lasted only a month since the employers were not willing to use them. Another arbitration act was passed in 1872, but once again it proved unsatisfactory, and most trades preferred to work out their own system of arbitration.[87]

Despite the importance of such issues as strikes, courts of arbitration, union rules, and the many other subjects examined by the commission, the general public in 1867 was interested only in the inquiry into union outrages; and the employers and unionists both realized that the outcome of the commission report depended upon

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the royal commission the employers' journal published a long series of articles reviewing the evidence, and their view was still hostile to arbitration boards. See "The Trade Union Inquiry of 1867-9," Article XVI in the series, Capital and Labour, March 24, 1875.

[87]G. D. H. Cole, A Short History of the British Working Class Movement 1789-1925 (3 vols.; London: George Allen and Unwin, Ltd., 1926), II, 139-40; and Richards, History of Trade Councils, pp. 18-20.

how deeply unions were involved in the recent violence at Sheffield and Manchester. The question was simple: If violence was typical of union policy then trade societies would be banned. On the other hand, if these highly publicised acts of terrorism were limited to a few irresponsible unions, then unionism in general would not be penalized and unions might expect legal recognition.

The Sheffield subcommission, composed of three barristers, met from early June through the first week in July. They first examined the common practice of "rattening," the hiding of a workman's tools and wheel bands until he paid his union dues or conformed to the rules of the society; but their findings also revealed more serious acts of violence, assault and murder. Cans of gunpowder were sometimes hidden in machines operated by non-union workers or dropped down the chimneys of their homes, and "blacklegs," a union term for strikebreakers, were often assaulted in the streets. A saw grinder was murdered in 1859 and another man killed in 1861 by a gunpowder attack on his home in Acorn Street.[88]

The list of atrocities continued to mount, as each day of the hearings revealed more cases of intimidation and outrage. The climax came on the thirteenth day when William Broadhead broke under questioning and made a full

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[88]"R. C. 1867-69 Reports," Sheffield subcommission, Vol. I, Report; 1867, Vol. XXXII, pp. 395-412.

confession. The saw grinders especially were guilty of terrorism, and Broadhead, the operator of a local tavern, was their secretary. Taking the witness stand on June 20, and again the following day, Broadhead told a sordid tale of how he hired Samuel Crookes and James Hallam to ratten, terrorize, and murder non-union workers, obstinate employers, and union members who failed in their obligations. The blood money for these outrages was paid in installments from the union treasury, and he admitted giving as much as twenty pounds for a single outrage.[89] Witnesses from other unions also confessed, and altogether twelve of the sixty unions in Sheffield were implicated.[90]

Applegarth, who had managed the union case so well up to this point was greatly agitated, and when Beesly visited him on the second day of Broadhead's testimony, Applegarth was in a state of despair. Beesly immediately wrote Harrison: "This Sheffield business is a terrible blow. All our arguments and pleadings will now be addressed to deaf ears."[91] Harrison was quite unaffected by the panic

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[89] Ibid., testimony of William Broadhead, June 20, 1867, Sheffield subcommission, Vol. II, Evidence; 1867, Vol. XXXII, qs. 12,007-12,578; and ibid., testimony of William Broadhead, June 21, 1867, Sheffield subcommission, Vol. II, Evidence; 1867, Vol. XXXII, qs. 12,579-13,336.

[90] Ibid., Sheffield subcommission, Vol. I, Report; 1867, Vol. XXXII, p. 412.

[91] E. S. Beesly to F. Harrison, June 21, 1867, Beesly Papers.

which seized other union advocates, however, and he had by now dismissed any doubts about unionism that lingered after Mault's testimony. He calmly informed Beesly that the Sheffield revelations made things difficult, but he was not surprised and expected as much. "I am not going to cave in now. The unions have serious faults, but I still believe them necessary as I do Railways, and capable of improvement." Furthermore, he planned to encourage the commission to hear all the testimony on outrages, and there was little to fear, for these were relatively few and confined to certain areas.[92]

Unions everywhere were quick to repudiate any connection with the terrorists, and the middle-class journals were hard-pressed to match the unions' condemnation of their guilty brethern. Potter's Trade Conference met on June 26 and passed resolutions expressing indignation at what had transpired at Sheffield.[93] The Conference of Amalgamated Trades were unanimous in their denunciation of the outrages, and agreed to hold a joint meeting with the London Trades Council.[94] On July 2 they gathered a large group of workmen and labor leaders at Exeter Hall to hear addresses by several of the Junta deploring union

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[92]F. Harrison to E. S. Beesly, June 24, 1867, Harrison Collection.

[93]Beehive, June 29, 1867.

[94]Conference of Amalgamated Trades Minutes, June 17, 1867, WTUC.

violence, and by Beesly, who reassured the audience: "Murder was a great crime. . . . But after all it must not be forgotten that a trades' union murder was neither better nor worse than any other murder."[95] Individual trades also expressed their horror of the crimes, and when the iron-workers met later that month they voiced "abhorrence and disgust" at the "diabolical conduct of Broadhead."[96]

The crimes at Sheffield were, if anything, surpassed by those at Manchester. When the month of hearings was completed at Sheffield, the government passed a special act empowering the subcommission to investigate outrages at Manchester,[97] and with a new chairman the three-man board of inquiry began taking evidence in September. In Manchester the manufacture of bricks was a leading industry, and most outrages there were committed by the brickmakers, including cases of assault, shootings, and destruction of property. Homemade bombs filled with gunpowder, naphtha, and nails had been hurled into the windows of homes; poisoned apples given to non-union workmen; and thousands

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[95] The Times (London), July 3, 1867; and Beehive, July 6, 1867. Beesly's Exeter Hall speech kindled a great controversy when newspapers reported that he had condoned murder, and he almost lost his position at University College. See E. S. Beesly to F. Harrison, July 6, 1867; and E. S. Beesly to H. Crompton, July 4, 19 and 27, 1867, Beesly Papers.

[96] Beehive, July 20, 1867.

[97] "Trade Union Commission Act 1867 Extension," Great Britain, Parliamentary Papers, 1867, VI, 407.

of needles were put in the clay men worked with their hands to make bricks. Similar to the outrages at Sheffield was the discovery that union officers had hired men to carry out these crimes and then paid them with union funds, entering the amount in their ledgers as expense for "sundries."[98]

The findings of the Manchester subcommission were not made public until early in 1868, but the report of the Sheffield subcommission was issued in October, 1867, along with the first four reports of the main commission at London. The fury of the journalists, which had smoldered since spring, blazed up again. A writer for the Edinburgh Review referred to the "lawless and overbearing despotism of the Trades' Union";[99] an article in The Quarterly Review accused the unions of being insensitive to the public interest,[100] and Blackwood's Magazine said that unionists made their own law.[101]

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[98]"R. C. 1867-69 Reports," Report Presented to The Trades Unions Commissioners by the Examiners Appointed to Inquire into Acts of Intimidation, Outrage, or Wrong Alleged to Have Been Promoted, Encouraged, or Connived at by Trades Unions in Manchester and its Neighbourhood, Vol. I, Report; 1867-68, Vol. XXXIX, pp. 571-96. The Manchester subcommission issued a two-volume report: Vol. I contained a fifteen page report and Vol. II contained minutes of evidence. These were issued as part of the "R. C. 1867-69 Reports." (Hereafter cited as Manchester subcommission.)

[99]G. K. Richards, "Trades' Unions," Edinburgh Review, CXXVI (October, 1867), 457.

[100]Robert Lowe, "Trades Unions," The Quarterly Review, CXXIII (October, 1867), 360-61.

[101]Charles Mackay, "Work and Murder," Blackwood's Magazine, CII (October, 1867), 488.

The attitude of The Times, however, was possibly more significant. The Times' hostility to unionism had continued unabated throughout the spring and summer of 1867,[102] but by autumn Beesly noted that this "great weathercock" of public opinion "is beginning to alter with the wind," and the journal relented enough to admit that union funds should be protected from embezzlement.[103] The position of The Times was usually not far from the official position of the government, and this change of attitude, however slight, was encouraging.

The final decision of the royal commission on recommending legal status and protection of funds for unions depended upon three factors. First of all was the question of the workers' object in combining, a matter that carried great weight with the commission's chairman. Applegarth and Allan had shown that their unions and many others were benefit societies as well as trade societies, and the major part of their funds were spent in assisting members rather than in promoting strikes and disputes with employers.

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[102]Beginning in April The Times (London) published accounts of the commission proceedings, but the testimony was selective and designed to show the unions in a bad light. See issues of April 15, 16, 17, 18, 19, 20, and 22, 1867, for examples. Throughout the spring and summer leading articles were always hostile to the unions. The Beehive, April 22, 1867, accused The Times of distorting the truth in its handling of commission evidence.

[103]E. S. Beesly, "Professor Beesly on the Policy of Trades Unions," Beehive, October 19, 1867.

Also, there was a question of union practice and to what extent their actions restricted trade. There was little point in denying that union rules prohibiting piecework, limiting apprentices, and providing for assistance to men on strike did to some extent restrain trade, but union witnesses tried to show why this policy was followed and in many cases why it was justified. They argued that restraint of trade alone was not sufficient grounds to deny their legalization.

Another factor, and the most serious obstacle to overcome, was the violence at Sheffield and Manchester. The subcommissions' reports showed that these outrages, more terrible than anyone had imagined, were confined to a few small unions. Leading trade societies throughout the kingdom denounced the crimes and by their quick and positive action convinced the commissioners and the public that violence was not a typical pattern of union activity. Simon Maccoby has observed that such revelations, coming ten or twenty years earlier, might have damned the unions, but by 1867 it was impossible to deny their right to existence.[104]

Unionism was on trial before the royal commission for almost two years, and the final report was not issued until the following year in 1869. In nearly all that was

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[104]Simon Maccoby, English Radicalism, 1853-1886 (London: George Allen and Unwin, 1938), p. 113.

said and done during this period the unions presented their case better than the employers. When George Howell described the attitude of most labor leaders at this time as "fear mingled with hope,"[105] he should have added that they had more to hope for than to fear.

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[105]Howell, Labour Legislation, I, 165.

CHAPTER III

THE JUNTA'S TRIUMPH

The Junta's leadership of the trade union movement was at its height during those years when the royal commission met in London. Their ascendancy was short-lived, because the Junta soon dissolved and other leaders took their place in the 1870's. But during the first phase of the struggle for legal status, from 1867 through 1871, the Junta were primarily responsible for advancing the cause of a sound trade union charter.

It was a hard struggle with occasional setbacks, especially the failure of the first three trade union bills to pass parliament. Furthermore, unionists were not united in their efforts, for the Junta haughtily refused to take provincial unions into their confidence and create a national organization representing all unions. Nevertheless, the Junta made giant strides forward toward reaching their goal, and their first and major success was in dominating the hearings of the royal commission.

Robert Applegarth's testimony was the best given by any witness before the commission. He testified three

times, answered a total of 633 questions, and was supported in what he said by Allan, Coulson, and Howell.[1] Their well-informed answers and moderate views on trade questions were a contrast to the impassioned and vacuous arguments of most employers and a contrast also to the testimony of most other union witnesses, who knew little about the administration of their own unions.[2]

The Junta created the Conference of Amalgamated Trades for the express purpose of defending the union case before the royal commission, and with the backing of the London Trades Council[3] and their middle-class allies they steadily tightened their control over the labor movement. Thomas Hughes' labor connections were mainly with the Junta, and he was present when they organized their conference.[4] Beesly and Harrison were

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[1]Daniel Guile also testified, but George Odger was not called as a witness.

[2]Postgate, Builders' History, p. 284, emphasizes the difference between testimony from the amalgamated union secretaries and officials of the older type unions. The latter were not able to answer all questions, and in their unions "chaos and disorder in administration were plainly indicated."

[3][Tate], London Trades Council, p. 16, states that "the LTC materially assisted the 'Junta' in keeping Potter and his less respectable spirits in the background during the sessions of the Royal Commission."

[4]Conference of Amalgamated Trades Minutes, January 28, 1867, WTUC. Hughes was the only non-unionist invited to attend the organizational meeting. Others present were the five members of the Junta and a few of their close friends.

also among the Junta's allies. They followed Comte's advice that Positivists should form an identity with the "nobler members of the working classes,"[5] and they interpreted this to mean friendship with Applegarth's associates rather than officials of less elite unions, or Potter, whom they both disliked.[6]

The Junta strengthened their position even more when Thomas Connolly, representative of the rival Trades Conference, was expelled from the commission hearings in July, 1867. Speaking at a meeting called to denounce the Sheffield outrages, Connolly had remarked that the outrages were terrible, but what else "could be expected from a town that returned a man such as Mr. Roebuck to represent it."[7] Roebuck was so infuriated by the insult that he demanded Connolly's removal as observer at the hearings. The Trades Conference threatened to sever relations with the commission after this incident, but finally decided they could not afford such a drastic move.[8] Nevertheless,

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[5]Comte, General View of Positivism, p. 136.

[6]Beesly considered Potter and his associates "humbugs." See E. S. Beesly to F. Harrison, August 10, 1867, Beesly Papers. Harrison stated emphatically that he disliked Potter. See F. Harrison to E. S. Beesly, October 2, 1867, Harrison Collection. Neither Beesly nor Harrison broke off relations with Potter, however, as they did not wish to add to the disunity within the labor movement.

[7]Beehive, July 5, 1867.

[8]Ibid., July 20 and 27, 1867.

they lost all influence with the commissioners, and without the presence of another observer at the commission Applegarth was now the sole representative of the unionists and was able to manage the evidence as he chose. He was so sure of his position that a few months later he also ventured to criticize Roebuck,[9] and yet no action was taken to expel him from the hearings.

The Conference of Amalgamated Trades were convinced that they, more than other unionists, were best qualified to present the union case to the royal commission. They did a magnificent job indeed, although their efforts to control the hearings were resented by provincial unions. Some unions were still allied with the Trades Conference, and all were jealous of the great power and influence exercised by the London secretaries.[10] Too much power in the hands of a few men in one location seemed a bad thing, and many societies had rules that their central

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[9]Applegarth's remarks were made at a public banquet on January 28, 1868, and printed in Amalgamated Society of Carpenters and Joiners Monthly Report, No. 62 (February, 1868), p. 55.

[10]Roberts, Trades Union Congress, p. 43. Employers were not unaware that many unionists distrusted the London Junta, and they did their best to exploit the situation by driving a wedge between provincial worker and London labor leader. A member of the Manchester chamber of commerce wrote a pamphlet explaining how the interests of workers in the North engaged in manufacturing were different from the interests of union leaders in London, engaged mostly in the building trades. See Capital and Labour (London: Edward Stanford, 1867), pp. 15-17.

headquarters must be changed periodically. The masons, for example, seldom if ever permitted their headquarters to be in London.[11]

The differences between the London Junta and the provincial labor leaders are explained not merely by petty jealousy, but also by a dissimilarity of policy.[12] Many unionists agreed with Potter that new labor legislation must safeguard the right to strike and picket,[13] and yet the Junta had done everything possible to play down that aspect of union activity in their testimony before the commission. They stressed the twin goals of legalization and protection of funds without stopping to consider if this was what other unions wanted. Actually, many unionists were not yet ready to accept legalization. Ignorance and mistrust of what legal recognition entailed caused considerable opposition, for there was fear that new laws would lead to stricter controls.[14] After all, legalization was bound to require the registration of society

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[11]Beesly, The Amalgamated Society of Carpenters and Joiners, p. 7.

[12]The disagreement over policy is briefly discussed in Webb, History of Trade Unionism, p. 273.

[13]The St. Martin's Hall Conference of March, 1867, supported legalization and protection of funds, but they also demanded a trade union bill that protected their trade functions. See Report of the Trades Conference Held at St. Martin's Hall, pp. 19, 22.

[14]Applegarth told the Webbs that legalization was the immediate goal of London union leaders in the 1860's,

rules and publication of financial reports and perhaps other requirements as well.

The Junta did little to educate others on the matter, however, and they turned a deaf ear to all complaints. The commissioners recognized them as the spokesmen for all unionists and accepted their goals as the goals of the trade union world. They could afford to be arrogant. It was well within their power to convene a national convention or trade union congress to win support for their policy, but they were too busy, and finally when the provincial unions issued a call for such a congress the Junta ignored it.

Early in June, 1868, the Manchester and Salford Trades Council convened the first Trades Union Congress at Manchester. Thirty-four delegates, representing perhaps half the unionists in the kingdom,[15] met to hear papers read on various labor topics. The organization

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but he admitted that some union officials did not approve of this policy as they feared having any controls imposed upon their society. See Webbs' interview with Robert Applegarth, 1893, WTUC, Sec. A, Vol. I, Item 6, p. 426. Henry Broadhurst claimed that the masons did not want legalization and, furthermore, that the majority of unionists did not agree with the views Applegarth expressed to the royal commission. See Henry Broadhurst's notes on Mss. "History of Trade Unionism," WTUC, Sec. A, Vol. I, Item 6, p. 446.

[15]This estimate is based on figures supplied by Walter Citrine in the introduction to Seventy Years of Trade Unionism, 1868-1938 (London: Trades Union Congress, 1938), p. 1.

and proceedings of the congress were modeled after the middle-class Social Science Association, and it was intended that the congress would meet annually as a permanent organization which represented trade societies throughout the kingdom. The reason for a meeting at this time was that labor leaders outside of London wanted to consider what was being done by the royal commission, and to form some policy on union legislation. Also, the congress was a reaction to the Junta's attempt to speak for all unionists, and it reflected a genuine need for a truly representative organization in which provincial as well as London leaders could voice their opinions.[16]

Provincial leaders were heavily represented, and only two London delegates, one of whom was George Potter, attended. The Junta took little notice of the meeting and sent no representatives,[17] and yet, surprisingly, the

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[16]A. E. Musson, The Congress of 1868: The Origins and Establishment of the Trades Union Congress (London: The Trades Union Congress, 1955), pp. 28-38. Also, see Roberts, Trades Union Congress, pp. 44-48; and W. J. Davis, The British Trade Union Congress: History and Recollections (2 vols.; London: Trades Union Congress, 1910), I, 3-4. Unfortunately, no official record of the first congress survives except a five-page manuscript in the George Howell Collection. The Trades Union Congress Library, London, England, has bound copies of the annual Trades Union Congress Reports from 1868 on, but the first three reports are only minutes of the proceedings copied from local newspapers. The fourth congress report is an original set of handwritten minutes, and subsequent reports were officially printed.

[17]Musson, The Congress of 1868, p. 35.

congress fully endorsed their policy. One delegate presented a paper on the necessity of protecting union funds, and another paper described legalization as "the paramount duty of working men." John Kane, friend of the Junta and vice-president of the congress, sponsored a resolution pledging the congress "to aid the London Committee of Amalgamated Trades in their laudable efforts to secure the legal protection of trade societies' funds"; and a second resolution promised support for the Junta's efforts to revise the criminal provisions of the Combination Act of 1825.[18]

This endorsement was a great victory for the Junta, especially so considering the provincial unionists' strong resentment. Since Applegarth and his friends had the attention of the royal commission, however, the congress had no alternative except to lend them support. Furthermore, the Trades Union Congress did not at this time appoint any permanent committee to act for its members, and the Trades Conference committee had ceased to function,[19] so the Conference of Amalgamated Trades was the only active group, and also the only organization with a serious legislative program.

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[18] Trades Union Congress Reports (1868).

[19] As early as March 1868 the Beehive admitted that the Trades Conference committee was no longer meeting. See Beehive, March 28, 1868.

When the Manchester congress adjourned the Junta were busily engaged back in London preparing to introduce their second trade union bill. After parliament rejected Neate's bill in the spring of 1867 there was talk of drafting another measure, and finally by August, Professor Beesly provided the impetus. Following the request of a group of Bradford unionists,[20] Beesly drew up a six-point "Programme" which included demands for a law to protect union funds and a law that workers' combinations should not be regarded a conspiracy. The program was designed as a general blueprint for several new laws, and Beesly intended to draft specific legislation to carry out these proposals.[21]

Since he was not familiar with existing labor law, Beesly called on Henry Crompton to advise on the finer legal points. He impressed upon Crompton the urgency of acting without delay and requested that his lawyer friend draft a complete bill embodying the proposals in the program.[22] Harrison, who was too busy with the commission and his own legal practice to help, read the program and approved,[23]

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[20]E. S. Beesly to R. Congreve, August 28, 1867, Add. Mss. 45227.

[21]E. S. Beesly, The General Election of 1869: Programme for Trades Unions, WTUC, Sec. B, Vol. CXX, Item 41.

[22]E. S. Beesly to H. Crompton, September 6, 12, 14, and 26, 1867, Beesly Papers.

[23]F. Harrison to E. S. Beesly, September 27, 1867, Harrison Collection.

but Beesly encountered difficulty when he presented the plan to the Junta.

The Conference of Amalgamated Trades met on September 30 to consider the suggestions, and a stormy session ensued with most members siding against the program. Beesly wanted a broad labor platform adopted including proposals on education, a property tax, and a revision of the jury system, but the Junta were still so intent upon achieving legalization and protection of funds that nothing else seemed to interest them.[24]

Beesly thought that the Junta were dragging their heels and did not know themselves what they wanted. He wrote Crompton that "we must silently take the management into our own hands," and he urged him to hurry with the drafting of a bill before the Junta's next meeting.[25] When the conference met again on October 7 the bill was ready, and Beesly was there along with Harrison, Crompton, Hughes, and Godfrey Lushington to discuss the provisions.

The wording was rough in places and showed the haste with which it had been written, but nevertheless the measure set forth in nine clauses a comprehensive plan to repeal previous union laws, legalize unions,

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[24]Conference of Amalgamated Trades Minutes, September 30, 1867, WTUC.

[25]E. S. Beesly to H. Crompton, October 2, 1867 (dated October 3, but envelope postmarked October 2), Beesly Papers.

protect funds, and punish by imprisonment union violence and law-breaking. The substitution of "violence" and "threats of violence" in the criminal provisions for the vague violations of "intimidation," "molestation," and "obstruction" found in the Combination Act of 1825 was a definite improvement and gained approval without discussion. There were disagreements over other provisions, however, notably on a section that would change the jury selection system. Also, Odger and Applegarth had an exchange of words when the former suggested that the bill be turned over to the London Trades Council for future action. Applegarth refused, replying tartly that the London Trades Council should have acted sooner on the matter of legislation.[26] Later they agreed that the Conference of Amalgamated Trades and the London Trades Council would co-operate to avoid any appearance of friction.[27]

The conference appointed a subcommittee which polished the wording and revised the measure, and printed copies of this "Trades Societies Act of 1868"

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[26]Conference of Amalgamated Trades Minutes, October 7, 1867, WTUC; and Howell's notes on a printed copy of the proposed Trades Societies Act of 1868, GHC. Howell attended the meeting and jotted notes in the margin of his copy of the bill as various provisions were discussed. His comments are more revealing than the official minutes written by Applegarth.

[27]Conference of Amalgamated Trades Minutes, January 10, 1868, WTUC.

were sent to members of parliament and to all trade societies and trade councils.[28] Beesly personally mailed a copy to the Beehive with a plea for support,[29] but Potter refused publication until he had a formal request from the Conference of Amalgamated Trades. The bill appeared in the next issue after Applegarth wrote an official request for publication,[30] although Potter complained that the bill was sent to other newspapers first, and the Beehive was the last to get a copy.[31]

Throughout the spring and early summer of 1868 the Junta consulted with members of parliament about their bill, and even though the prime minister refused them an interview they did not lose heart that they would be successful.[32] They sent out a circular addressed to all unionists calling for support, mentioned that they had strong backing in parliament, and rather absurdly claimed that "our representative capacity now numbers upwards of 200,000 members of Trade Societies."[33]

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[28] Ibid., October 10, 21, and 25, 1867 and November 1, 1867.

[29] E. S. Beesly to editor of the Beehive, Beehive, November 16, 1867.

[30] Beehive, November 23, 1867.

[31] Ibid., November 30, 1867.

[32] Conference of Amalgamated Trades Minutes, March 2, 1868 and May 15 and 22, 1868, WTUC.

[33] Copy of printed circular, dated July, 1868, Conference of Amalgamated Trades Minutes, WTUC.

In July Thomas Fowell Buxton introduced the Trades Societies Bill 1868 in parliament, but there was no debate and the measure was withdrawn that same month.[34] Parliament was in no mood to consider a bill on unions while the royal commission was still in session, and finally in September the Junta conceded that they would have to wait for the commission's final report before the passage of a trade union bill.[35]

In the same month that the Trades Societies Bill 1868 was defeated parliament passed another bill sponsored by Russell Gurney, the recorder of London. Gurney's Larceny and Embezzlement Act was intended to protect members of co-partnerships from embezzlement by one of the partners.[36] Since union funds were the joint property of all members, there was good reason to believe that this measure would offer at least some protection to the trade societies. Union leaders talked with Gurney while his act

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[34]"Trades Societies Bill 1868," Great Britain, Parliamentary Papers, 1867-68, V, 575-78. A Conservative lawyer charged that the criminal provisions of this bill were more stringent than the existing law, and he accused the Liberals of being behind the bill. See Charles Sturgeon, Letters to the Trades' Unionists and the Working Classes on the Recent Bill Brought in to Repeal the Combination Laws, and Enslave the Working Classes, by Sir T. F. Buxton, Bart., and Mr. Young (London: Heywood and Co., 1868), pp. 2-5.

[35]Conference of Amalgamated Trades Minutes, September 11, 1868, WTUC.

[36]"Larceny and Embezzlement Act 1868," 31 & 32 Vict. c. 116.

was being considered by parliament, and he expressed the opinion that unions, although not specifically mentioned, would receive protection.[37]

After Hornby v. Close declared trade unions illegal, they were not able to take any action at court in the name of the union, but it was still possible to bring suit in the name of the individual union members.[38] This process was cumbersome enough to discourage most unions from proceeding against a dishonest official under Gurney's Act, and in an article for the Fortnightly Review Frederic Harrison pointed out other drawbacks. The suit must be tried before a jury rather than the ordinary magistrates, and court expense in most cases would be more than the money lost through embezzlement. Furthermore, the act provided for criminal action against the defaulting official, but not for civil action to recover the embezzled funds. The union might have the satisfaction of sending the wrongdoer to prison, but they had no way of regaining their money.[39]

In spite of these disadvantages trade unions hoped that the Larceny and Embezzlement Act would prove a

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[37]Herman Cohen and George Howell, Trade Union Law and Cases: A Text Book Relating to Trade Unions and to Labour (London: Sweet and Maxwell, 1901), pp. 7-9.

[38]Hedges and Winterbottom, Legal History of Trade Unionism, p. 55.

[39]Frederic Harrison, "The Trades Union Bill," Fortnightly Review, VI (June, 1869), 38.

deterrent to the theft of their funds, and a number of cases were prosecuted under the act. In November the treasurer of the Shore-ditch Operative Bricklayers' Society was arrested for having embezzled seventeen pounds, and the following month he was convicted and sentenced to six months at hard labor.[40] By making examples of a few defaulting officials the unions discouraged embezzlement, but until that time when they could sue in the name of the union itself and guarantee the return of stolen money, they did not have full protection.

Agitation for a trade union act continued, and the growing realization that closer unity was necessary helped to knit the rift in the union leadership. During the fall of 1868 Potter and the Junta moved toward a rapprochement. In September the Beehive announced that the Conference of Amalgamated Trades, the London Trades Council, and the London Working Men's Association would sponsor a joint meeting to discuss the Trades Societies Bill, and it was hoped "that the reunion which has or which is about to take place, will not be again disturbed by foolish distrust, petty jealousies, or idle recrimination."[41]

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[40] Operative Bricklayers' Society's Trade Circular, No. 91 (December 1, 1868), p. 831; and No. 92 (January 1, 1869), pp. 839-41.

[41] Beehive, September 26, 1868.

They met on October 14 and established a basis for mutual co-operation, although the "foolish distrust" and "petty jealousies" were still evident. Potter was not willing to accept the Junta's bill *in toto*, and suggested that a committee be appointed to study the criminal provisions in the third section.[42] Two more meetings were held before the three organizations gave their full stamp of approval and agreed to back the Trades Societies Bill whenever it was reintroduced in parliament.[43]

George Potter's acceptance of the bill was another victory for the Junta, although his submission to their policy was not a matter of choice, for the reconciliation was forced on Potter by economic circumstances. Subscriptions to the *Beehive* were dropping and, faced with financial disaster, he had to turn to the Junta for assistance. The Trades Conference committee had collapsed earlier in the year and his own leadership in the labor movement had failed, so there was nothing Potter could do but seek an alliance with the Junta and try to preserve at least some of his influence. In 1869 the Junta took control of the *Beehive*, appointed a new editor over Potter, packed the board of directors, changed the paper's format and policy, and thus gained control of the most powerful of working

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[42] *Ibid.*, October 17, 1868.

[43] *Ibid.*, October 24 and 31, 1868.

class journals and silenced their chief critic at the same time.[44]

Another reason for co-operation and unity among labor leaders at this time was that the royal commission completed its hearings in July, 1868, and by the end of the year started work on the final report. The willingness of the government to back union legislation depended upon the outcome of this report. This was a crucial stage for trade unions, and now, as never before, they must speak with one voice so that there was no misunderstanding their goals. The three London labor groups recognized this when they issued a printed circular early in October: "This is a time when there should be no misunderstanding amongst us, no difference of opinion to cause divided action, no conflicting policies to stulify the great influence which one united body of unionists would possess and use . . . for the common good of the working community."[45]

After a five-month recess the royal commission met again in December to draft its conclusions and recommendations. A mass of evidence confronted the commissioners, for during the past two years they had examined 108 witnesses and almost 20,000 questions had been answered.

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[44]Coltham, "George Potter, the Junta, and the Bee-Hive," Pt. II, pp. 24-34, 41-43, 56.

[45]Beehive, October 3, 1868.

Already they had published ten voluminous reports with this evidence, reports from the Sheffield and Manchester subcommissions, and various written statements. Now it was necessary to sort the facts and information collected and come up with proposals which would enable the government to reframe the labor laws.

At the request of the commission chairman James Booth prepared a draft report as a basis for the deliberations.[46] The differing views of the commissioners came out in sharp focus during the discussions on this final report, and it was no easy matter for them to form a collective opinion. This was Harrison's finest hour, and judging from what he wrote to friends and later in his memoirs, he had his way with the commission more often than not. In mid-December he wrote Beesly:

> We are getting on first rate at the commission and are regularly breaking down the Report. . . . Yesterday and today we took "Proposed Legislation" which is twelve pages. Of this twelve pages only two or three sentences survived yesterday and not a single line today! The two fundamental clauses as to combination were proposed by me and carried. In fact Roebuck and Booth are muttering that nothing is left. Roebuck says he can't sign it in its meagre form, and Booth will have to decline to sign his own Report! Merivale is very good and Lord Lichfield first rate. Whenever there has been a decision against us it is only carried by Erle's own vote and then his casting vote.[47]

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[46]Harrison, Memoirs, I, 323.

[47]F. Harrison to E. S. Beesly, December 15, 1868, Harrison Collection.

The work was hard and tiring, but Harrison was young and active. He took an almost childish delight in his own cleverness at maneuvering the commissioners and bringing them around to his point of view. Hughes supported him; the two peers were sympathetic, and sometimes Merivale also helped.[48] Harrison confessed that their strategy was to challenge every sentence, "whittle it down to nothing, and then we shall consider if we can sign after all."[49] His claim that they were able to delete "about nineteen out of every twenty clauses"[50] was certainly an exaggeration, however, for the majority report was essentially what Booth had proposed in his draft. But Harrison's tactics did lead to a number of changes and produced in the end a more moderate report.[51]

Early in 1869 Sir William Erle published a lengthy memorandum on trade union law which was intended as a guide for members of the commission. Supposedly an impartial analysis of existing law, the memorandum was actually one-sided. Erle defended complete freedom of trade, and supported the position that any obstruction--

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[48]Harrison, Memoirs, I, 323.

[49]F. Harrison to E. S. Beesly, December 15, 1868, Harrison Collection.

[50]Harrison, Memoirs, I, 323.

[51]McCready, "British Labour and the Royal Commission," pp. 403-4.

even "the use of words operating to alienate workmen or employers from each other"--was illegal.[52] If Erle's views were allowed to predominate then all trade action, even peaceful strikes, would be banned and unions would find their hands tied in trade disputes.

Inexplicably the Beehive praised the pamphlet as "the very best that has been published with respect to trade unions,"[53] but Harrison was closer to the mark when he described Erle as a "dogged adherent of the obsolete doctrine of restraint of trade."[54] J. M. Ludlow, a student of trade union law and soon to be registrar of friendly and trade societies, was highly critical of Erle's publishing his opinions before the commission made its report. Ludlow charged that the chairman was biased and said he had defended the law as it was rather than showing what it ought to be.[55] Erle did not insist that the other commissioners accept his views, however, for it was essential that they reach some agreement, and he gave way and permitted the work to continue on the final report.[56]

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[52]Erle, Law Relating to Trade Unions, p. 16.

[53]Beehive, January 23, 1869.

[54]Harrison, Memoirs, I, 322.

[55]J. M. Ludlow in Operative Bricklayers' Society's Trade Circular, No. 94 (March 1, 1869), pp. 854-57.

[56]Harrison, Memoirs, I, 323.

By February Harrison began to show the strain of steady work. He complained of the "constant fights" and said that he had written "volumes of notes and memoranda and letters."[57] After forcing the commissioners to modify their report so that the wording was more favorable to unionism, Harrison then refused to sign. Instead he produced a minority report, signed by himself, Hughes, and Lichfield. He also wrote a detailed statement of his views on unions and needed legislation as an appendix to the final report. Hughes joined him in signing this, and Lichfield gave it his blessing.[58]

The eleventh and final report of the royal commission was issued in March. Time and time again the big unions, especially the amalgamated unions, were cited as examples, and Allan and Applegarth were quoted so frequently that the impact of their testimony was apparent. The Junta's two main goals were both recommended, whereas the outrages, which led to the appointment of the commission, were scarcely mentioned and played no real part in proposals on new legislation.

The majority report was by no means anti-union, and was far more favorable than labor leaders had expected it would be two years earlier. George Howell breathed a

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[57]F. Harrison to Louisa Shore, February 17, 1869, Harrison Collection.

[58]F. Harrison to E. S. Beesly, February 4, 1869, Harrison Collection.

sigh of relief: "By the irony of fate, the Royal Commission, which was intended to curse, ended in a blessing."[59] Nevertheless, the report fell short of answering labor's demands and, from the union standpoint, was not satisfactory as a basis for new labor law.[60]

In mentioning the dual nature of many trade societies, the report praised their benefit functions but regarded the advantages offered workmen by strictly trade societies as "very questionable." It was not suggested that trade functions be prohibited, however, and peaceful strikes were sanctioned. On the other hand it was thought that picketing led to intimidation, and this practice should be repressed. The safeguards against molestation and obstruction in the Act of 1825 were to remain unaltered. Recognizing that these terms were sometimes misconstrued, the commissioners none the less could think of no substitute wording that would be less ambiguous. The best remedy

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[59]Howell, Labour Legislation, I, 171.

[60]Not only unionists, but others also were critical of the commissioners' conclusions: James Stirling, Trade Unionism: With Remarks on the Report of the Commissioners on Trades' Unions (2d ed.; Glasgow: James Maclehose & Sons, 1889), p. 5, said the final report was "a revelled skein of weak compromises and contradictory suggestions." Bonamy Price,"Trades Unions," Part I, Blackwood's Magazine, Vol. CVII (May, 1870), pp. 554-55, charged that the commissioners spoke with "an ambiguous voice," and that their report was "no final judgment, it is not even a complete review of all the elements of the problem." G. K. Richards, "Review of On Labour, by W. T. Thornton," Edinburgh Review, CXXX (October, 1869), 396, described the majority report as "a not wholly satisfactory document."

for trade disputes was found in the boards of conciliation, and the report endorsed the type of voluntary arbitration proposed by Mr. Mundella and Judge Kettle.

New legislation was recommended whereby the unions would no longer be illegal merely because they were in restraint of trade. Protection of funds was also to be granted, although benefit and trade expenditures must remain in separate accounts. Legalization and protection of funds would be accomplished by registration with the registrar of friendly societies, who would pass judgment on the society's rules before granting certification. Society rules which limited apprentices, prohibited piecework or authorized the union to support men of other unions during a strike were declared objectionable and sufficient grounds for refusing registration.[61]

Unionists objected most strongly to this last proviso, as they had no intention of relinquishing any of these practices, especially their right to help other unions during a strike. They knew from experience that few unions could survive a trade dispute without financial assistance. Applegarth pronounced this restriction "far more objectionable than all the rest put together," and without hesitation he declared:

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[61]"R. C. 1867-69 Reports," Final Report; 1868-69, XXXIX, 242-62. Stephen, History of Criminal Law, III, 224, states that these restrictions attached to registration "would have made the law intricate to an extreme degree."

> If this be the price that Trade Unions are to pay for protection, then they will prefer to go unprotected till doomsday. Trades' Unions will never surrender the right to give away or lend any portion of their own funds to any lawful purpose whatever. Not even for legal recognition will they attempt to smother one of the highest motives by which man can be actuated--that of desiring to assist others less fortunate than themselves.[62]

Elcho and Merivale dissented from the majority report on this point, and the minority report signed by Harrison, Hughes, and Lichfield suggested that registration not be subject to any approval of union rules by the registrar.[63]

The minority report was brief and to the point. Common law doctrine of restraint of trade and conspiracy as applied to workers' combinations should be "unequivocally rescinded" without qualifications or restrictions. Trade societies should have legal status, and protection of their funds would be guaranteed by the simple expedient of furnishing the registrar of friendly societies with a copy of union rules and annual expenditures. So long as none of the rules had a criminal intent or purpose then the registrar would have no power to disallow or object to any rule. Furthermore, the criminal provisions of the Combination Act of 1825 relating to intimidation, molestation and obstruction should be repealed, and all future

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[62]Robert Applegarth in the Ninth Annual Report of the Amalgamated Society of Carpenters and Joiners (London: J. Kenny, 1869), p. 8.

[63]"R. C. 1867-69 Reports," Final Report; 1868-69, XXXIX, 263-64.

trade union crimes dealt with as other crimes under the existing criminal law.[64]

Harrison expanded his ideas on proposed union legislation in a detailed statement which was attached to the minority report as an appendix. It was actually this statement or appendix more than the minority report which became the basis for a trade union act in 1871, although the ideas expressed in the two documents were mostly the same. Years later in writing his memoirs Harrison reflected: "I may fairly claim that this appendix of mine has been the foundation of the Trades-Union law between 1868 and 1906; and it is probably the most permanent work in which I have been engaged in politics."[65]

The detailed statement argued convincingly against mandatory separation of funds and, in one other respect, made a significant addition to the minority report. Unions were to have a quasi-corporate status. Like other legal associations they could use the courts to sue for recovery of embezzled funds, but the union could not otherwise take legal action against its members nor could the members take legal action against the union. No trade society was to use the courts to collect fines or dues or to enforce its rules, and members could not sue the union to claim benefits. Harrison also foresaw the possibility of unions

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[64] Ibid., pp. 263-65.

[65] Harrison, Memoirs, I, 323.

being sued by employers for injuries suffered during trade disputes, and he further stipulated that trade unions could not be sued as a corporate body for any reason.[66] He realized that such legal action would involve the unions in endless litigation and work to their disadvantage, although it was difficult to convince some unionists that legalization alone was not sufficient to meet their needs.[67]

While he was still at work on this report Harrison also drew up a bill which embodied these ideas on union legislation. In late March the Conference of Amalgamated Trades met to decide on their next step following completion of the commission's report, and they instructed Applegarth to obtain copies of Harrison's new bill.[68] This measure was better suited to the unions' requirements than the bill drafted by Beesly and Crompton the year before, and after careful consideration the Junta decided to support Harrison's bill instead of the Trades Societies Bill of 1868.[69]

Thomas Hughes and A. J. Mundella agreed to sponsor the bill in parliament,[70] and henceforth it was popularly

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[66]"R. C. 1867-69 Reports," Final Report; 1868-69, XXXIX, 266-98.

[67]Harrison, Before the Socialists, p. 287.

[68]Conference of Amalgamated Trades Minutes, March 25, 1869, WTUC.

[69]Ibid., April 5, 12, and 19, 1869.

[70]T. F. Buxton, who introduced the Trades Societies Bill of 1868, no longer had a seat in parliament. As the

known as the Hughes-Mundella Bill. It was introduced on April 7 and passed the first reading without debate.[71] Meanwhile, Harrison arranged to meet with the London Working Men's Association and with the Junta to explain the bill in detail and also to persuade the two groups to hold a large meeting at Exeter Hall to demonstrate the popular support behind the measure.[72]

Potter still maintained enough independence from the Junta to call a separate meeting of his followers on April 21. He praised the bill as "the best that had yet been submitted," and the Working Men's Association passed a resolution giving their support.[73] Applegarth then invited Potter and his group to a joint meeting with the Junta the following week. All the London trades sent representatives to this meeting at the Sussex Hotel on the 28th, and following Harrison's speech they unanimously adopted a resolution favoring the bill. Before adjourning the delegates elected a committee of five men, including

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leading advocate of the union cause in parliament, Thomas Hughes was the logical choice to introduce the bill in 1869, and after some hesitation Mundella consented to join him. See W. H. G. Armytage, A. J. Mundella (1825-1897): The Liberal Background to the Labour Movement (London: Ernest Benn, Ltd., 1951), pp. 67-69.

[71]"A Bill to Amend the Law Relating to Trade Combinations and Trade Unions 1869," Great Britain, Parliamentary Papers, 1868-69, V, 323-26.

[72]F. Harrison to E. S. Beesly, April 16, 1869, Harrison Collection.

[73]Beehive, April 24, 1869.

Potter, to act with the five members of the Junta in lobbying members of parliament to solicit their support and to arrange for the rally at Exeter Hall.[74] This meeting marks the end of the long and bitter quarrel between Potter and the Junta, and the move toward a reconciliation which began a few months earlier was now complete.[75]

The Hughes-Mundella Bill was scheduled for a second reading early in July, and preceding this the joint committee appointed by the Sussex Hotel meeting arranged their demonstration at Exeter Hall on June 23. Harrison had worked behind the scenes since spring planning this rally and arranging for speakers, and he invited the philosopher-economist John Stuart Mill to preside.[76] Mill was away from England when the meeting was held, but he told Harrison that he fully endorsed the measure,[77] and he sent a letter, which was read at the meeting, expressing his support.[78] In place of Mill, Samuel Morley, a

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[74] Ibid., May 1, 1869.

[75] Roberts, Trades Union Congress, p. 55; and Musson, The Congress of 1868, p. 41.

[76] F. Harrison to E. S. Beesly, April 16, 1869, Harrison Collection.

[77] Harrison, Memoirs, I, 302. Harrison also wrote in his memoirs, p. 301, that he received many letters from Mill on public questions, including the bill of 1869, but a check of the Harrison Collection and the John Stuart Mill-Harriet Taylor Collection (British Library of Political and Economic Science, London, England), shows that they are missing.

[78] J. S. Mill to the trades union delegation, Beehive, June 26, 1869.

member of parliament and one of the largest industrialists in the country, took the chair and opened the rally with a speech favoring the bill. Beesly delivered a rousing talk; most of the middle-class friends of unionism were present,[79] and even Karl Marx attended.[80]

Meanwhile, employers and other opponents of the bill were not idle. The Birmingham Chamber of Commerce petitioned parliament against the proposed legislation,[81] and two days after the unionists met at Exeter Hall a deputation of employers called at the home office to express their dissatisfaction.[82] A barrister published his views, arguing at length that the bill was both unnecessary and undesirable,[83] and the Economist, after endorsing part of the bill, declared against it because of the lax criminal provisions.[84]

On July 1 a large deputation of approximately 150 unionists and thirty members of parliament met with home

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[79] Beehive, June 26, 1869.

[80] F. Harrison to E. S. Beesly, June 26, 1869, Harrison Collection, praises Beesly's speech and mentions Marx's presence.

[81] The Times (London), July 8, 1869.

[82] Beehive, June 26, 1869.

[83] Trades Unions Bill, 1869: Observations Upon the Law Affecting Combinations and Trades Unions and Upon the Trades Unions Bill (London: Wm. Clowes & Sons., 1869).

[84] Economist, July 10, 1869.

secretary, Henry Austin Bruce, to discuss the Hughes-Mundella Bill and urge its passage. Bruce was sympathetic, but he reminded the deputation that the commissioners had not been unanimous in their recommendations, and that this bill represented the thinking of the minority. Furthermore, he told them flatly that the government was too involved with other commitments and other legislation to even consider a trade union bill that session, and he suggested that Hughes and Mundella withdraw their bill and leave it to the government to introduce a measure in the next session.[85]

The government's refusal to back the bill seemed final and the situation looked grim until everything was changed by the intercession of William Rathbone, a member of parliament. Rathbone suggested that some of the bill's supporters meet informally with Mr. Bruce and discuss the matter further. Henry Crompton, Applegarth, and Howell joined Rathbone and Bruce for breakfast and, as a result of this "breakfast table conference," the government reversed its stand and agreed to accept the second reading of the bill after all.[86] This sudden and unexpected shift of the government's position enhanced union chances of

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[85] Amalgamated Society of Carpenters and Joiners Monthly Report, No. 79 (July, 1869), pp. 152-54; and Beehive, July 3, 1869.

[86] Howell, Labour Legislation, I, 176-77.

getting their legislation passed, if not during that session of parliament, then perhaps in the near future.

At this crucial moment the courts inadvertently came to the unions' aid with another adverse legal decision. The courts were generally hostile to unions and the verdicts they rendered reflected this hostility, but a case decided on July 3 by the court of queen's bench backfired. This time public opinion was with the union and the demand for protection of funds was reinforced by the sense of injustice involved in the case of Farrer v. Close.

William Close, secretary of the Bradford carpenters union, was charged with stealing forty pounds from the union treasury. His guilt was definitely established, but the lord chief justice ruled that the union was in restraint of trade and was therefore illegal and not eligible under the Friendly Societies Act of 1855 to protect its funds from theft. One of the four judges on the court sided with the lord chief justice, whereas the other two dissented, and since the court was evenly divided the case was dismissed.[87] Close admitted his guilt, and yet he went

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[87] The Times (London), July 5 and 6, 1869; and Beehive, July 10, 1869. Apparently this was the same William Close who, as treasurer of the Bradford boilermakers, was defendant in Hornby v. Close. Close was also secretary of the Bradford branch of the A.S.C.J., and he had stolen from that union as well. George Farrer, president of the carpenters union, brought charges against Close in January, 1867, but the Bradford magistrates dismissed the charges. The case was then appealed to the court of queen's bench where it was heard two years later in July, 1869.

scot free! It was such a blatant miscarriage of justice that even The Times published an editorial supporting new legislation to protect union funds:

> Whatever may be the immediate effect of this case, it must inevitably pave the way for a settlement of the law. The circumstance that four eminent Judges are at variance upon a point that underlies the whole legal relation of capital and labour is quite enough to call for a Legislative remedy.[88]

On July 7, the day following this editorial, Thomas Hughes announced the second reading of the trade union bill in parliament. He cited Hornby v. Close and Farrer v. Close as examples of the inequity of existing law, and he pleaded with parliament to pass new legislation. A. J. Mundella, Thomas Brassey, and Charles Dilke also spoke on behalf of the bill, and only Edmund Potter offered any serious objection, stating the time-worn argument that unions limited competition and were thus contrary to free trade. Bruce and W. E. Forster accepted the second reading on behalf of the government and thereby affirmed the principles of the bill that workers' combinations should be legalized and should receive protection of funds. They made it clear, however, that the measure before the house was inadequate without more stringent criminal provisions. It must be altered and subjected to a closer study before enactment.[89]

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[88] The Times (London), July 6, 1869.

[89] Great Britain, 3 Hansard's Parliamentary Debates, CXCVII (1869), 1344-1386. Both Brassey and Potter published

Hughes and Mundella agreed to withdraw their bill in return for a government commitment to sponsor a trade union bill early in the next session. The next day, on July 13, the government introduced a brief Trades' Unions Funds Protection Bill. This was a temporary measure designed to protect union funds under the Friendly Societies Act until the government found time to bring in a permanent bill.[90]

There was nothing that the Junta or their middle-class allies could do now but wait for the government's bill, and the Conference of Amalgamated Trades did not meet again until February, 1870. The Trades Union Congress, however, held their second annual conference in August. Originally they were scheduled to meet at Birmingham on June 21, but this date conflicted with the Exeter Hall rally in London and with other meetings and rallies in support of the Hughes-Mundella Bill, so the congress was postponed until late August.[91] George Odger and George Howell attended as representatives of the Junta,

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their speeches on the bill. See Thomas Brassey, Trades' Unions and the Cost of Labour: Speech Delivered . . . in the House of Commons 7th July 1869 (London: Longmans, Green, and Co., 1870); and Edmund Potter, Some Opinions on Trades' Unions and the Bill of 1869 (London: E. T. Whitfield, 1869).

[90]"Trades Unions Funds Protection Act 1869," 32 & 33 Vict. c. 61.

[91]Amalgamated Society of Carpenters and Joiners Monthly Report, No. 78 (June, 1869), p. 118.

and Potter and three or four other London leaders were present. Discussion centered mostly on the royal commission's report and on union legislation, with most speakers revealing an amazing ignorance of what was intended by the minority report and by the Hughes-Mundella Bill.[92] Nevertheless, the delegates approved George Howell's resolution endorsing the Junta's legislative principles.[93] The Birmingham congress also appointed a parliamentary committee to promote labor legislation, but the committee never held a meeting and was totally ineffective. Odger refused appointment to this committee as he feared that it might be a rival to the Conference of Amalgamated Trades, and the Junta's continued opposition to the Trades Union Congress kept that organization in the background until 1871.[94]

In 1869 the Junta reached the peak of their power and influence. Their only adversary, the Trades Conference committee, had collapsed, and they forced George Potter into an alliance and gained control of his influential newspaper, the Beehive. They ignored the first Trades Union Congress, and yet it endorsed their policy; the

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[92]Harrison's legal terminology was obviously beyond the comprehension of most workingmen, but he had explained his views on legislation at the Exeter Hall rally, in other speeches to labor groups, and in an article for the Fortnightly Review.

[93]See the Trades Union Congress Reports (1869) for a full account of the proceedings.

[94]Davis, British Trade Union Congress, pp. 9-10; and Roberts, Trades Union Congress, p. 58.

second congress acted in like fashion and again approved the Junta's legislative program. Acting through the Conference of Amalgamated Trades the Junta dominated the hearings of the royal commission, and even in the struggle with the government they emerged victorious. The home secretary gave up his opposition and agreed to the second reading of the Hughes-Mundella Bill, thus affirming its principles, and then he compromised further by introducing a temporary measure to protect union funds. There was still another victory for the Junta in the government's promise to bring in a permanent bill during the next session of parliament. The course of events between 1867 and 1869 were almost a complete triumph for the Junta's policy and, furthermore, their leadership in the trade union movement went unchallenged until 1871.

CHAPTER IV

LABOR AND LIBERALISM

The laboring classes had no political party of their own--not a single workingman represented them in parliament before 1874. When they concerned themselves with politics at all, they usually gave support to Liberalism, and in 1868 when workingmen voted in large numbers for the first time their backing helped Gladstone win the election. The Liberal party was therefore under some obligation to labor, and before the election many candidates had pledged themselves to vote for a trade union bill.

Shortly after the Liberals came into office the new solicitor-general, Sir John Coleridge, told Harrison that the views expressed in the minority report would be accepted as the basis for legislation,[1] and in mid-summer of the following year the home secretary assured labor leaders that a bill would be introduced early in the next session of parliament. The government's promise of swift action on union legislation was not kept, however, and

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[1]Harrison, Memoirs, I, 323.

two years elapsed between the final report of the royal commission in March, 1869, and the introduction of a government-backed trade union bill in February, 1871.

It is important, therefore, to analyze the cause for this delay, labor's role in the election of 1868, the attitude of key figures in the cabinet toward union legislation, and also the general relationship between labor and Liberalism.

The Liberal party at this time was largely middle class and heavily represented at Westminster by employers. Their former reluctance to strengthen the position of the unions through new legislation was understandable, and they were willing to undertake a reform of the labor laws after 1869 mainly because of a remarkable change in public opinion. Thomas Wilkinson, president of the second Trades Union Congress, recognized this when he told the delegates: "Twenty years ago the legalising of trades unions would have been treated as absurd, but so far was public opinion advanced that it was now an accepted fact that they must be legalised."[2]

In his doctoral dissertation R. A. Buchanan has traced the development of public opinion on trade unions during the third quarter of the 19th century and the effect upon government decisions. He finds that the change in attitude was nothing less than a "revolution," and was most

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[2]Trades Union Congress Reports (1869), p. 20.

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great railway builder and one of the wealthiest young Liberals in England, defended unions in 1869 during the debates on the Hughes-Mundella Bill,[7] and after unions were at last legalized he wrote that the rights of labor had been recognized by "a power which far transcends that of Parliaments or Kings," the power of public opinion.[8]

Most of the anti-union sentiment that remained after 1869 was based upon an economic belief that unions restricted trade and limited free competition. Free trade was deeply rooted in the public mind, and it was not easy to drop the idea that workers' combinations were contrary to that almost sacred principle. Frederic Harrison had once warned the working class that "whenever a measure in their interest is proposed to Parliament or suggested in the country . . . it is universally met with opposition from one quarter--that of unrestricted competition, and opposed on one ground, the absolute freedom of private enterprise."[9]

There was much truth in the assertion, for the only member of parliament to oppose the second reading of the Hughes-Mundella Bill did so because he thought

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[7]Brassey, Trades' Unions and the Cost of Labour: Speech Delivered . . . in the House of Commons 7th July 1869.

[8]Thomas Brassey, Work and Wages (London: George Bell and Sons, 1874), p. 2.

[9]"Frederic Harrison on the Government Annuities Bill," Beehive, March 19, 1864.

the powers granted unionism by the bill threatened free trade,[10] and the year before the Social Science Association heard Frederic Hill declare: "Most of the wrong acts of Trades Unions are directly opposed to the principles of Free Trade, and resolve themselves into an attempt to re-establish protection."[11]

Even a Radical such as John Bright, who championed the cause of the working class, especially in their efforts to gain the franchise, opposed trade unions as contrary to laissez-faire. Lloyd Jones wrote that Bright's fixation on free trade was a "confirmed monomania," and for "his mind every circumstance of life has a direct connection with untrammelled commerce, and whether a man be born or die, or perform any of the many duties of life, in Mr. Bright's eyes all is done more or less in favour of, or opposed to, free trade."[12] Gladstone, also, and Robert Lowe and other Liberals accepted laissez-faire as the standard rule of political economy and as the only solution to industrial problems.[13]

This firm belief of most lawmakers and judges that nothing should interfere with the freedom of trade and

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[10]Potter, Some Opinions on Trades' Unions, p. 13.

[11]Hill, Measures for Putting an End to the Abuses of Trades Unions, p. 11.

[12]Lloyd Jones, "John Bright on Trades Unions," Beehive, May 8, 1875.

[13]T. W. Hutchison, A Review of Economic Doctrines, 1870-1929 (Oxford: Clarendon Press, 1962), p. 10.

industry was the main bulwark blocking legalization of unions. The correlation between laissez-faire and the struggle for union legal status is realized when it is remembered that judicial decisions of the 1860's held unions to be unlawful strictly because their practices were in restraint of trade.[14] Therefore, it was no coincidence that the very years when unionism was winning public approval and stood on the threshold of legal recognition were the same years when orthodox economists began an attack on dogmatic laissez-faire.[15]

Between 1868 and 1871 several economists started to question laissez-faire and the system of classical economics. In 1868 John Stuart Mill publicly criticised the chancellor of the exchequer for trying to make

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[14]W. Milne-Bailey, Trade Unions and the State (London: George Allen and Unwin, 1934), p. 177, states that the idea of unions being in restraint of trade was emphasized more in the 19th century than it had been earlier due to the growth of laissez-faire.

[15]J. B. Brebner, "Laissez Faire and State Intervention in Nineteenth Century Britain," Journal of Economic History Supplement, VIII (1948), 59-73, develops the thesis that the popular concept of laissez-faire as a scientific development of classical economics was a myth. He shows that nineteenth century political economy, as understood by the general public, came more from the popularizers than from the classical economists, whose ideas were often distorted. Twenty years before Brebner's article was published John Maynard Keynes stated the same thesis in The End of Laissez-Faire (London: The Hogarth Press, 1927), pp. 17-18, 20. Keynes further stated that Adam Smith, Malthus and Ricardo never used the term "laissez-faire" in their writings, and they never upheld the idea in any dogmatic form.

laissez-faire a universal principle of political economy,[16] and shortly thereafter Professor Cairnes told his students at University College, London, that "the maxim of laissez-faire has no scientific basis whatever, but is at best a mere handy rule of practice."[17] Mill criticised the "wages fund" theory,[18] W. T. Thornton's On Labour declared that the law of supply and demand "never determined the price of anything,"[19] and when Professor Stanley Jevons published his Theory of Political Economy in 1871 the trend away from classical economics was definitely underway. There was no sudden shift of thinking, but gradually the public came to accept the idea that laissez-faire was not always good nor state intervention always bad.[20] Also, after 1869 there was less concern that trade societies were a barrier to the freedom of trade. When the royal commission's final report suggested that restraint of trade was no longer sufficient grounds for withholding legal recognition, the major economic argument against unionism was weakened, although not yet abandoned.

Paradoxically, the labor leaders were accepting laissez-faire at the same time that some middle-class

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[16]Hutchison, Review of Economic Doctrines, p. 10.

[17]Keynes, End of Laissez-Faire, p. 26.

[18]Hutchison, Review of Economic Doctrines, p. 13.

[19]Thornton, On Labour, p. 85.

[20]Hutchison, Review of Economic Doctrines, pp. 11, 14.

Liberals were beginning to reject the doctrine in its most rigid form.[21] Unionists were aware, certainly, that laissez-faire and other tenets of classical economics had been used by employers to argue against union demands for higher wages and improved working conditions. Nevertheless, they had prospered under the British economic system, and so long as their condition continued to improve it was not illogical for them to accept that system. "Is all legislation for the regulation of labour a mistake? Is all Government interference with private enterprise false in principle and mischievous in practice?" the Beehive asked in 1874. "If we believed this we should despair of human progress. . . . On the other hand, we are bound to state it is only in the presence of certain understood conditions we favour Government interference."[22]

As unionists accepted the economic ideals of middle-class Liberals many workers became capitalists on a small scale, saving their surplus earnings for old age or investing in building societies or co-operative stores.[23] According to Selig Perlman the British labor movement of

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[21]Cole, Short History of the British Working Class Movement, pp. 141-42. Webb, History of Trade Unionism, p. 374, concurs: "Laisser-faire, then, was the political and social creed of the Trade Union leaders of this time. Up to 1885 they undoubtedly represented the views current among the rank and file."

[22]Beehive, July 4, 1874.

[23]Cole, Short History of the British Working Class Movement, pp. 48-49.

the 1860's and 1870's was "so wedded to social conservatism as actually to have become capitalism's complement."[24] Only on a few basic points did labor disagree with the Liberals, for unionists rejected the theory that wages could be determined only by supply and demand and that the unions were powerless to affect the wage structure. They also denied that workers' combinations restricted free bargaining between master and man, claiming that the master himself was actually a combination equal in power to the sum of his employees, and it was necessary for workers to combine in order to bargain on equal terms.[25]

Many unionists embraced political Liberalism as well as economic Liberalism, although they were hesitant about becoming involved in political affairs. After the failure of Chartism in 1848 unionists shunned politics, and most trade societies had rules in their by-laws forbidding political activity. They feared that politics would squander their financial resources and also lead

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[24]Selig Perlman, A Theory of the Labour Movement (New York: Macmillan Co., 1928), p. 124. After the mid-1870's when foreign competition threatened Britain's industrial supremacy and when the depression led to unemployment and falling wages the working classes began to question the capitalist system. Cole, Short History of the British Working Class Movement, p. 137. Sidney and Beatrice Webb, History of Trade Unionism, pp. 375-76, state that the circulation of Henry George's Progress and Poverty in the early 1880's was the beginning of a new line of thought, and only then was socialist propaganda effective among the working classes.

[25]Cole, Introduction, p. 15.

to internal quarrels.[26] Despite a growing awareness that they must obtain and use the franchise to achieve their goals, the working class retained a distaste for politics, and the Beehive commented that it was "a strange anomaly to see many of those trade societies, who shrink with such horror from touching any subject they think political, continually meddling with political questions."[27]

When the trade union movement came under the Junta's leadership during the 1860's there was a change of attitude, however, for the Junta and their associates favored political action as a means of bettering the union legal position and improving their social welfare.[28] Since it was not yet feasible for labor to organize their own political party, they tended to support and, later when they could, vote for Liberals. Professor Beesly complained of their reluctance to engage in political activity, but wrote that "most of them give an otiose assent to Liberal

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[26] C. F. Brand, "The Conversion of British Trade Unions to Political Action," American Historical Review, XXX (January, 1925), 251.

[27] Beehive, December 15, 1866.

[28] Brand, "The Conversion of British Trade Unions to Political Action," pp. 254-57; and Humphrey, History of Labour Representation, pp. 8-10. H. J. Hanham, Elections and Party Management: Politics in the Time of Disraeli and Gladstone (London: Longmans, Green and Co., 1959), pp. 323-24, disagrees and states that after 1867 "the union leaders made almost continuous advances which seemed to be so great that direct political action was unnecessary."

principles when they are by any chance called on to express an opinion."[29]

Although unionists turned down Beesly's proposal that they form an independent labor party,[30] they did organize two political associations: the London Workingmen's Association headed by George Potter and drawing its strength from his control of the Beehive, and the larger and more important Reform League, whose secretary was George Howell, a close friend of the Junta.[31] Both groups had connections with the Liberal politicians and they relied upon Liberal financial support. The Reform League especially sought contributions from wealthy Liberals such as Samuel Morley,[32] and its president, Edmond Beales, was middle class rather than a worker. Their goal was first to gain the franchise for the working class and then to elect suitable candidates to

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[29]E. S. Beesly to the editor, Beehive, December 5, 1868.

[30]See Harrison, "Professor Beesly and the Working-Class Movement," in Briggs and Saville, Essays in Labour History, p. 228.

[31]The Reform League was organized early in 1865, and the best source on this group is the Reform League Papers in the George Howell Collection. These papers are also available on microfilm. The London Workingmen's Association was formed the next year, and the Beehive carried a full report of its activities.

[32]George Howell to Samuel Morley, December 1, 1868, GHC, thanks Morley for a substantial contribution to the Reform League. Similar letters indicate other contributions from Liberals.

parliament--either from the working-class or middle-class Liberals who would support their program.[33]

In the summer of 1867, after lengthy debate and much compromise, the Conservative government headed by Derby and Disraeli passed the long-awaited reform bill which enfranchised the working class. The electorate doubled, and in most towns the working class were now a majority of the voters.[34] In December Gladstone replaced Russell as leader of the Liberal opposition, and two months later Disraeli succeeded Derby as Conservative prime minister, announcing soon thereafter that elections would be held in the autumn of 1868.

Now that large numbers of working men could vote for the first time they hoped that a few working class candidates might be sent to parliament to represent their

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[33]George Potter and Robert Hartwell, "An Address from the Committee of the London Workingmen's Association to the Working Men of London," Beehive, August 17, 1867, reviewed the work of the association during the past year, including agitation for the reform bill and formation of a Trades Conference to consider the questions of the royal commission and the need for new labor laws. With the passage of the reform bill the association stressed the importance of electing the right men to parliament. When the Reform League was first organized a Reform League circular dated May 2, 1867, Reform League Papers, GHC, listed only two goals: universal manhood suffrage and the ballot. When the reform bill passed parliament the league turned its attention to the next election and urged the election of "candidates pledged to advanced Liberal Principles." Reform League circular, July 12, 1867, Reform League Papers, GHC.

[34]E. L. Woodward, The Age of Reform 1815-1870 (Oxford: The Clarendon Press, 1938), p. 180.

interests. At a meeting of the Workingmen's Association in July Potter called for the election of at least twelve working men,[35] and later at another meeting he reminded his followers that they should have representatives who could defend their views when the trade union legislation came before parliament.[36] On October 7 the Reform League adopted a resolution pledging themselves to work for the election of working class candidates, and the following week they approved the candidature of their secretary, George Howell.[37] Eventually six working-class candidates announced for parliament, but only three, including Howell, actually entered the election.[38]

A major obstacle barring the candidature of men from the lower classes was the enormous cost of a campaign, estimated at between 500 and 2,000 pounds in 1868.[39] Candidates were also expected to contribute to the various charities and institutions in their constituency, so the

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[35] Beehive, August 1, 1868.

[36] Ibid., October 12, 1868.

[37] Minutes of the executive committee, October 7 and 14, 1868, Reform League Papers, GHC.

[38] Humphrey, History of Labour Representation, p. 25. William Newton, a founder of the Amalgamated Society of Engineers, was the first working class man to stand for parliament. In 1852 he ran unsuccessfully as a Chartist for the Tower Hamlets.

[39] William B. Gwyn, Democracy and the Cost of Politics in Britain (London: The Athlone Press, 1962), p. 34.

total cost of standing for parliament was considerably more than the campaign itself. Furthermore, members of parliament served without pay, and the legislator must be financially independent to maintain himself at Westminster.[40] This was impossible for a man whose only income was a small salary from working at his trade.

The trade unions were not willing to sponsor individual candidates in 1868, and whereas the London Workingmen's Association favored the election of working men, it was a relatively small, local group and did not present a candidate. The Reform League backed George Howell and William R. Cremer, a carpenter, and also the co-operator Edward Greening, but it did not encourage others of their class to stand for parliament. Despite a pledge to support working-class candidates, the league did more for the election of middle-class Liberals. There was close co-operation between Reform League officials and agents of the Liberal party prior to the election, and understandably the Liberals opposed the competition of working-class candidates who might attract votes from their own candidates.[41] Morley and others supplied the finances for

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[40]Hanham, Elections and Party Management, pp. 249, 254.

[41]Royden Harrison, "The British Working Class and the General Election of 1868," International Review of Social History, Part I, Vol. V (1960), pp. 424-55; and Part II, Vol. VI (1961), pp. 74-109.

the league, but strings were attached, and after the election Howell wrote that "not one shilling of the money was given to us to empower any man to fight against Liberals."[42]

The Beehive described most of the Liberal candidates as "vulgar millionaires," and gloomily predicted the election of "a middle class Parliament, imbued for the most part with all the middle class prejudices against trades' unions."[43] Beesly complained that candidates ignored workingmen's problems and he feared that their interests would not be pressed at the election.[44]

Disestablishment of the Irish Church was the main issue at stake, but labor leaders made certain that union legislation was not neglected. Unionists held mass meetings and demonstrations demanding legalization for unions and protection of funds, and in almost every constituency they questioned candidates on their views. Conservatives and Liberals alike courted the new voters--they could scarcely afford not to--and although working men tended to support the Liberals, it was not without exacting promises in favor of new union legislation.[45] Amused by the

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[42]George Howell to Samuel Morley, December 1, 1869, GHC.

[43]Beehive, July 18, 1868.

[44]E. S. Beesly to Henry Crompton, September 8, 1868, Beesly Papers.

[45]Howell, Labour Legislation, I, 167-69.

frantic scramble for workers' votes, Frederic Harrison wrote his friend Beesly:

> I am pestered about once a day or more by applications from all sorts of embryo candidates to give them a tip with the working man! . . . One would think my chambers were a sort of proletarian caucus. . . . Perfect strangers to me have the cheek to ask me to go and speak at their meetings! My correspondence just now would show the liberal party in a curious aspect so far as hungry candidates go.[46]

When the election returns were in the Liberals won a great victory with a majority of 112 seats. There would be many new faces in the next parliament, and some old faces would be missing, including John Arthur Roebuck, who led the attack against unions at the royal commission. The only Liberal opposed by the Reform League, Roebuck lost at Sheffield to A. J. Mundella, a strong supporter of unionism. Mundella favored sound trade union legislation, and many other newly-elected Liberals were pledged by their campaign promises to vote for a trade union bill in the next parliamentary session. None of the working-class candidates were elected, however, and during the next three or four years labor came to resent what they saw as a determined effort of middle-class Liberals to exclude working men from parliament.

During the election George Howell stated that a middle-class parliament could no more legislate for labor

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[46]F. Harrison to E. S. Beesly, July 25, 1868, Harrison Collection.

than a working-class parliament could legislate for capital, and he called for the election of men from both classes.[47] Three years later he believed that the need to have working men in parliament was even more urgent, with the trades union bill and other legislation affecting labor being introduced,[48] but still the Liberals were not prepared to greet working men on the back benches at Westminster. The president of the London Trades Council complained that when men of his class declared their intention of standing for election they were accused of being "presumptuous";[49] and the Beehive charged that "our present Liberal Government though willing enough to pay cheap compliments to the working people, are not willing to permit intrusions on the part of well-informed representative working men into the practical business of the country."[50] Even John Bright was against their becoming candidates for parliament.[51]

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[47]G. Howell to James Thompson, October 28, 1868, GHC.

[48]G. Howell to Edwin Arnold, Office of the Daily Telegraph, January 19, 1871, GHC.

[49]George Odger, "The Working Man in Parliament," Contemporary Review, XVI (December, 1870), 113.

[50]Beehive, January 14, 1871.

[51]In a speech at Birmingham delivered in January, 1875, Bright stated his opposition to working men standing for parliament. Several working men's groups censured Bright, and the Labour Representation League wrote him objecting to his speech. See the Minute Book of the Labour Representation League 1873-1878, January, 1875, Henry

In spite of labor's growing disillusionment with Liberalism after 1868, the labor leaders maintained their connections with the Liberal party. They were often impatient and critical of the new government, but there was little talk as yet of going over to the Conservatives, who offered even less support for their trade union bill. A recent study of the Liberal party by John Vincent suggests that the working-class electors were as "genuinely Liberal" as the middle class.[52] It is improbable, however, that working class candidates, if elected, would have joined the Liberal party. There were still Radicals in parliament to the left of most Liberals, and the labor legislators would have gone to Westminster as independents and joined forces with men such as Thomas Hughes and A. J. Mundella.[53]

After the election the Reform League dissolved, but in the summer of 1869 the Junta, Potter's associates, and W. R. Cremer and his friends met to form a new organization, the Labour Representation League. The league was to continue the task of electing working men to parliament,

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Broadhurst Collection (British Library of Political and Economic Science, London, England). (Hereafter cited as Broadhurst Collection.)

[52]John Vincent, The Formation of the Liberal Party 1857-1868 (London: Constable & Co., 1966), pp. 77-80.

[53]Cole, British Working Class Politics, pp. 40-41. When two working men were elected in 1874 they were known as "Lib-Labs," as distinguished from middle-class Liberals.

support other candidates friendly to labor, register voters, and promote labor legislation.[54] Like the old Reform League, this new league was dependent upon financial support from middle-class Liberals.[55]

More important than the league was the Parliamentary Committee of the Trades Union Congress, also organized in 1869 but not functioning until 1871 when the government's Trade Union Bill was finally introduced. The Parliamentary Committee had close ties with members of parliament and operated effectively during the 1870's as a labor lobby, replacing the Junta as chief spokesmen for the union movement.[56]

For the next six years after the election of 1868 the Junta, and then their successors the Parliamentary Committee, negotiated with the Liberal government headed by Gladstone, negotiations which eventually led to the passage of union legislation and other measures beneficial to the labor class. Nothing was won without a battle, however,

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[54] Beehive, August 28, 1869, states the objective of the league and lists the officers and members of the executive committee. The only surviving record of the league's minutes is in the Broadhurst Collection.

[55] Minute Book of the Labour Representation League, July 25, 1873, Broadhurst Collection, reveals that Morley, Brassey, and other well-to-do Liberals financed the league's activities.

[56] See the Trades Union Congress Reports for a full record of the Parliamentary Committee's achievements. Also, the GHC contains a large number of printed circulars and special reports issued by the Parliamentary Committee.

and relations between labor leaders and Liberal ministers were often strained. None of the cabinet ministers championed union legislation, and only Mr. Bruce, who offered his hesitant and somewhat lukewarm support, actually seemed concerned with a trade union bill, which vitally affected the interests of thousands and ultimately hundreds of thousands of workmen. Therefore, it is important to examine the attitude of at least three important men in the cabinet toward union legislation, and to determine, if possible, the reason for their disinterest in a trade union bill.

The prime minister himself and his president of the board of trade, John Bright, were for working men the two best known and most popular ministers in the government. Bright had already proved himself a good friend of the working class by his struggle to get them the vote, but like some other Radicals who were genuinely interested in social and political reform for the lower classes, he had little use for trade unions.[57] During the election a committee from the Amalgamated Society of Engineers called upon Bright to learn his views on a trade union bill. Bright told the delegation that he favored protection of union funds, but did not care for the other proposals in their Trade Societies Bill of 1868.[58]

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[57]Cole, Short History of the British Working Class Movement, p. 17; and Vincent, Formation of the Liberal Party, p. 182.

[58]Beehive, November 21, 1868. Harrison implied that Bright was also opposed to the Hughes-Mundella Bill

After little more than a year in office Bright became seriously ill, and after February, 1870, he ceased to attend cabinet meetings. Toward the end of that year he resigned his post and did not return to parliament until 1872,[59] and by then the Trade Union Act had already been passed. Despite his unsympathetic attitude toward unions and union legislation, many workingmen held Bright in the highest esteem, expressing concern when he fell ill and later congratulating him upon his recovery.[60]

Gladstone ranked even higher with working men than Bright, and they rejoiced at his victory in the election. "We cannot doubt that Mr. Gladstone is the statesman who above all others, above even Mr. Bright, has the confidence of the industrial classes of the country," the Beehive exclaimed, and "it is certainly, therefore, a gain to a very considerable extent, that in the New House the

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of 1869. See F. Harrison to E. S. Beesly, June 18, 1869, Harrison Collection.

[59]G. M. Trevelyan, The Life of John Bright (Boston: Houghton Mifflin Co., 1914), p. 406. The biography is rather sketchy on Bright's career after this illness and it says nothing about his opinion on union legislation. Neither his published diaries nor the John Bright Papers in the British Museum, London, England, mention the Trade Union Act of 1871. His correspondence with the prime minister located in the Gladstone Papers at the British Museum has nothing on union legislation, and a gap in their exchange of letters between January and October, 1871, indicates that Bright's illness was worse during the period when the Trade Union Bill came before parliament.

[60]Beehive, March 19, 1870 and March 2, 1872.

hands of such a man should be strengthened."[61] Lauding Gladstone for his popularity with the working class, Thomas Hughes had once written him: "Your name is a power with them above that of all other public men together."[62]

Such high praise was not completely justified, however, for Gladstone was as little interested in unions as John Bright. Of course he welcomed their political support, and he was always ready to receive their deputations and listen to their petitions. He was even willing to grant them limited concessions, but neither his public statements nor his actions indicate that he supported unionism. There is no doubt that unionists thought more of Gladstone than he thought of them.

The year before he became prime minister Gladstone delivered a speech at Oldham for the opening of a mechanics' institute. He condemned strikes as "a very great evil," and he criticised other union activity and union rules which tended to restrain trade.[63] A few days later The Times ran a lead article on the speech, observing that Gladstone had failed to comment on the chief union demands: legalization and protection of funds.[64]

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[61] Ibid., November 28, 1868.

[62] Thomas Hughes to W. E. Gladstone, April 13, 1867, Add. Mss. 44412.

[63] The Times (London), December 19, 1867.

[64] Ibid., December 26, 1867.

Unionists were very disturbed. Potter wrote to Gladstone, and then summoned a delegate meeting of the London Workingmen's Association to consider the matter.[65] Realizing that he had offended the unionists, Gladstone promptly replied to Potter's letter saying that he had not intended to denounce unions in his speech and, furthermore, that he would be happy to talk with a workers' deputation about their complaints.[66]

When the deputation called upon Gladstone they were granted a two-hour interview, but they must have left knowing as little as when they came, for if Gladstone had formed any definite opinion on the subject of union legislation he did not choose to reveal it. His comments were vague and ambiguous and probably so intended. Side-stepping the issues of legalization and protection of funds, he praised the benefit functions of trade societies, discussed the pros and cons of strikes, spoke favorably of arbitration, and then concluded by questioning union rules which restrained trade.[67] He wanted to appear the unionists' friend, but without committing himself or his party to any course of action. Gladstone was not hostile to the unionists' demands, but most likely he had not given very much thought to the subject.

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[65] Beehive, January 18, 1868.

[66] W. E. Gladstone to George Potter, January 9, 1868, printed in ibid.

[67] Beehive, February 22, 1868.

When the Royal Commission made its final report in 1869, Frederic Harrison exclaimed: "Did I tell you Gladstone is converted? He is as soft as my grandmother."[68] Unfortunately, however, Gladstone was too involved with other matters at the time to give union legislation his attention, and as Harrison was soon to learn: "He had the dangerous defect of throwing himself with passion and absorbing interest into some immediate question, leaving things even more urgent to be settled by others."[69]

When Lord Lichfield wrote Gladstone in 1869 asking that he consider a commission on friendly societies, the prime minister replied that he did not have time to study the subject and he referred Lichfield to the home office.[70] A member of parliament later wrote Gladstone about a union problem and was also told to see the home secretary;[71] and in 1873 when George Howell asked for an interview to discuss the labor laws, Gladstone said that the problem would be passed on to some member of the cabinet who was "competent and concerned."[72]

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[68] F. Harrison to E. S. Beesly, April 16, 1869, Harrison Collection.

[69] Harrison, Memoirs, I, 311.

[70] W. E. Gladstone to Lord Lichfield, June 7, 1869, Add. Mss. 44536.

[71] W. E. Gladstone to T. B. Potter, January 16, 1873, Add. Mss. 44542.

[72] W. E. Gladstone to George Howell, July 1, 1873, Add. Mss. 44542.

In the early 1870's Gladstone was writing to Forster about education reform, to Cardwell about army reform, to Granville on foreign affairs, and to everyone on Irish reform. But his correspondence with the home secretary makes no mention of trade union reform, and his Letter Books from 1869 through 1871 reveal that he wrote not a single letter to anyone on the Trade Union Act that was passed in 1871. Although he permitted his government to introduce and pass the act, he obviously regarded it as a matter of secondary importance.

Most trade union affairs came within the province of the home office, which was headed by Henry Austin Bruce from 1868 until 1873, when he became Lord Aberdare and president of the council.[73] He had been in parliament since 1852, became under-secretary at the home office during Palmerston's ministry in the early 60's, and he was knowledgeable about labor affairs. In 1862 he sat on a royal commission on the condition of mines, and he followed the work of the royal commission 1867-69, dining occasionally with members of the commission and discussing their

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[73]There is no biography of Bruce, but an adequate biographical sketch by Mountstuart Grant Duff, "Henry Austin Bruce," Dictionary of National Biography (Supplement), ed. by Sidney Lee, XXII (1909), 322-25. The current Lord Aberdare has informed the author that the family has none of Bruce's papers except those which were privately printed. These are available at the British Museum. See Henry Austin Bruce, Letters of Lord Aberdare I (2 vols.; Oxford, 1902); and Henry Austin Bruce, Lectures and Addresses (London: C. J. Thynne).

progress.[74] He had both the experience and knowledge necessary to serve as home secretary, but unfortunately he appears to have been a man of limited outlook and mediocre ability in a high position which called for original ideas and decisive action. It was not long before he was complaining: "I am hurried, worried, and I sometimes fear taxed beyond my powers by an office where the work is so incessant, anxious and engrossing."[75]

The owner of Welsh coal mines, Bruce was a large employer and he saw things from an employer's viewpoint, but he was more liberal than most of his class and had a sincere desire to remove the worst abuses of earlier labor laws.[76] Since Gladstone was preoccupied with what he considered more important matters, it was usually Bruce who spoke for the government when unionists presented their petitions for a trade union bill. When the joint deputation of unionists and members of parliament called at the home office on July 1, 1869, to request backing for the Hughes-Mundella Bill, Bruce regretfully informed them that

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[74] H. A. Bruce to his brother John, November 26, 1867, Bruce, Letters, I, 251.

[75] H. A. Bruce to Lord Ripon, March 1, 1870, Add. Mss. 43535. A writer for the Beehive charged that Bruce "flounders like a man out of his depth and totally unable to swim. It has been our painful duty repeatedly to complain of his apparent incapacity for the urgent work of the Home Department. It is now become subject of general remark." See Beehive, August 27, 1870.

[76] This is George Howell's conjecture in "The Trades Union Bill," Beehive, February 25, 1871.

the prime minister's instructions were "not to introduce anything that would be strongly contested" and which might endanger passage of the Irish Church Bill.[77] In disgust Frederic Harrison wrote Beesly that Bruce "entirely endorses the principle of our bill, but he objects to be driven into admission for it. . . . It is pitiable that a Ministry do not know . . . whether they adhere to the principle of Combination Laws or not."[78]

The Hughes-Mundella Bill was withdrawn, and the government then passed its Trades Unions Funds Protection Act to give temporary protection for union funds until a permanent bill could be brought in the next session. After a year passed and the government had still taken no action on a union bill, Mundella called at the home office to ask what they proposed to do. He learned that the government intended to do nothing during the 1870 session except renew the temporary measure passed in 1869.[79] In July Bruce promised a delegation of London unionists that a trade union bill would be introduced early in 1871,[80] and the next month he repeated his promise in a speech delivered at Glasgow.[81]

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[77] Amalgamated Society of Carpenters and Joiners Monthly Report, No. 79 (July, 1869), p. 152.

[78] F. Harrison to E. S. Beesly, July 13, 1869, Harrison Collection.

[79] Beehive, July 16, 1870.

[80] Ibid., August 6, 1870.

[81] Ibid., October 1, 1870.

Dissatisfaction over this delay increased, and the Beehive pointed out that unionists had expected legislation in 1869 and again in 1870 and surely by 1871 the government would answer their demands.[82] Howell complained that "the Home Office is sadly in arrears,"[83] and another unionist wondered how parliament "could find time to pass 288 private and public acts in 1869, and 293 in 1870," and yet find no time to pass one trade union act.[84] By January, 1871, labor's patience with the Liberal ministry had worn thin, and following a great rally in support of a bill Frederic Harrison could report: "Gladstone's popularity with the workmen has gone to the winds."[85]

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[82] Ibid., November 12, 1870.

[83] G. Howell to Samuel Morley, January 28, 1871, GHC.

[84] Alfred Walton, "The Criminal Law Amendment Act," Beehive, December 14, 1872.

[85] F. Harrison to John Morley, January 11, 1871, Harrison Collection.

CHAPTER V

LABOR'S HALF LOAF: THE TRADE UNION ACT 1871

In 1871 the government finally consented to introduce the long-awaited labor legislation. The home office had drafted a measure which the cabinet on January 25 agreed to discuss.[1] Copies were printed for each of the ministers,[2] who approved the bill three days later and turned it over to home secretary Bruce for introduction in parliament at the first opportunity.[3]

On February 14, just five days after the queen's speech opened parliament, Bruce moved the first reading of his bill. He wearied parliament with a dull, dreary account of former labor laws, defended the unions' right of legality and protection of funds, and concluded by summarizing the bill and explaining what it proposed to accomplish. There was little discussion, although Thomas

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[1]Minutes of the cabinet meeting, January 25, 1871, Add. Mss. 44639.

[2]Copy of the Trade Union Bill 1871 printed for consideration by the cabinet, January 27, 1871, Add. Mss. 44616.

[3]Minutes of the cabinet meeting, January 28, 1871, Add. Mss. 44639.

Hughes praised the government for following recommendations of the royal commission minority report signed by Harrison and himself.[4]

This Trade Union Bill 1871 was drafted by Godfrey Lushington, who in 1869 became permanent legal counsel at the home office with the job of advising on new legislation and drafting government bills.[5] He had been interested in the subject of union law for a long time, and several years earlier he had written that "any law on the subject of Trade Unions should be especially simple, in order to meet the comprehension of those whose conduct it has to govern."[6] Lushington belonged to that small circle of Positivists who sympathized with the union struggle to win legal recognition and, as a friend of Frederic Harrison, it was natural that he took the minority report as his guide in writing the bill.

Lushington was not entirely a free agent, however, for he had to write the sort of law which his superiors demanded. He understood the necessity of compromise, and he even lectured Harrison on the

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[4]Great Britain, 3 Hansard's Parliamentary Debates, CCIV (1871), 257-73.

[5]F. Harrison to E. S. Beesly, November 16, 1869, Harrison Collection. Harrison took Lushington's former job as secretary to the digest commission.

[6]Lushington, "Workmen and Trade Unions," pp. 45-46.

importance of conciliating people in responsible positions.[7] Perhaps this explains why most of the union bill showed the influence of the pro-union minority report, but the criminal provisions of the third section accepted the recommendations of the majority report.

The main purpose of the bill was to remove some of the civil and criminal disabilities from trade unions, and also to provide a system of voluntary registration conferring special privileges upon registered unions. Trade societies were not to be regarded as illegal merely because they were in restraint of trade. Their agreements and contracts could not be voided by the courts for that reason, nor could their members be prosecuted for criminal conspiracy. Unions would register by submitting a copy of their rules, a list of their officers, and an annual record of their expenditures with the registrar of friendly societies, who would issue a certificate of registration. All unions, whether they chose to register or not, were legalized, but registered unions received certain special benefits: the right to acquire an acre of land and other property, and the right to prosecute dishonest officials. Funds of a registered union were thus given specific protection. Unregistered unions were provided with no means of recovering embezzled money, but

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[7]F. Harrison to E. S. Beesly, July 25, 1870, Harrison Collection.

they still could bring criminal action against their officials under the Larceny and Embezzlement Act of 1868.

Both reports of the royal commission agreed upon these basic points, but the Trade Union Bill 1871 followed Harrison's advice in the minority report and omitted several recommendations from the majority report which unionists found distasteful. There was no stipulation about separation of benefit and trade funds, no ban on picketing, and the registrar was not given the authority to pass judgement on trade society rules before he granted registration. The majority report would have prohibited rules which limited apprentices, forbade piecework, or enabled one union to assist another financially during a strike. Furthermore, the unions were free to manage their internal affairs without interference from the courts. Harrison wisely had foreseen that unions would constantly be involved in court action if members could sue their union for unpaid benefits or the union sue members for unpaid dues or, what was more serious, if employers could hold the union legally responsible for the actions of its members. Therefore, the bill incorporated his proposal forbidding this form of legal action.[8]

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[8]See "The Trade Union Bill 1871," Great Britain, Parliamentary Papers, 1871, VI, 253-64. For comments and explanation of the bill by contemporary writers see George Howell, A Handy Book of the Labour Laws (London: Published by the author, 1876), pp. 33-70; William Guthrie, The Law of Trade Unions in England and Scotland

Harrison wanted a civil bill without criminal provisions, but in this respect the Trade Union Bill 1871 followed the majority report. The third section described a number of actions which were punishable as crimes. These criminal provisions were unacceptable to unionists, and the great controversy which followed the bill's introduction centered almost entirely upon the third section. The Combination Act of 1825 was repealed, but virtually the same offenses listed as criminal acts under the old law were re-enacted. Violence, threats and intimidation, or molestation and obstruction with a view to coerce were punishable by three months' imprisonment. These terms were more clearly defined than they were in the 1825 act, but this was small consolation for unionists who wanted the criminal section entirely excluded.

The Times reacted favorably to the bill, describing it as "conciliatory and moderate";[9] whereas the Economist found some "theoretical defects," but also many "practical" merits which justified its adoption.[10] Unionists were more

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Under the Trade Union Act 1871 (Edinburgh: Edmonston & Douglas, 1873); W. P. Roberts, Trade Union Bill, 1871: A Letter . . . to Mr. George Potter, Mr. William Allan, Mr. Alexander M'Donald and Others Interested in Trades' Societies (London: Beehive, 1871); and D. W. Heath, An Address Delivered by D. W. Heath: The Trades' Unions Act, 1871 and the Criminal Law Amendment Act (Nottingham: A. K. Sutton, 1871).

[9]The Times (London), February 17, 1871.

[10]Economist, February 18, 1871.

cautious in their appraisal, and unwilling to grant an endorsement until they studied each clause and consulted with their legal advisers.

The Conference of Amalgamated Trades called a meeting at the engineers' offices on February 18 and, upon learning that the Beehive had just published a text of the union bill, they ordered 2,000 copies mailed to trade societies throughout Britain.[11] Later that same day George Odger wrote to a friend in parliament: "I think it can be made a highly satisfactory measure."[12] Before taking an official stand, however, Odger and the other labor leaders decided to confer with Harrison, Crompton, and Beesly. After a thorough discussion they all agreed that the criminal clauses must be dropped from the bill before they could support it.[13]

As copies of the union bill circulated, there was strong opposition to the third section. A Beehive editorial expressed the main complaint: trade unions "must be set free from the last pin or screw of exceptional legislation, and be answerable to the laws of their country, not as miners or bricklayers, but simply as Englishmen

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[11]Conference of Amalgamated Trades Minutes, February 18, 1871, WTUC.

[12]George Odger to Sir Charles Dilke, February 18, 1871, Add. Mss. 43909.

[13]Conference of Amalgamated Trades Minutes, February 18, 1871, WTUC; and Beehive, February 25, 1871.

and citizens."[14] Unionists believed that there should be no special laws punishing trade union offenses, and only those acts which were criminal under ordinary circumstances should be criminal in a trade dispute. Like most members of a lower class on their way up the social and political ladder, the British unionists were sensitive about their position and how they were regarded by the upper classes. It seemed to them that these criminal provisions were based upon an assumption that working men had criminal intentions and a criminal character, and they strongly resented this implication.

E. S. Beesly, Lloyd Jones, and George Howell wrote articles protesting the criminal section and stating objections to the bill which were frequently heard in the months ahead. Beesly acknowledged the bill's merits, but denounced as class legislation the part which imposed a three months' sentence for infractions of the criminal clauses.[15] Lloyd Jones agreed that unionists were victims of legal discrimination, especially since the criminal section made it a crime for unionists to do certain acts which were not a crime when committed by others. He also noted that unionists were not likely to obtain justice if brought to trial, for in the manufacturing districts

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[14] Beehive, March 11, 1871.

[15] E. S. Beesly, "The Trades Union Bill," Beehive, February 25, 1871.

magistrates were usually employers or their friends.[16] George Howell mentioned the absurdity of repealing the Combination Act of 1825 and then re-enacting the same criminal provisions, and he asked that the government wield a scalpel to amputate the third section.[17]

A few days later Howell spoke before a large meeting of London trade union delegates at the Sussex Hotel, calling upon the audience to denounce the "exceptional character" of the third section as "class legislation."[18] Similar meetings of unionists who protested the criminal provisions were held throughout the kingdom: at Leeds, Birmingham, Newcastle, and Glasgow.[19]

The most important meeting at this time was in London, where the Junta convened the third Trades Union Congress on March 6. Having remained aloof from the first two congresses, the Junta now decided that with the Trade Union Bill before parliament it was necessary to have complete unity within the labor movement. They abandoned their Olympian isolation and issued a hurried summons for provincial delegates to meet with them before the bill reached a second reading.

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[16]Lloyd Jones, "The Trades Union Bill," ibid.

[17]George Howell, "The Trades Union Bill," ibid.

[18]The Times (London), March 2, 1871; and Beehive, March 4, 1871.

[19]See Beehive, March 4, March 25, April 8, and April 15, 1871.

As president of the congress George Potter announced the major topic of discussion when he said that "the criminal clauses, the exceptional legislation, the class legislation as applied to trades' unions must be abolished, and that the statute law of England must consist of one law to punish all citizens alike."[20] Robert Applegarth read a report from the Conference of Amalgamated Trades which described the third section of the bill as "rank excrescence";[21] and during the six days of the congress speaker after speaker joined him in denouncing the criminal clauses.

On March 9 the entire Trades Union Congress went as a deputation to the home office protesting the criminal section. Mr. Bruce tried, with little success, to calm their indignation by claiming that neither class legislation nor exceptional legislation was intended in the measure. He assured the deputation that not only unionists but anyone who molested or obstructed a workman and thus interfered with his work would be subject to prosecution. These offenses were most often committed by unionists, however, and Bruce stated frankly that the legislature could not be expected to grant all the benefits contained in the bill without enacting certain safeguards against union misbehavior.[22]

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[20] Trades Union Congress Reports (1871), p. 13

[21] Ibid., p. 19.

[22] Beehive, March 11, 1871. On the following day the Birmingham Chamber of Commerce and the Master Builders'

The Trades Union Congress was not at all satisfied with Bruce's response to their deputation. They appointed a five-man Parliamentary Committee to keep track of the bill in parliament,[23] and to each legislator they sent a printed copy of their resolution rejecting "any Bill that, in its provisions, presupposes criminal intentions or tendencies on the part of English workmen."[24] This Parliamentary Committee agreed to co-operate completely with the Conference of Amalgamated Trades,[25] and together the two groups issued a joint protest to the criminal section.[26] Their secretaries, Howell and Applegarth, warned several members of parliament that unionists would do everything possible to stop the bill from passing in its present form,[27] and Howell wrote one legislator that if the bill

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Association called at the home office demanding that the third section remain in the union bill. See Trades Union Congress Reports (1871), p. 85.

[23] Trades Union Congress Reports (1871), p. 75.

[24] "The Trades Congress and the Trades Union Bill," mss. copy of a printed circular sent to all members of parliament, March 13, 1871, Trades Union Congress Parliamentary Committee Papers, GHC. These papers include reports, notes and other documents collected by George Howell, the committee's secretary. (Hereafter cited as T.U.C. Parl. Com. Papers, GHC.)

[25] Notes on T.U.C. Parl. Com. meeting, March 17, 1871, T.U.C. Parl. Com. Papers, GHC.

[26] "The Trades Union Bill--A Protest," mss. signed by the chairmen and secretaries of the Trades Union Congress and Conference of Amalgamated Trades, March 25, 1871, T.U.C. Parl. Com. Papers, GHC.

[27] G. Howell to Lloyd Jones, March 23, 1871, GHC.

became law then unions would make it inoperative by refusing registration.[28]

When the bill came before parliament for a second reading on March 14--exactly one month from the date of its introduction--there was a brief discussion. The speakers appeared well-informed on the topic, and since their only disagreements were over minor technical points they all accepted the general principles of the bill.[29] The Times called it a model debate.[30] Thomas Hughes raised the only major objection. He had promised unionists to present their views during this second reading,[31] and with the support of two other members of parliament he delivered a sound, reasoned argument against the criminal section.[32]

This determined opposition from the unions and their spokesmen in parliament resulted in a government decision to divide the original bill. Two weeks after the second reading Bruce announced the division, and the obnoxious criminal clauses were written into a separate

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[28]G. Howell to Aubernon Herbert, March 23, 1871, GHC.

[29]Great Britain, 3 Hansard's Parliamentary Debates, CCIV (1871), 2033-2046.

[30]The Times (London), March 16, 1871.

[31]Conference of Amalgamated Trades Minutes, February 25, 1871, WTUC.

[32]See Great Britain, 3 Hansard's Parliamentary Debates, CCIV (1871), 2035-2038 for Hughes' speech.

bill from the civil provisions.[33] Unionists claimed a victory, and rightly so; now they could work to defeat or at least amend the Criminal Law Amendment Bill without endangering passage of the Trades Union Bill. The Conference of Amalgamated Trades was optimistic, and deliberated how they could persuade the lords to alter the legislation making it more favorable to unions.[34]

When the house of lords considered the two bills, however, they were in no mood to grant additional concessions. Quite the contrary, for the influential Lord Cairns suggested amendments which would strengthen the criminal provisions. He observed that the Combination Act of 1825 made molestation and obstruction a crime, and since these offenses were not precisely defined, the interpretation was left to the courts. Under the new law the terms were defined by listing exactly what constituted an offense; "and in no other case," the bill stated, was a crime committed. Cairns feared that unionists might devise some other means of molesting non-union workmen, and he proposed an amendment to strike out the five words which limited the definition and thus permit the courts to decide, as they did under the old law, when there had been a crime.

His other proposal was even more serious, for it would prohibit picketing. The Criminal Law Amendment Bill

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[33] Ibid., CCV (1871), 808-12.

[34] Conference of Amalgamated Trades Minutes, April 21, 1871, WTUC.

recognized the right of a union to station one or two men at a factory to inform workers when there was a strike, but it forbade three or more pickets since a larger number of men implied coercion. Thus it was illegal for a unionist: "If with two or more other persons he watch or beset the house or other place where such person [a workman] resides or works." By the simple expedient of striking out the phrase--"with two or more other persons"--Cairns sought to ban all picketing, even when conducted by a single person.

Lord Morley, who had introduced the union bills in lords, argued against the amendments. He explained that the Criminal Law Amendment Bill defined molestation and obstruction because these terms were vague and often misinterpreted by over-zealous judges, who sometimes ruled that rough words or even "black looks" were violations. Also, he spoke against the amendment to outlaw picketing, claiming that unions had a right to learn which of their men were on strike and which were not. Morley failed, however, for the lords adopted Cairns' amendments, passed the bills through a third reading and returned them to the house of commons.[35]

Unionists were astounded. After they had pleaded with parliament to lessen the severity of the criminal

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[35]Great Britain, 3 Hansard's Parliamentary Debates, CCVI (1871), 779-81.

bill these amendments seemed a "slap in the face."[36] The Parliamentary Committee took immediate action to have commons reject the amendments in the final debate: they went to the home office and, since Bruce was ill, pleaded with the under-secretary; they talked with various members of parliament soliciting their support; and finally they threatened to publish the division list so that working men might know who voted for and who voted against the bill.[37]

On June 19 the bills entered a last round of debate in commons, where the government made a half-hearted attempt to water down Cairns' amendments. As an alternative to the original bill which permitted picketing by two men, or the changes made in lords which banned all picketing, Bruce suggested that one unionist be allowed to picket during a strike. But commons rejected even this modest proposal, sustained the lords' amendments, and passed the bills as they were.[38]

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[36]Lloyd Jones, "How Working Men are Legislated For," Beehive, July 22, 1871.

[37]Notes on T.U.C. Parl. Com. meeting, July 5, 1871, T.U.C. Parl. Com. Papers, GHC.

[38]Great Britain, 3 Hansard's Parliamentary Debates, CCVII (1871), 282-88. Beesly believed that the course of events in France influenced commons to accept these amendments. The defeat of the Paris Commune by more conservative forces discredited workingmen and revealed their weakness. See E. S. Beesly, "The Division on the Trades Union Bill," Beehive, July 29, 1871.

When the Parliamentary Committee published the division list as they had threatened, it was seen that 101 Liberals voted with the majority against picketing.[39] This vote indicated how powerful industrialists were in parliament, and it also showed that a large number of conservative-minded Liberals still hesitated over granting too many privileges for unions. One Liberal had foreseen this problem when he wrote John Bright about union legislation and complained of the awkwardness "of a party like ours when one end will not move as fast as the other wishes."[40]

It was a great disappointment for unions that so many Liberals refused to follow the home secretary in blocking the lords' amendments, but in the nineteenth century party discipline was not as strong as it was later and a ministry could not always command obedience. At the end of the summer Bruce confessed to his wife that "it has been impossible for me to press any measure which has been obstinately resisted."[41] Nevertheless, the government had accomplished its major objectives for union legislation: an act which answered the unions' demands

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[39] Beehive, July 15, 1871.

[40] J. D. Colings to John Bright, March 15, 1871, Add. Mss. 43389.

[41] H. A. Bruce to his wife, August 16, 1871, Bruce, Letters, I, 310.

for legalization and protection of funds, and a second measure which enacted safeguards against union violence. These acts were a compromise designed to appease unionists without alienating middle-class employers. "An equitable compromise between extreme theories on either side,"[42] was the Annual Register's judgment and, as a writer for the Edinburgh Review commented, "a remedy for difficulties of long standing on terms equitable to the employers and employed."[43]

Unionists were not content with a compromise, however, since they had waited the past two years for parliament to pass the sort of bill drafted by Harrison in 1869 --legislation which excluded all references to criminal acts. George Howell described what he and his friends wanted: "A good, generous, sound Bill, one which was good for the House to accept . . . but one which the best men of the Unions would honestly and earnestly work for and support." But the government had catered to employers by insisting upon the Criminal Law Amendment Act, and consequently Howell admitted that "I feel no gratitude and cannot therefore express any."[44]

Actually, there was hardly anyone at this time who was willing to acknowledge labor's indebtedness to the

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[42] Annual Register, CXIII (1871), 88.

[43] J. G. Dodson, "The Session and its Lessons," Edinburgh Review, CXXXIV (October, 1871), 565.

[44] G. Howell to William Rathbone, March 29, 1871, GHC.

government, and there were some who wondered if the legislation was a step forward or a step backward. J. M. Ludlow, who should have known better, saw no distinction between the two acts and condemned both for putting unions in a worse position than they were in before;[45] and a few working men, untutored in the complexities of the law, believed naively that repeal of the Combination Acts would accomplish their goals without new legislation.[46]

Most union leaders and their legal advisers realized, however, that the Trade Union Act represented a definite improvement in their legal position, whereas the Criminal Law Amendment Act was unnecessary and in one respect actually increased the restrictions on their freedom. Picketing, or "watching and besetting" as it was called in the act, was expressly forbidden after the lords' amendments and, at the same time, a short act passed in 1859[47] which legalized picketing was also repealed. For the past twelve years picketing had been legal in theory, although judges and magistrates frequently convicted pickets for molesting or intimidating other workmen during a strike.

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[45] J. M. Ludlow to G. Howell, Beehive, August 12, 1871.

[46] Alfred Walton, "The Trades Union Bill," Beehive, July 15, 1871. Albert Crompton answered Walton and others who advocated a simple repeal of the Combination Acts by explaining that the common law doctrine of restraint of trade would still prohibit union activity. See his article, "The Trade Union Act," Beehive, July 22, 1871.

[47] "Molestation of Workmen Act 1859," 22 Vict. c. 34.

Despite the ineffectiveness of the Act of 1859, unionists viewed the ban on picketing as a further infringement of their liberty.

The official statement on the legislation was a lengthy "Digest and Report" authored by Henry Crompton and Frederic Harrison at the request of the Trades Union Congress Parliamentary Committee.[48] This report made it very clear that "a different judgement must be passed upon the two Trade Union Acts," because the first was a "bona fide measure, a long delayed act of justice," but the second was unjust and should be totally repealed.[49]

So much had already been written about the odious nature of the criminal measure that it must have been difficult, even for these experts in union law, to add something new. But other critics overlooked something important which caught the lawyers' attention--one short phrase, tacked onto a sub-section, influenced the interpretation of much that followed in the act. A number of actions, which were legal in ordinary circumstances, became crimes when committed "with a view to coerce." Incredible as it may seem, it was not a crime to persistently follow another person with intent to murder him,

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[48]G. Howell to Henry Crompton, July 7, 1871, GHC; and G. Howell to Frederic Harrison, July 7, 1871, GHC.

[49]Henry Crompton and Frederic Harrison, "Digest and Report on the Trades Union Acts," Beehive, August 6, 1871. The digest was also signed by Henry's brother Albert and by the five members of the Parliamentary Committee.

but under this act it was a crime to persistently follow another person with intent to coerce him in some matter relating to his employment! Although coercion was not a crime in itself, it was an essential ingredient in most union crimes defined by the Criminal Law Amendment Act; yet the act failed to state what constituted coercion.[50]

Section two of the act specified that violations would be tried before justices of the peace or local magistrates. Harrison published an article which questioned the competence of these officials, who had no legal training, to decide upon complex matters such as conspiracy or to interpret vague, undefined terms such as coercion--for example, a unionist could be tried and sentenced to three months' imprisonment merely for watching a house with a view to coerce his employer. Furthermore, the magistrates were often employers and their prejudice against unionists prevented their rendering a fair verdict.[51]

Resentment of the Criminal Law Amendment Act was so strong that some unions refused registration under the Trade Union Act as a means of protest. When the United Trades Association met in July, their council advised Liverpool trade societies not to register or even recognize the new legislation.[52] Other unions hesitated to register

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[50] Ibid.

[51] Frederic Harrison, "The Trades Union Bill," Beehive, July 1, 1871.

[52] Beehive, July 22, 1871.

because the publication of financial records might reveal their weakness to employers, or because they failed to appreciate the advantages of being registered.[53] The Amalgamated Society of Engineers, a large union with 364 branches, was not sure if one registration included the entire union or whether they must register each branch separately;[54] and when the Amalgamated Carpenters split into two factions they went to court to determine which group could register under the original union name.[55]

The legislation passed in the summer of 1871 created almost as many problems as it solved, and unions grappled with these problems for many months to come. Their Trade Union Act did not grant all they had hoped for--it was only a partial victory--and if most unionists agreed with the old adage that "half a loaf is better than none," they were still far from accepting the criminal act as a final solution in trade disputes. During the next four years they continued to agitate for the total repeal

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[53] Howell, Conflicts of Capital and Labour, p. 490.

[54] The engineers asked Ludlow for his opinion on this question. See J. M. Ludlow, Registration of the Society under the Trades Union Act, 1871: Case Submitted to J. M. Ludlow, Esq. (Barrister-at-law) and Opinion Thereon (London: Amalgamated Society of Engineers, 1874), pp. 3 and 9-10.

[55] The Thirteenth Annual Report of the Amalgamated Society of Carpenters and Joiners from December, 1871 to December, 1872 (Manchester: North of England Co-operative Printing Society, 1873), p. x.

of the Criminal Law Amendment Act. Until 1875 this was their major goal, and it overshadowed all other issues.

CHAPTER VI

THE SECOND PHASE: 1871-1874

After the passage of the two trade union acts in 1871 the struggle for legal recognition entered a second phase, a frustrating period of unexpected challenge from the courts and repeated failure of labor's legislative program in parliament. Union membership increased dramatically, and there were significant changes in the hierarchy as the Junta dissolved and the Parliamentary Committee of the Trades Union Congress took its place. Politically unionists became more militant in their demands for new legislation, but the government either ignored or brushed aside their requests with excuses. Disillusioned by the Liberals they helped to elect in 1868, the working class ceased to follow Gladstone out of blind loyalty and in the election of 1874 supported either Liberal or Conservative candidates who promised a revision of the labor laws.

Prosecution of workmen began almost immediately following enactment of the Criminal Law Amendment Act, and the numerous convictions increased union militancy.

On August 18 four magistrates at Bolton, three of them employers, tried the first important case, Cooper v. Weardon. James Weardon, shop steward of a stonemasons' society, had asked Thomas Cooper to pay the society a forty shilling fine, and when Cooper would not pay the other men in the union refused to work until their employer discharged him. He thereupon accused Weardon of molesting and besetting, and the Bolton magistrates sentenced the defendant to a month's imprisonment.[1]

This decision greatly alarmed most trade societies, since they depended upon fines to supplement their income and also to discipline members who broke society rules. Now it appeared that union officers could not collect fines without running the risk of arrest and a month in prison.[2] Eventually a higher court reversed the decision, but in the meantime the trial caused a wave of demonstrations against the Criminal Law Amendment Act. In November several thousand unionists marched through the streets of London preceded by bands and banners, and afterwards they sent a written protest to the prime minister and home secretary.[3]

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[1] Beehive, August 19 and August 26, 1871.

[2] T. J. Dunning, "The Trades Union Act," Beehive, September 16, 1871; and Henry Crompton, "The Prosecution of Workmen," Beehive, August 26, 1871, comment on how Cooper v. Weardon would affect the unions' legal status.

[3] Beehive, November 18, 1871.

Mr. Bruce was annoyed that the Bolton magistrates had caused such a stir, and he wrote Gladstone that their "absurd decision" was not upheld by the court of appeal. On the other hand he did not fault the Criminal Law Amendment Act nor did he believe there was another decision "to which any reasonable man could object."[4] Cooper v. Weardon was significant because it endangered the collection of fines; but it was by no means the only unfair verdict in a union trial, and considering some of the other cases the home secretary's attitude is rather surprising. In his letter to the prime minister Bruce mentioned being familiar with the cases tried in London and Newcastle, and therefore he was surely aware that a twelve year old boy had been imprisoned at Newcastle merely for shouting "knobsticks" to a group of workmen taking the place of men on strike. In another instance six women were sent to jail for waving their handkerchiefs and shouting at a strike-breaker.[5]

The publicity given these and similar cases added to the furor against the act. The government, by its silence, appeared to acquiesce in the judgment of

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[4]H. A. Bruce to W. E. Gladstone, November 21, 1871, Add. Mss. 44087. Gladstone replied: "I am very glad to hear that the Bolton judgement has come to grief." W. E. Gladstone to H. A. Bruce, November 25, 1871, Add. Mss. 44540.

[5]Alfred A. Walton, "The Criminal Law Amendment Act of 1871," Beehive, September 9, 1871.

prejudiced employer-judges, and workmen came to believe that they could expect no justice if brought to trial and no mercy if convicted.

When the fourth Trades Union Congress met at Nottingham in January, 1872, their primary concern was to end these unjust prosecutions by repealing the hated Criminal Law Amendment Act. After hearing speeches by union leaders and two members of parliament, A. J. Mundella and Auberon Herbert, the delegates unanimously adopted a resolution condemning the act. They also resolved to petition the prime minister and parliament asking their support for total repeal.[6]

In the days of Chartism working men had learned the futility of petitioning parliament when their demands were unsupported by strong political pressure. It was significant, therefore, that the Trades Union Congress was not content with mere resolutions of condemnation or petitions of protest, but pledged themselves to oppose the election of any candidate who failed to back repeal;[7] and

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[6] Trades Union Congress Reports (1872), pp. 16-20. In a leading article The Times (London), January 15, 1872, rejected union demands as "untenable," and stated that the act must remain in force to protect the rights of non-union workers.

[7] Trades Union Congress Reports (1872), p. 19. A month earlier the carpenters had adopted a similar resolution. See The Twelfth Annual Report of the Amalgamated Society of Carpenters and Joiners from December, 1870 to December, 1871 (Manchester: North of England Co-operative Printing Society, 1872), p. 9.

to further strengthen their position in dealing with parliament they agreed to reappoint a Parliamentary Committee.

On the sixth and last day of the Nottingham congress Alexander MacDonald, president of the National Miners' Union and a man who had assumed great importance in the deliberations of the congress, suggested the selection of a committee to take "any action that may be necessary to secure the repeal of the penal clauses of the Criminal Law Amendment Act . . . and to watch over the interest of labour generally in the proceedings of parliament."[8] MacDonald was subsequently elected chairman of the nine-member committee, Howell was re-elected secretary, and although his name was not placed in nomination William Allan was added to the committee and appointed treasurer.[9]

Already the Parliamentary Committee elected by the last congress had taken over general direction of the union movement. This occurred after the Junta disbanded in September, 1871. During the past five years the Junta had led the fight for legalization and protection of funds, but when these goals were achieved they considered their mission accomplished and dissolved the Conference of Amalgamated Trades.[10] The London Trades Council and the Labour

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[8] Trades Union Congress Reports (1872), p. 38.

[9] Ibid., pp. 40-44.

[10] Conference of Amalgamated Trades Minutes, September 1, 1871, WTUC. After the conference dissolved the five men who comprised the Junta went their separate ways,

Representation League were the other major labor organizations at this time, and after several years of inactivity the council reorganized in the late spring of 1872;[11] but neither it nor the league exercised as much influence in the 1870's as the Parliamentary Committee of the Trades Union Congress.

A careful examination of the Parliamentary Committee Papers reveals that Alexander MacDonald and George Howell dominated the committee. They made most decisions, and they summoned the entire committee only in time of emergency or when the weight of their concerted opinion was needed to give added force to some major pronouncement. They achieved far greater preponderence in the Parliamentary Committee than Applegarth ever had in the Junta, for he was never more than primus inter pares.

Furthermore, they were in some ways less dependent upon middle-class allies than the Junta. In the late sixties the middle-class friends of labor not only advised unionists but often initiated action in the struggle for

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and lacking unity they never regained their former power. Applegarth had lost his post as secretary of the Amalgamated Society of Carpenters in May and, consequently, much of his authority. Odger became involved in the republican movement and within a few months resigned as secretary of the London Trades Council. Allan agreed to serve on the Parliamentary Committee elected in 1872, but died two years later. Guile later served on the Parliamentary Committee, but neither he nor Coulson was as prominent in labor councils as they had been before 1871.

[11] Beehive, June 14, 1872.

legal recognition. During the sessions of the Royal Commission Harrison mapped out union strategy and deserves as much credit as Applegarth for managing the union case before the commission. Beesly goaded union leaders into action when they would not move fast enough, and it was his own idea that he and Crompton write the Trade Societies Act of 1868. The next year, as the Royal Commission came to an end, Harrison acted alone in preparing a trade union bill which was subsequently introduced in Parliament by Hughes and Mundella. On both occasions the Junta did little more than grant approval when the bills were presented.[12] After 1871 the Parliamentary Committee devised their own program, plotted their own strategy, and sketched out the ideas they wanted in legislation. It was only then that they called in their lawyers to draft a bill or asked their friends in parliament for assistance in getting the bill enacted.

When there was need for advice, they consulted most frequently with Henry Crompton, who replaced Harrison as chief legal counsel to the unions. This change of advisers took place shortly after the Trade Union Act 1871 passed parliament and about the same time that the Conference of Amalgamated Trades dissolved, when Crompton wrote a series of articles for the Beehive. Published during August and September with front page coverage,

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these articles were entitled "The Defeat of the Workmen," and they dealt with labor's struggle to pass adequate trade union legislation. At this same time the Beehive published nothing by Harrison, who had been a frequent contributor in the past.

After the Royal Commission concluded its business in 1869 Harrison was at loose ends. "This commission is over," he confided to Beesly, "and my professional income very unsteady and never worth much."[13] He considered taking a job as registrar of friendly societies when the post became vacant in 1870, but hesitated too long, and J. M. Ludlow received the appointment.[14] By 1871 Harrison was busy with his private legal practice, and when the Trade Union Act passed that summer most of his ideas on labor legislation became the law of the land. Like his friends in the Junta he had seen his major goals for the trade unions accomplished.

Harrison continued to take an active interest in the union movement, although he and Beesly quarreled openly with the union secretaries[15] and could scarcely

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[13]F. Harrison to E. S. Beesly, May 30, 1870, Harrison Collection.

[14]F. Harrison to E. S. Beesly, January 13 and 18, 1870, Harrison Collection.

[15]In July 1871 Beesly sharply rebuked union secretaries for their poor management, personal political ambitions and exaggerated sense of their own importance. E. S. Beesly, "The Division on the Trades Union Bill,"

conceal their contempt. "In dealing with workmen," Harrison complained, "one has a constant struggle with a set of lying, thieving, jealous, vain, ignorant, irritable lot of self-styled leaders to treat with."[16] It was all too obvious that Harrison and Beesly did not get along as well with the Parliamentary Committee as they had with the Junta. They were too outspoken to suit Howell, who more than most men resented criticism and preferred advice from those who shared his own views.

Each week Howell wrote a report of his activities as secretary, which included handling all correspondence for the Parliamentary Committee and writing articles for the Beehive; but he and MacDonald spent most of their time at parliament lobbying for labor legislation.[17] The job was extremely difficult at first since they were not permitted free access to legislators in the inner lobby

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Beehive, July 29, 1871. He was answered by Daniel Guile, "Professor Beesly and the Trades Society Secretaries," Beehive, August 5, 1871; and George Howell, "Professor Beesly and the Pall Mall Gazette," Beehive, November 4, 1871. The next summer Harrison and Beesly engaged in a bitter dispute with Howell over the tactics of the Parliamentary Committee and a new trade union bill, which was then before parliament.

[16]F. Harrison to J. Morley, January 21, 1873, Harrison Collection.

[17]Howell's report to the Parliamentary Committee on his activities as secretary, February 18-24, 1872, T.U.C. Parl. Com. Papers, GHC. Also, see H. W. McCready, "British Labour's Lobby 1867-75," Canadian Journal of Economics and Political Science, XXII (May, 1956), 141-60.

of the house of commons. Howell complained, and eventually they gained entrance to the lobby and also the right to sit under the gallery when labor bills were debated.[18]

Their most important task was to carry out the directive of the Trades Union Congress and somehow persuade the government that the Criminal Law Amendment Act must be repealed. The Nottingham congress adopted unanimously a resolution calling for nothing less than total repeal, but it was not long before Howell and MacDonald began to doubt that it was possible to achieve so much. Would parliament rescind an act passed only the previous year? There were two alternatives: wage a long battle for complete repeal with no assurance of success, or take the shorter route and seek to amend the most noxious provisions of the existing act.

The president and secretary of the Parliamentary Committee visited parliament almost daily to talk with sympathetic Liberals about legislative proposals. On February 15 Howell conferred with four members of parliament, and the next day he spent over an hour with a prominent Liberal, William Vernon Harcourt, who promised to help repeal certain parts of the act and improve the

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[18] G. Howell to the Speaker of the House of Commons, February 17, 1872, GHC; and G. Howell to (Lord Charles J. Russell) Sergeant-at-Arms, House of Commons, March 16, 1872, GHC.

wording of other sections.[19] Still reluctant to admit publicly that they would settle for less than total repeal, the Parliamentary Committee reported to the press: "Mr. Vernon Harcourt has been seen with a view to induce him to undertake the question of repealing the Act passed last session. He expressed his willingness to do everything in his power to meet the wishes of the Committee."[20]

Since it was virtually impossible to alter the act without support from the cabinet, Howell wrote the home secretary asking for an interview.[21] At the same time he wrote to Crompton soliciting advice,[22] and then carefully collected newspaper accounts of prosecutions and with Crompton's assistance prepared a memorial of the unionists' objections to the act. On March 21 the Parliamentary Committee called at the home office with their memorial and a list of twenty-one cases tried under the act. All of their grievances had been stated many times before: the wording of the act was vague, the courts sometimes misinterpreted or otherwise administered it unfairly, crimes of violence mentioned were already covered by

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[19]Howell's report to the Parliamentary Committee on his activities as secretary, February 12-17, 1872, T.U.C. Parl. Com. Papers, GHC.

[20]Beehive, March 2, 1872.

[21]G. Howell to H. A. Bruce, March 15, 1872, GHC.

[22]G. Howell to H. Crompton, March 16, 1872, GHC; and H. Crompton to G. Howell, March 19, 1872, GHC.

existing law, and it was unjust to assume that unionists had criminal intentions. The memorial concluded by calling upon the government to introduce a short bill repealing the Criminal Law Amendment Act, or at least support such a bill if it were introduced by an individual member of parliament.[23]

Verbally the deputation conceded that it would be difficult for the government to enact repeal, and for the present they would be satisfied with the amendment of one or two clauses or the removal of the amendments added by the house of lords. Bruce promised to consider their proposals--a customary and meaningless reply--but he reminded unionists that the house of commons had approved the lords' amendments and he flatly rejected any possibility of repealing the entire act.[24] The outlook was not promising, and whereas Howell believed that the interview might have some effect on home office policy, he was not hopeful that much would be accomplished.[25]

It was possible, however, that the publicity of the Hammersmith case would increase support for the union cause in parliament, and since January the Parliamentary

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[23]The Criminal Law Amendment Act, A Memorial to the Right Honourable Henry Austin Bruce, M.P. (with Appendix of Cases Under the Criminal Law Amendment Act) (London: Trades Union Congress Parliamentary Committee, 1872.)

[24]Beehive, March 29, 1872.

[25]G. Howell to H. Crompton, March 29, 1872, GHC.

Committee had eagerly awaited the final verdict. This case resulted from a strike at an engineering firm where one of the workmen, George Turk, distributed handbills requesting other workers not to seek employment at the firm. He was charged with coercion on January 11 and sentenced at the Hammersmith Police Court to two months' imprisonment. His hair was cropped and during the three days he spent in jail awaiting bail Turk was forced to work on the treadmill like a criminal.[26]

The labor press showed little interest at the time,[27] probably because the Trades Union Congress was in session and attention focused there, but the trial was such a flagrant example of injustice that the Parliamentary Committee decided to manage the appeal and make it a test case. If they won it would be a rare victory in the courts and, as Crompton shrewdly observed, it might be even better if they lost.[28] This would prove that judges were prejudiced against workmen and willing to inflict severe penalties for minor infractions of the Criminal Law Amendment Act. The important thing was to get wide publicity for this and similar prosecutions and win public sympathy.

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[26]G. Howell to R. S. Wright, March 29, 1872, GHC; and Howell, Labour Legislation, I, 203-4.

[27]The Beehive, January 13, 1872, carried only a brief article.

[28]H. Crompton to G. Howell, March 30, 1872, GHC.

Howell wanted someone important as defense counsel, and he ignored Crompton's advice and employed Henry James, a prominent and politically ambitious member of parliament.[29] At the last moment the prosecution withdrew their charges. The original conviction was therefore reversed, but unionists failed to have their day in court and were greatly disappointed.

On May 3 Howell reported to the Parliamentary Committee that he had met with Harcourt, James, Mundella, and other members of parliament for a discussion of the Hammersmith case. The crime in this instance and in most other cases tried under the act was picketing--watching or besetting with a view to coerce as it was described in the amendment added by th house of lords--and therefore, the committee proposed a bill to remove this phrase. R. S. Wright, an attorney, would write the sort of bill they wanted, Harcourt agreed to introduce it, and the men whom Howell contacted in parliament promised their support.[30]

Crompton had warned the Parliamentary Committee against trusting important politicians who might serve their own interests and sell the unions short. Mundella,

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[29] Ibid.; and H. Crompton to G. Howell, April 1, 1872, GHC. Crompton warned Howell that James should not be trusted and that he might use the case to further his own career.

[30] Notes on T.U.C. Parl. Com. meeting, May 3, 1872, T.U.C. Parl. Com. Papers, GHC.

also, had reservations about Harcourt becoming labor's champion in parliament,[31] but as usual Howell persisted and had his own way. It turned out that Harcourt was a good choice, for even though he failed, he did as much as anyone could under the circumstances. He had ability, an independent will, and a natural sympathy for labor; and above all, he was not afraid to challenge the prime minister. In fact he rather enjoyed being a maverick.[32]

When it was introduced on May 18 the Criminal Law Amendment Act, 1871, Amendment Bill[33] stirred greater debate within labor circles than in parliament. Frederic Harrison was outraged that neither he nor Henry Crompton was consulted about the bill, and he pronounced it "wholly insufficient and illusory." All the obnoxious features of the Criminal Law Amendment Act, so often condemned by union spokesmen, were repeated in this new measure with

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[31]H. Crompton to G. Howell, March 8 and 30, 1872, GHC.

[32]A. G. Gardiner, The Life of Sir William Harcourt (2 vols.; London: Constable and Co., 1923), I, 225-29. In 1910 Harrison described the Harcourt he remembered: "I always found him clear-headed, courageous, and trustworthy, . . . but he was apt to calculate the chances of the course being a really 'good thing' before he would embark on it. And he never could conceal this hesitation from those who worked with him." Harrison, Autobiographic Memoirs, II, 71. Howell defended Harcourt's sincerity: "He has ever been true to the working classes on the Labour Question. I have never known him to falter." Howell, "Autobiography," Vol. V, GHC.

[33]"Criminal Law Amendment Act, 1871, Amendment Bill," Great Britain, Parliamentary Papers, 1872, I, 401-2.

the sole exception of the ban on picketing. Furthermore, the bill actually introduced a new crime not included in the former act: "acts calculated to intimidate" were deemed a molestation and hence illegal.[34]

Trade societies throughout the kingdom were angered that the Parliamentary Committee was willing to compromise, and during the month of June there were large demonstrations demanding total repeal. At Manchester 7,000 workmen demonstrated on June 1; at Bradford a week later thirty-two societies met to pass a resolution calling for the "entire erasure" of the Criminal Law Amendment Act; and toward the end of the month 2,000 men marched in a procession at Leeds to a meeting of several thousand where they condemned the act.[35] The London Trades Council officially rejected Harcourt's bill,[36] and E. S. Beesly and Daniel Guile joined Harrison in opposition.

Henry Crompton, who might have calmed the situation, was on the Continent, and when his brother Albert finally spoke out he was against the bill. Albert believed that the bill was an improvement on the Criminal Law Amendment

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[34]Frederic Harrison, "The New Criminal Law Amendment Act," Beehive, May 31, 1872; and Frederic Harrison, "The Criminal Law Amendment Bill," Beehive, June 14, 1872.

[35]Beehive, June 7, 14, and 28, 1872.

[36]London Trades' Council Annual Report (June, 1873), p. 2; and Beehive, June 21, 1872. This was the first annual report published by the London Trades Council since 1867. Copies are in the GHC.

Act, but hastened to add that it was not what working men wanted and was unsatisfactory in many respects. Also, he asked a very disturbing question: since this bill was drafted by the Parliamentary Committee and backed by labor's friends in parliament, how could they expect to pass an amending bill in 1872 and then ask parliament for total repeal in the next session?[37]

Howell quickly retreated and cleverly, if not always truthfully, justified his actions. After frequent discussions with members of parliament the Parliamentary Committee found no one willing to back total repeal, and it was only then that they considered a modification of the act. They consulted Henry Crompton "at every step taken up to the very day on which he left London for the Continent," and selected his close friend, R. S. Wright, to prepare their bill and Harcourt to introduce it. Howell insisted that they had mailed copies to Harrison and other interested individuals, and to the London Trades Council and other trade councils throughout England. Since only Daniel Guile wrote objecting to the bill, "we therefore construed the silence [of others] into assent."[38]

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[37]Albert Crompton, "The Criminal Law Amendment Act," Beehive, June 21, 1872.

[38]George Howell, "The Criminal Law Amendment Act (1871) Amendment Bill," Beehive, June 7, 1872; and Beehive, June 14, 1872. Harrison denied receiving an advance copy of the bill and claimed that he first saw it in the May 18 issue of the Beehive. Two letters in the Harrison Collection from Harcourt to Harrison (undated, but written

Needing all the support they could muster, the officers summoned the entire Parliamentary Committee to London to sign a public statement defending the bill; and being unable to ignore those unionists in other cities who were holding mass meetings demanding total repeal, the committee approved the demonstrations and promised, also, to continue the fight against the Criminal Law Amendment Act.[39] They deleted that part of the bill which Harrison disliked and thereby won his support. He gave in completely, spoke out in favor of the amended bill and thus made his peace with the Parliamentary Committee: "Any difference amongst workmen, their representatives, or advisers, as to the Bill and the amendments, are differences only as to the mode of doing what all alike desire to do. . . . There is not the slightest difference as to principle."[40] Encouraged by Harrison's conversion, Howell wrote Daniel Guile to patch up their

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sometime in May, 1872) inform Harrison that negotiations for a new trade union bill are underway and invite him to attend a meeting with members of parliament to discuss the bill. There is no evidence, however, that Harrison went to this meeting or that he saw an advance copy of the bill. Howell also claimed that Harcourt was Crompton's personal choice to introduce the bill, but this was certainly false. Howell's Labor Legislation provides a full account of this period but is not always reliable, and some of the statements he issued to the Beehive should be examined with caution.

[39] Beehive, June 21, 1872.

[40] Frederic Harrison, "The Criminal Law Amendment Bill," Beehive, June 21, 1872.

differences[41] and then worked until the last moment rounding up supporters in parliament.[42]

Harcourt was so disturbed by all the dissension that he seriously considered withdrawing his bill,[43] but Howell reassured him that since "the bill is a good and moderate one we feel it ought to command support."[44] When it came before parliament for a second reading on July 5 most unionists and most of their advisers were again united.

It was late at night, about 1:30 A.M., before parliament found time to consider the bill, and by then they were too tired to open debate on an important measure. Someone suggested adjournment and Bruce quickly agreed, saying that any amendment of the Criminal Law Amendment Act was premature and also that he did not think this bill would satisfy workmen.[45] Privately he used the excuse that unionists were divided over the bill and did not know what they wanted,[46] and he wrote the prime minister: "I see no

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[41]G. Howell to D. Guile, July 16, 1872, GHC.

[42]G. Howell to William Harcourt, July 5, 1872, GHC.

[43]G. Howell to George Jackson, June 28, 1872, GHC. See William Harcourt, "The Criminal Law Amendment Act," Beehive, June 28, 1872, for an explanation of why he introduced the bill.

[44]G. Howell to William Harcourt, July 5, 1872, GHC.

[45]Great Britain, 3 Hansard's Parliamentary Debates, CCXII (1872), 750-52. The division on adjournment carried by the slim margin of only two votes, but in effect killed the bill for that session.

[46]G. Howell to D. Guile, July 16, 1872, GHC.

reason to believe that the Commons will reverse their decision. I am very sure that they will not go beyond the original proposal of the government, and legalize picketing under every form. The Lords will of course decline to reverse their amendment on such short experience of its working."[47] Harcourt refused to admit defeat and kept insisting that the government reconsider his bill, until finally Gladstone told him point blank that no union bill could be passed that session.[48]

Demonstrations and protest meetings continued throughout the rest of the year. It was paradoxical, however, that while unionists concentrated almost solely upon repeal of the Criminal Law Amendment Act the most infamous of all union trials in the 1870's did not come under that act. In December the prosecution of some London gas stokers for conspiracy and breach of contract jeopardized the union legal position more than at any time since Hornby v. Close.

Working conditions had improved in most industries by 1872, but gas stokers still worked eighty hours a week, seven days a week, with only one holiday each month. Wages were not bad for unskilled labor, but the men wanted more money for such hard and dangerous work, and they wanted

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[47] H. A. Bruce to W. E. Gladstone, July 14, 1872, Add. Mss. 44087.

[48] Great Britain, 3 Hansard's Parliamentary Debates, CCXII (1872), 1132-1133.

shorter hours. During the late summer and early fall the stokers formed a union and successfully negotiated their demands with over half the gas companies in London. Trouble developed after the companies began to dismiss union leaders or else to transfer them to less desirable and more difficult jobs.

When the Beckton Gas Works dismissed one union spokesman, Thomas Dilley, his fellow workers met and resolved to strike. Experienced leaders from other unions, including Henry Broadhurst, counseled against hasty action:

> I repeatedly warned them against extreme measures, especially against anything in the nature of a strike, for their Union was almost destitute of funds and entirely lacking in experience of Labour disputes. Unfortunately, some of the wilder spirits managed to secure control of the organization and at once rushed to extremes. The consequence was a partial strike, followed by a prosecution; the strike completely collapsed in a few days, and what under abler guidance and more cautious procedure might have grown into a strong and permanent association, fell entirely to pieces.[49]

Employers retaliated by procuring 500 summonses, and the courts sentenced twenty-four of the men to six weeks at hard labor for breach of contract under section fourteen of the Master and Servant Act. Since other

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[49]Henry Broadhurst, Henry Broadhurst, M.P.: The Story of His Life From a Stonemason's Bench to the Treasury Bench (London: Hutchison and Co., 1901), p. 60. The gas stokers asked Broadhurst to be their leader when they organized in 1872, but he was a stonemason by trade and refused, saying that they should follow a man from their own trade. In February 1873 he became secretary of the Labour Representation League.

unionists expressed little sympathy for the ill-advised strike, the whole matter might have ended there as a stupid blunder by an inexperienced union. But the gas company was not content to let the matter rest, and they filed an indictment for conspiracy against seven of the union leaders. Two of the men escaped, but five were tried and convicted. In passing sentence at the Central Criminal Court, Justice Brett charged these men with forming a criminal conspiracy to force the gas company into rehiring Thomas Dilley and, Brett added, the crime was serious because a gas stokers' strike would plunge part of London into darkness. He ignored the jury's recommendation of mercy and imposed an unreasonably severe sentence of twelve months' imprisonment.[50]

Shortly before the trial the gas stokers had appealed for help. Most trade societies disavowed the strike, but at the same time realized how this prosecution threatened the legal rights of all unionists and, therefore, they rallied to the stokers' assistance. A defense committee headed by George Potter, Henry Broadhurst and Daniel Guile raised money for court fees and the imprisoned men's families, and the London Trades

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[50] The London Gas Stokers: A Report by the Committee of Their Trial for Conspiracy, of Their Defence and of the Proceedings for Their Liberation (London: H. W. Foster, 1873), pp. 3-8; Howell, Labour Legislation, I, 237-43; and see the Beehive, December 7, 1872 through April 19, 1873, for numerous articles on the gas stokers case and the law of conspiracy.

Council and the Labour Representation League also pledged their support.[51] Unfortunately, however, the trial came so quickly that union lawyers had little time to prepare a case.

When the fifth Trades Union Congress convened in January the trial was already over and the stokers committed to prison. By now unionists were thoroughly enraged, and demanded a complete revision of all laws affecting trade disputes. They passed a strongly-worded resolution calling upon the working class to oppose "every candidate for Parliament who does not pledge himself to vote for the abolition or alteration of . . . the Masters and Servants Act, the Criminal Law Amendment Act, and the law of conspiracy as applied to trade societies, under which the gas stokers had been convicted."[52]

After serving notice that they would vote against politicians who refused to help them, the congress approved a petition to the home secretary asking his intervention on behalf of the stokers. The gas stokers defense committee sent a separate petition with the same request.[53] Prominent Liberals, including some members

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[51] Beehive, December 28, 1872; and The Times (London), January 1, 1873.

[52] Trades Union Congress Reports (1873), p. 3.

[53] See ibid., pp. 3-4, for the Trades Union Congress petition; and The London Gas Stokers: A Report, pp. 39-42, for the other petition.

of parliament, also condemned Justice Brett's decision and demanded that the stokers be freed.[54] The editor of the Fortnightly Review, John Morley, denounced the sentence as "the worst atrocity in my time";[55] and he published an impassioned article in his journal defending the imprisoned men.[56]

The government was under great pressure to do something. Gladstone refused to intervene personally, but when a member of parliament wrote him protesting the trial he replied: "It is within my knowledge that the sentence passed on the Gas Stokers is under Mr. Bruce's careful consideration."[57] Although Bruce had the power to commute a sentence passed by the courts, this was not in ordinary circumstances a proper function of the home secretary,[58] and therefore he had

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[54] A. J. Mundella, Thomas Hughes, and T. B. Potter were among those members of parliament who sympathized with the stokers.

[55] F. W. Hirst, Early Life and Letters of John Morley (2 vols.; London: Macmillan and Co., 1927), I, 230.

[56] John Morley, "The Five-Gas-Stokers," Fortnightly Review, XIII (January, 1873), 138-41. Upon reading Morley's article Harrison urged: "By all means stick to the Gas Stokers or rather the wider question." F. Harrison to J. Morley, January 21, 1873, Harrison Collection.

[57] W. Gladstone to T. B. Potter, M.P., January 16, 1873, Add. Mss. 44542.

[58] Sir Frank Newsam, The Home Office (London: George Allen and Unwin, 1954), p. 120, states: "In considering petitions for the exercise of the Prerogative of Mercy the Home Secretary is not acting as a Court of

informed the gas stokers defense committee that his office was not "a Court of Appeal from the decisions of her Majesty's judges on questions of law, and has no authority to overrule them."[59] But public sentiment was strong that there had been a miscarriage of justice, and when the imprisoned stokers themselves appealed for mercy Bruce reduced their sentence from twelve to four months.[60]

The significance of the gas stokers case was profound. The public was made aware that the legislation of 1871 could not be a final solution for the problem of trade disputes. It was apparent to even the most casual reader of the accounts of the trial that existing law offered great protection to employers, but left unionists at the mercy of the judges. Unionists were aroused and more than ever conscious of the need for action; and this incident brought them closer together--at Bristol, for instance, it was a major factor in the formation of a new trades council.[61] Also, it strengthened their resolve to

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Appeal. He must always bear in mind that it is not the function of the Home Office to re-try a case."

[59] The London Gas-Stokers: A Report, p. 39.

[60] George Howell claimed that the home office worked out a face-saving compromise. Bruce asked Thomas Hughes to have the gas stokers' lawyers prepare a petition for the men to sign, and thus was able to justify his reduction of the sentence without actually overturning the court's conviction. See Labour Legislation, I, 249.

[61] Bristol Trades Council Minutes, March, 1873, WTUC, Sec. B, Vol. III.

alter the criminal law and, most important, broadened their legislative program to include revision of the Master and Servant Act and common law of conspiracy as well as repeal of the Criminal Law Amendment Act.

The common law which applied to trade unions was based upon two similar concepts: restraint of trade and conspiracy. Since 1871 when the Trade Union Act held that unions were no longer illegal merely because they were in restraint of trade, unionists and their lawyers assumed that the doctrine of conspiracy was also void. "But the common law expands as the statute law is narrowed," Fitzjames Stephen observed in his study of English criminal law, "and the doctrine of conspiracy to coerce or injure [was] so interpreted as to diminish greatly the protection supposed to be afforded by the act of 1871."[62] Furthermore, the maximum penalty under the Criminal Law Amendment Act or the Master and Servant Act was three months imprisonment, but Justice Brett awarded the gas stokers a twelve month sentence. If this example were followed by other judges, then conspiracy to commit a crime would carry a greater penalty than the crime itself, and all lesser penalties prescribed by statute law would be meaningless.[63]

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[62]Stephen, History of the Criminal Law of England, III, 226-27.

[63]See Frederic Harrison, Workmen and the Law of Conspiracy ("Tracts for Trades-Unionists," No. 2; London:

The master and servant law before 1867 was based upon a number of acts passed over the years, and as many as 10,000 cases a year were brought against workmen who left work or in some way broke their contracts with employers. Not only were the courts biased in favor of employers, but the law was one-sided. Workmen were arrested by warrant, denied permission to give evidence, and if convicted were sentenced to a maximum term of three months in prison without the right of appeal. On the other hand, employers who violated a contract were subject only to civil action. They could testify on their own behalf, and if they lost a case their sole penalty was to pay the wages due the plaintiff.[64] After an investigation by a parliamentary committee Lord Elcho sponsored the Master and Servant Act 1867, which corrected the major abuses of previous acts. Workmen were now summoned before the court rather than arrested; they were permitted to testify, and in most cases were subject to a fine or payment of damages rather than imprisonment.[65]

Trades Union Congress Parliamentary Committee, 1873); and Henry Crompton, The Law of Conspiracy (London: Trades Union Congress Parliamentary Committee, 1875).

[64]See Report of Conference on the Law of Masters and Workmen under Their Contract of Service (Held in London on 30th and 31st May, and 1st and 2nd June, 1864) (Glasgow: Sentinel Office, 1864); Lushington, "Workmen and Trade Unions," pp. 38-40; and Economist, January 12, 1867.

[65]"Master and Servant Act 1867," 30 & 31 Vict. c. 141.

But the new act did not establish complete equality, for in certain serious or "aggravated" cases the courts could still sentence workmen to a maximum of three months imprisonment. In December, 1872, when twenty-four gas stokers were given six weeks at hard labor, their sentence drew attention to the act. Although breach of contract was a civil offense, these men were subjected to criminal prosecution. "Employers never are imprisoned for three months, or even for three hours," Frederic Harrison commented in noting the inequality of the law, and yet, he continued, "If employers who dismissed workmen without legal notice were all sent to gaol, our prisons would suddenly become the homes of our wealthiest classes."[66]

No doubt unionists would have been amused at the unlikely spectacle of employers imprisoned for breach of contract, but the state of the law and the recent interpretation by judges was not a laughing matter. The Parliamentary Committee still struggled with the task of repealing

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[66]Frederic Harrison, "The Master and Servant Act," Beehive, February 15, 1873; also, see Frederic Harrison, "The Master and Servant Act 1867," The Times (London), April 7, 1873; Frederic Harrison, Imprisonment for Breach of Contract; or The Master and Servant Act ("Tracts for Trades-Unionists," No. 1; London: Trades Union Congress Parliamentary Committee, 1873); Henry Crompton, The Criminal Law Amendment Act, and Other Laws Affecting Labour (Leeds: Trades Union Congress Parliamentary Committee, 1873); and W. A. Hunter, A Lecture on The Criminal Laws Affecting Labour: Master and Servant Act. Criminal Law Amendment Act. Law of Conspiracy. (Edinburgh: Criminal Law Amendment Act Repeal Association, 1874).

the Criminal Law Amendment Act, and now in 1873 faced the additional problem of revising the common law of conspiracy and the Master and Servant Act of 1867. They rejected the idea of dealing with all three in one bill, and decided instead upon two courses of action: present separate legislation for each law, and a motion in parliament on the question of labor laws which might induce the government to act on its own.[67] In April the Parliamentary Committee met with several members of parliament and approved the Criminal Law Amendment Act (1871) Repeal Bill, which Mundella agreed to sponsor and subsequently introduced in parliament on May 12.[68]

A few days later two rural magistrates inadvertently came to the aid of unionists with another unjust prosecution and, as in the past, union spokesmen used the incident to drum up support for their legislative program. The Chipping Norton case resulted from a strike by farm workers at Ascot, where the wives of the workers on strike confronted a group of men recently hired by the landowner and dared these men to take their husbands' jobs. Two parson-magistrates at Chipping Norton tried and sentenced sixteen

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[67] For the Parliamentary Committee's program and legislative activity in 1873 see "The Trades Union Congress Parliamentary Committee Report, 1873," in Trades Union Congress Reports (1873); Howell, Labour Legislation, II, 285-302; Beehive, February 22, 1873; and G. Howell to Mathew Allan, March 1, 1873, GHC.

[68] Beehive, April 26, 1873; and "Criminal Law Amendment Act (1871) Repeal Bill," Great Britain, Parliamentary Papers, 1873, I, 325.

of the women, some of them nursing infants, to a week or more at hard labor. People in that region had never heard of the Criminal Law Amendment Act before, and following the trial there was a riot which local police were unable to handle without reinforcements.[69]

During the next week the home secretary was questioned several times in parliament about the incident until he finally admitted that the punishment of the women was excessive and agreed to ask the magistrates who pronounced sentence for an explanation.[70] At this same time thousands of London workmen demanding a revision of the labor laws staged a mass demonstration in Hyde Park, causing The Times to complain that they blocked the streets with their "processions, bands, and banners."[71] All of this seemed to augur well for passage of the bill introduced on May 12, but apparently the government was in no hurry to act.

Backers of the bill grew impatient when nothing had been done by July. After Gladstone declined to receive a deputation from the Parliamentary Committee,[72] Howell wrote

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[69]Joseph Arch, Joseph Arch: The Story of His Life Told by Himself (London: Hutchison and Co., 1898), pp. 139-43. Arch was at this time engaged in unionizing farm workers and was well acquainted with the details of the trial. The next year he became a member of the Parliamentary Committee.

[70]Great Britain, 3 Hansard's Parliamentary Debates, CCXVI (1873), 429, 501-2, 548-50.

[71]The Times (London), June 3, 1873; and Beehive, June 7, 1873.

[72]W. E. Gladstone to G. Howell, July 1, 1873, Add. Mss. 44542.

the prime minister a long letter explaining the views of unionists on the criminal law,[73] and Henry Crompton accused the government of purposely holding up legislation: "Night after night Mr. Mundella's Bill is down for the second reading, and night after night the Government by the power it has of bringing on other subjects, refuses to allow the debate to take place."[74] Crompton was correct, for Bruce advised Gladstone that they should not support Criminal Law Amendment Act repeal,[75] and the government let the bill die without further consideration.

On July 15 labor supporters made one last effort with Auberon Herbert's motion: "That a Select Committee be appointed to consider what changes it is desirable to make in the Criminal Law Amendment Act, 1871." Bruce objected because it was too late in the session to set up a committee and, with rather poor logic, because magistrates were becoming familiar with the act and were inflicting less severe sentences than in the past. The motion failed by only four votes, but it ended all hopes of further action for that session.[76]

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[73]G. Howell to W. E. Gladstone, July 12, 1873, Add. Mss. 44439.

[74]Henry Crompton, "The Government and the Working Classes," Beehive, July 5, 1873.

[75]H. A. Bruce to W. E. Gladstone, July 6, 1873, Add. Mss. 44087.

[76]Great Britain, 3 Hansard's Parliamentary Debates, CCXVII (1873), 459-60.

Meanwhile, a bill to revise the law of conspiracy which applied to workmen had passed a third reading in commons and awaited approval by the house of lords. Earlier in the year Harcourt had moved for discussion in parliament on the topic, and then on June 12 he introduced a bill which forbade prosecution for conspiracy unless some statute law were violated or unless there were violent threats, intimidation, or molestation. The attorney general or the solicitor general must approve all prosecutions, and conspiring to an illegal act should not carry a greater penalty than committing the act.[77]

Bruce found Harcourt's bill "very objectionable in many particulars," but admitted it was "capable of amendment."[78] The amendments added by the government in the house of commons and by Lord Cairns in the house of lords mutilated the bill, however, especially by extending the scope to cover the whole law of conspiracy. When the Conspiracy Law Amendment Bill returned from the house of lords on August 4 Harcourt abandoned the measure as worthless.[79]

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[77] "Conspiracy Law Amendment Bill 1873," Great Britain, Parliamentary Papers, 1873, I, 215-18.

[78] H. A. Bruce to W. E. Gladstone, July 6, 1873, Add. Mss. 44087. Speaking on behalf of the government Bruce accepted the second reading in commons, but regretted that this bill dealt only with labor cases rather than the general law of conspiracy. Also, he objected to making prosecutions subject to approval of the law officers. Great Britain, 3 Hansard's Parliamentary Debates, CCXVI (1873), 1889-1890.

[79] Great Britain, 3 Hansard's Parliamentary Debates, CCXVII (1873), 1319-1320, 1419-1423. See Great Britain,

The attempt to revise the Master and Servant Act 1867 also failed. This was not a permanent statute, but like a number of other acts was renewed annually by an Expiring Laws Continuance Bill. During the discussion on renewal J. Hinde Palmer moved to amend the Master and Servant Act by omitting section fourteen, the clause which permitted judges to impose imprisonment for breach of contract. Mr. Bruce, who had been somewhat less than friendly to labor in this session of parliament, objected to the change and the motion was defeated.[80]

The 1873 session ended with the Parliamentary Committee accomplishing none of its goals. In addition to the three major points on their program, which concerned the unions' legal status, they wanted a lowering of the qualifications for jurymen to include workingmen, a bill to restrict the labor of women and children in factories to nine hours, compensation from employers for workmen injured or killed, and a bill to prohibit "truck"--the payment of wages in goods or merchandise.[81] Since the government had refused to deal with any of these questions,

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Parliamentary Papers, 1873, I, 219-22, for amendments. Also, see Frederic Harrison, "The Conspiracy Amendment Bill," Beehive, August 9, 1873, for criticism of the amendments.

[80]Great Britain, 3 Hansard's Parliamentary Debates, CCXVII (1873), 1251.

[81]"The Trades Union Congress Parliamentary Committee Report, 1873," in Trades Union Congress Reports (1873).

labor had good reason for being disenchanted by the Liberal ministry. E. S. Beesly rebuked Gladstone and issued a warning that was almost prophetic:

> It is my firm belief that he has not the least comprehension of the feelings and wants of workmen. He has not at all realised that they are brooding over such grievances as the Criminal Law Amendment Act, the Law of Conspiracy, and the penal clauses of the Master and Servants Act. Those questions do not cross his busy mind from one week's end to the other. They never cause a great debate in the House. They come on at one or two-o'clock in the morning, when the reporters have left, and are disposed of in a hugger-mugger conversation between the Attorney-General and half-a-dozen manufacturers. In Mr. Gladstone's eyes they are immeasurably less interesting than the great question of the burial of Dissenters in churchyards by their own ministers. And if fifty or a hundred seats are lost to his party at the next election by the abstention or opposition of workmen, his feeling will be one of simple bewilderment.[82]

Indeed, Gladstone did very little in 1873 which pleased labor except to make some changes in the composition of the government itself. In August when the workingmen's old friend, John Bright, received a minor post in the ministry, Harcourt wrote to him: "I wish you could get the Government to address itself seriously to the provisions of the Criminal Law Amendment Act, the Master and Servants Act and a Conspiracy Law. These are the sort of things that most of the people do care about and have been strangely neglected."[83] A few weeks later in a speech at

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[82]E. S. Beesly, "The Prospects of Workmen," Beehive, August 30, 1873.

[83]William Harcourt to John Bright, August 9, 1873, Add. Mss. 43388. Bright returned to parliament in 1872

Birmingham Bright spoke in favor of making some alteration in the three laws. But Bright had little to do personally with the matter, and Henry Crompton warned unionists not to disarm since the government might be using him to offer vague concessions which would win labor votes in the next election.[84]

In addition to Bright, two other statesmen who had proven themselves friends to labor were appointed to high office: William Harcourt became solicitor general and Henry James attorney general. They were now in a most advantageous position to ameliorate the unionists' legal status. Although both were independent Liberals who did not hesitate to oppose Gladstone when they disagreed with his policy,[85] they probably would have done much to reconcile the differences between labor and the Liberal party had they remained in office longer than a few weeks.

The most important change in the government was the resignation of Henry Bruce, who left the home office in August to become Lord Aberdare and lord president of the council. During the five years that he served as home secretary labor had often been frustrated by his vacillation

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after a long and serious illness, and in 1873 was appointed chancellor of the duchy of Lancaster.

[84]Henry Crompton, "The Government Concessions," Beehive, November 1, 1873.

[85]George Ranken Askwith, Lord James of Hereford (London: Ernest Benn, Ltd., 1930), pp. 49-50, 71.

and his weakness. In their eyes he was "a decent, well-meaning nobody."[86]

His successor, Robert Lowe, was an abler and more forceful statesman, but in the past he had expressed strong antipathy for unions. In the 1860's when he vigorously opposed the enfranchisement of workmen, much of his opposition stemmed from a dislike of their unions and a fear that these unions might in the future exercise awesome political power.[87] Nevertheless, Lowe quickly mastered the subject of labor law and was willing to listen with an open mind to recommendations for change.[88]

On November 5 a deputation from the Parliamentary Committee and a few members of parliament called on Lowe to discuss the labor laws and to solicit his support for their program. Throughout the interview his intelligent comments and questions indicated that he was well-informed on the subject; and when the labor group prepared to leave Lowe assured them that he would give his "serious attention" to their problems and try to reach a solution "satisfactory to the various interests concerned."[89] This was

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[86]Lloyd Jones in Beehive, August 2, 1873.

[87]Brand, "The Conversion of British Trade Unions to Political Action," pp. 263-64.

[88]Howell, Labour Legislation, II, 325-27.

[89]The Trades' Union Congress Parliamentary Committee: The Trades' Union Act, Criminal Law Amendment Act, Master and Servants Act, and the Laws of Conspiracy. A

no guarantee that they had won him over, but at least they need not fear his hostility.

Many employers were by now concerned lest the government listen to the frequent entreaties of the labor lobby and give way before the pressure of 700,000 union voters, whom the Trades Union Congress claimed to represent. Earlier in the year they had organized their own lobby, the National Federation of Associated Employers of Labour, to oppose repeal of the Criminal Law Amendment Act, alteration of the Master and Servant Act, and other legislation proposed by the unions.[90] After labor's deputation to the home office they intensified their efforts to counter union influence, and in December presented Lowe with a memorial of their views and a request that no change be made in the law. They were introduced by Edmund Potter, one of the most outspoken critics of unionism in the house of commons, and their chief spokesman was Sir Thomas Bazley, owner of the largest cotton mills in England.[91]

Special Report of the Deputation to the Home Secretary on Wednesday, November 5th, 1873. (London: Trades Union Congress Parliamentary Committee, 1873), p. 8.

[90]A number of employers' groups met in the spring to discuss the best means of blocking the unions' legislative program. On July 17 at a second meeting they organized the National Federation of Associated Employers of Labour. See Beehive, May 3, 1873 and July 26, 1873.

[91]Both the union journal and the first issue of the employers' journal carried accounts of the deputation. See Beehive, December 20, 1873; and Capital and Labour,

George Howell went to considerable trouble to obtain a copy of the employers' memorial,[92] and the Parliamentary Committee published this along with the rules and a "Statement as to the Formation and Objects" of the National Federation.[93] Henry Crompton wrote a detailed analysis of the memorial arguing against each statement,[94] and in another pamphlet W. H. Wood warned employers that if they "make use of their newly acquired power to terrify isolated trades into accepting that which would violate their principles," then unions would retaliate by forming a National Labour League with a national strike fund.[95]

The alarming prospect of a bitter confrontation between employers and unionists prompted The Times to describe the formation of this employers' federation as "a movement

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February 25, 1874. The latter was published for only two years. Copies are in the George Howell Collection.

[92]Howell first wrote the home office and then finally acquired the memorial from the secretary of the National Federation. G. Howell to Lord Edmund Fitzmaurice, Home Office, December 17, 1873, GHC; and G. Howell to Henry Whitworth, December 27, 1873, GHC.

[93]The Trades Union Congress Parliamentary Committee and The National Federation of Associated Employers of Labour (London: Trades Union Congress Parliamentary Committee, 1873).

[94]Henry Crompton, The National Federation of Associated Employers of Labour: Report Upon the Memorial Presented to the Home Secretary by the National Federation of Associated Employers of Labour, December 13th, 1873 ("Tracts for Trades-Unionists," No. 4; London: Trades Union Congress Parliamentary Committee, 1874).

[95]W. H. Wood, The Advantages of Trade Unions (Salford: Salford Steam Printing Co., n.d.), p. 2.

tending politically to put asunder forces which have been long allied, and tending socially to draw Capitalists and Labourers into two hostile camps."[96] The Economist saw nothing wrong with employers having an association to publicize their views, but cautioned that unionists were better organized and stronger, and "nothing can be more unfortunate than . . . a formal quarrel between capital and labour, under conditions that would ensure an apparent victory to the latter and an apparent defeat to the former."[97] Howell, also, was concerned, and he wrote the secretary of the National Federation: "It is of the utmost importance that we understand each others objects, and that we properly quote and respect each others views." He acknowledged the differences in opinion between their two organizations, but expressed a desire "that the bitterness predicted by some of our newspapers will never be a result of our action."[98]

Any serious quarrel between capital and labor was bound to affect the future of the government. The Liberal party was divided, and with elections expected during the next year the government could ill afford an open breach between two groups which had worked together for a Liberal victory in the last election. But neither side was willing

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[96] The Times (London), December 16, 1873.

[97] Economist, December 27, 1873.

[98] G. Howell to Henry Whitworth, December 27, 1873, GHC.

to compromise on their demands, and the probability of finding what Lowe promised the labor deputation in November, a solution which would please all interests concerned, was remote.

Furthermore, labor's faith in the willingness of Liberals to aid them had steadily eroded since 1868, and for several years the Positivists, especially Beesly, had urged workingmen to take independent political action. In 1873 after parliament rejected every suggestion and every bill presented by labor Beesly once again insisted that workingmen find a "new departure" in politics. He warned that Gladstone could not side openly with labor and back their measures, for this would alienate the middle class, and labor votes alone could not keep the Liberals in office.[99] Harrison suggested that Positivists "urge workmen to withhold every vote they can reach from any mere 'Liberal,' and either to run men of their own or to abstain altogether deliberately aiming at defeating the present 'Great Liberal Party.'"[100]

In late August Harrison, Beesly, and Crompton agreed that "the great thing now is to form a third party," although they admitted that "at present a mere working class

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[99]E. S. Beesly, "The Prospects of Workmen," Beehive, August 30, 1873.

[100]F. Harrison to John Morley, July 2, 1873, Harrison Collection.

trade unionist platform is not enough."[101] Harrison toyed with the idea of unionists forming a political alliance with Joseph Chamberlain, who was trying to organize a radical party around a platform of "Free Church, Free Land, Free Schools, and Free Labour";[102] but shortly before the election in 1874 when there was no practical alternative except to vote Liberal or Conservative, he advised unionists to support Gladstone. "It would be suicidal blindness," he wrote, "for the workmen to suppose that the special claims of labour are likely to be advanced by substituting Mr. Disraeli for Mr. Gladstone."[103]

Positivists were not alone in considering the formation of a third party, since the Labour Representation League had talked of this since 1871.[104] At a meeting of the league's general council in 1873, R. Marsden Latham, the president, expressed concern over the status of labor law and declared that "the working classes should form a party of their own and take a distinct position as a power

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[101] Ibid., August 21, 1873, Harrison Collection.

[102] Ibid.; and J. Chamberlain to F. Harrison, September 17, 1873, Harrison Collection.

[103] Frederic Harrison, "Workmen and the Electors," Beehive, January 31, 1874. Also, see Harrison, Before the Socialists, pp. 299-301; and H. W. McCready, "The British Election of 1874: Frederic Harrison and the Liberal-Labour Dilemma," Canadian Journal of Economics and Political Science, XX (May, 1954), 170-74.

[104] Beehive, September 9, 1871.

in the State."[105] Samuel Morley, Thomas Brassey and other wealthy Liberals who financed the league were not likely to underwrite the creation of a labor party, however, and when Latham addressed the Trades Union Congress in January, 1874, he ommitted any reference to a third party and merely called for the election of a dozen workingmen to parliament.[106]

The 1870's were too early for the working class to organize a separate party, and if they had attempted to do so probably it would have failed. Workers had just received the vote. Rank and file workingmen were only gradually becoming aware that it was important to be politically involved, and even most of their leaders had little experience in politics. Labor's best chance of being heard in parliament was to pick up a few seats and build a small political base which later might become a political party.

The Parliamentary Committee had no interest at this time in starting a third party, since they were too busy trying to pass their legislative program to engage in politics. Their only political activity before 1874 was to require a pledge of support from all candidates for

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[105]Minute Book of the Labour Representation League, general council meeting, March 15, 1873, Broadhurst Collection.

[106]Trades Union Congress Reports (1874), p. 27.

parliament. The Trades Union Congresses which met in 1872 and 1873 resolved that they would back only those candidates who promised to vote for repeal of the Criminal Law Amendment Act; and the sixth congress which met at Sheffield in January, 1874, passed a similar resolution.[107] They favored the election of labor candidates, although they did nothing to help these candidates except offer moral support.[108]

Labor candidates entered four by-elections between 1869 and 1871, but in three of the races they withdrew in favor of the Liberal candidate.[109] After 1871 labor became impatient when the Liberal government refused to repeal the Criminal Law Amendment Act, and they were less reluctant to challenge the Liberals at elections. In 1873 the Liberals lost by-elections at Greenwich and Dundee when labor candidates split the Liberal-working class vote and thus enabled the Conservative candidates to win.[110] This should have been a warning to Gladstone that without working class support he would lose elections in some districts, but nevertheless it did not persuade him to enact union legislation.

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[107] Ibid., p. 18.

[108] Humphrey, A History of Labour Representation, pp. 66-73.

[109] Ibid., pp. 31-33, 36-38, 50.

[110] Webb, History of Trade Unionism, p. 289; and Harrison, Before the Socialists, p. 300.

No one anticipated another election before autumn, but Gladstone surprised the country on January 24 by dissolving parliament. Troubled by losses in by-elections and by divisions within the party he sought to unify Liberals and to gain popular support through financial reform. When his plan for abolishing the income tax after a reduction in military spending met with opposition from the secretary of state for war and the first lord of the admiralty, however, he decided to call an election. Unfortunately, there was not enough time to explain this plan to the public and win their approval.[111]

Gladstone also failed to regain the confidence of union voters, although he promised during the election that labor legislation was a subject for the next parliament to consider. When unionists went to the polls they did not switch their allegiance to the Conservatives, but neither did they vote en masse for Liberals as they had in the last election. Instead they followed the dictates of the Trades Union Congress in demanding from each candidate a pledge of support for revision of the labor laws; and they opposed and helped defeat those Liberals who refused to sign the pledge.[112] "Unless the candidates are

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[111]W. H. Maehl, "Gladstone, the Liberals, and the Election of 1874," Bulletin of the Institute of Historical Research, XXXVI (May, 1963), 53-69.

[112]Howell, Labour Legislation, II, 338; and G. D. H. Cole, British Working Class Politics, 1832-1914

pinned down to answer Yes or No," Henry Crompton cautioned, "they will wriggle out of their promises as they did after 1868."[113]

Some of the labor leaders such as George Howell, who campaigned actively for Liberals six years earlier, were now busy managing their own campaign or working for the election of friends.[114] The Liberals lost the valuable service of these men as electoral agents among the working class. Also, thirteen independent labor candidates stood for parliament, and of these two were elected. Alexander MacDonald and Thomas Burt, both miners, became the first members of the working class to sit at Westminster. Punch cleverly welcomed them as "representatives of Underground Britain, Members for the Mine."[115]

In mid-February the election ended with the Conservatives gaining fifty-six seats and a majority. The defection of many labor voters was certainly a factor in the Liberal defeat, although it was not as important as the anger of publicans and brewers over the Licensing Bill.[116]

(London: George Routledge and Sons, Ltd., 1941), pp. 72-73. See Bristol Trades Council Minutes, January 30, 1874, WTUC, Sec. B, Vol. III, for a typical list of "test questions" submitted to candidates.

[113]Henry Crompton, "The Test Question," Beehive, January 31, 1874.

[114]G. Howell to Samuel Morley, January 24, 1874, GHC; and Howell, Labour Legislation, II, 338.

[115]Graves, Mr. Punch's History, II, 88.

[116]Cole, British Working Class Politics, pp. 72-73.

Several issues were involved, and Frederic Harrison believed that the election reflected a "conservative reaction" by the middle class.[117] But whatever the reason for the outcome, the election of 1874 resulted in a new ministry headed by Disraeli, which was more sympathetic to the demands of labor than Gladstone and the Liberals, and the next year they granted the long-awaited Criminal Law Amendment Act repeal.

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[117] Frederic Harrison, "The Conservative Reaction," Fortnightly Review, XV (February, 1874), 297-309; and Frederic Harrison, Order and Progress (London: Longmans, Green and Co., 1875), p. 274.

CHAPTER VII

THE END OF THE STRUGGLE

During the election of 1874 many candidates from both political parties paid the price for working class votes and pledged support for revision of the labor laws. It appeared that unionists had an excellent opportunity to pass their program, and Sir William Harcourt urged them to take immediate action and map out their strategy before the parliamentary session.[1] One week before parliament convened, however, the new government surprised labor leaders by proposing another royal commission to study the subject of labor legislation.[2]

Disraeli and his home secretary, Richard Cross, realized that the repeal of the Criminal Law Amendment Act and the other legislation sought by labor were still controversial. If they acted too hastily and gave in to union demands immediately after the election they were certain to face sharp criticism. The appointment of a

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[1] F. Harrison to G. Howell, February 10, 1874, GHC.

[2] G. Howell to R. S. Wright, March 13, 1874, GHC; and Howell, Labour Legislation, II, 340-41.

royal commission enabled the government to postpone handling a politically sensitive issue, but unionists misunderstood the government's motives and they were alarmed by what could result from the hearings.

Frederic Harrison said it was "a bad beginning for a new Administration," and he reminded the government that a recent commission had examined every aspect of the labor question and published massive evidence which filled eleven blue books. Parliament also held an elaborate inquiry into the master and servant law during the 1860's, and the law of conspiracy was a matter which "a few competent lawyers could clear up in a week." Henry Crompton agreed that another commission was pointless and that legislation should be passed without further ado. What disturbed both of them, and also Lloyd Jones who joined in protesting the commission, was that parliament could not legislate on the labor question while hearings were underway, and this new commission would delay revision of the labor law for at least a year. Furthermore, if the commission's final report was unfavorable, it would give members of parliament an excuse to ignore their campaign pledges and thus strengthen opposition when bills were finally introduced and put to a vote.[3]

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[3]Frederic Harrison, letter to the editor, The Times (London), March 14, 1874; Frederic Harrison, "Proposed

The Parliamentary Committee strongly objected to the proposed commission. Members of the committee who lived in London met with their advisers, and then summoned the entire committee for a meeting on March 20 to discuss the situation. They passed a resolution damning the commission as "a mere excuse for delay" and a "fraud"; and they recommended that unionists ignore the hearings and refuse to give evidence.[4] After the meeting George Howell announced: "We are unanimous in our condemnation of the proposed commission and will do all in our power to render it null and void."[5]

Most labor groups backed the position taken by the Parliamentary Committee, but they were not unanimous as Howell claimed. The Labour Representation League and several large unions denounced the commission; and local trade councils at Liverpool, Bristol, Hull, Leeds, Bradford, Bolton, and Maidstone approved the Parliamentary Committee's resolution that unionists should not take part in the inquiry.[6] On the other hand, the London

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Royal Commission on the Laws Relating to Labour," Beehive, March 21, 1874; Henry Crompton, "The Proposed Royal Commission," Beehive, March 21, 1874; and Lloyd Jones, "The Royal Commission--The Blunder," Beehive, March 28, 1874.

[4]Beehive, March 28, 1874.

[5]G. Howell to H. Crompton, March 21, 1874, GHC.

[6]Minute Book of the Labour Representation League, April 10, 1874, Broadhurst Collection; and Beehive, April 4, and 18, 1874.

Trades Council agreed to support the commission, and their secretary, George Shipton, later testified. The Glasgow Trades Council adopted a similar position. Both thought the commission unnecessary, but were concerned that their refusal to co-operate might indicate that unionists were afraid of an inquiry.[7]

The most surprising development was the willingness of Alexander MacDonald and Thomas Hughes to serve as members of the commission. Hughes had represented labor on the last commission, and the home secretary asked that he and one of the two labor members of parliament, Thomas Burt or Alexander MacDonald, accept positions on this commission. Their decision to take part in the inquiry was a great embarrassment to the Parliamentary Committee, and MacDonald was forced to resign as the committee's president. In self-defense they explained that there was no time to consult with the committee since the home secretary gave them only a few hours to consider his offer, and rather than see labor unrepresented in the hearings they accepted.[8]

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[7] London Trades Council Annual Report (December, 1874), pp. 3-4; and Beehive, April 18, 1874. The Times (London), March 30, 1874, advised unionists to support the commission.

[8] "The Royal Commission on the Labour Laws and the Trades Union Congress Parliamentary Committee: A Statement of Facts as to the Composition of the Commission, with some Reasons for the Conclusions arrived at by the Committee," in Trades Union Congress Reports (1874); and Thomas Hughes, "The Royal Commission on Labour Laws," Beehive, March 21, 1874.

Sir Alexander Cockburn, the lord chief justice, headed the nine-man commission, which included three lawyers, a member of the privy council, and two veterans of the 1867-69 labor commission, Thomas Hughes and the notoriously anti-union John Arthur ("Tear 'Em") Roebuck.[9] It was a distinguished group, but they were chosen hastily and were not as well-qualified as the last commission. The Economist believed that most of the men were too old and, "on the whole . . . the Commission is not one to command the highest authority." Even the employers' journal, which approved of the commission as a means of forestalling the enactment of legislation, objected that no employers were represented.[10]

The commissioners met during May and June to collect evidence on the master and servant law, and issued their first report on the last day of July. They resumed the hearings on the Criminal Law Amendment Act and the law of conspiracy in November and December and presented a final report with their conclusions the next year. Sometimes no more than three of the nine commissioners were

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[9]Roebuck's viciousness in attacking opponents earned him the nickname of "Tear 'Em," and in 1868 when he lost his seat in parliament The Operative Bricklayers Trade Circular, No. 95 (April 1, 1869), pp. 864-65, predicted that they had heard the "last growl of 'Tear 'Em,'" but Roebuck regained his seat for Sheffield in 1874 and returned to harass the unions on the second royal commission.

[10]Economist, March 21, 1874; and Capital and Labour, March 25, 1874.

present, and they took turns presiding since the chairman was frequently absent.

It would be too harsh a judgment to say that the commission was a farce, but it was doomed to failure from the start when most prominent labor leaders refused to testify. George Shipton, John Normansell, and William Patterson were the only well-known unionists who appeared before the inquiry. George Howell declined an invitation to give evidence,[11] and the government retaliated by expelling him from the lobby of the house of commons.[12] Since he and most labor leaders boycotted the hearings, it was difficult for the commission to obtain information, and Thomas Hughes had to implore Howell: "for old acquaintance sake if you please or out of courtesy, give me copies of documents which you would not refuse probably to any decent stranger."[13]

Neither the commission nor the Parliamentary Committee expected parliament to consider trade union legislation until the commission completed their work and

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[11]Francis Bacon to G. Howell, June 4, 1874, GHC; and G. Howell to Francis Bacon, Secretary to the Royal Commission on the Labour Laws, June 10, 1874, GHC.

[12]G. Howell to Lord Charles Russell, Sergeant-at-Arms, House of Commons, June 18, 1874, GHC; and G. Howell to Inspector Denning, House of Commons, June 18, 1874, GHC.

[13]Thomas Hughes to G. Howell, March 25, 1874, GHC. Howell complied with the request, but that was all that he or any other member of the Parliamentary Committee did to assist the royal commission. See G. Howell to Thomas Hughes, March 28, 1874, GHC.

published a final report. Therefore, it came as a surprise when the chancellor of the exchequer, Sir Stafford Northcote, introduced a bill on June 13 to consolidate the law on friendly societies and trade unions.[14] This Friendly Societies Bill resulted from a three-year study of friendly societies by a commission which was headed by Northcote. When they reported in 1874, he asked their secretary, J. M. Ludlow, to prepare a bill based on the study.

It was Ludlow's idea to include trade unions as well as friendly societies in the legislation. He had criticised the royal commission 1867-69 for ignoring the similarity of the two types of societies and, viewing them as kindred organizations, he could not see why the law should deal with them separately. Ludlow was a Christian Socialist and a friend of the working class who had their best interest at heart, but he failed to appreciate the special legal privileges--such as exemption from being sued--which unions had acquired in the Trade Union Act 1871. Unfortunately, he proposed to repeal the 1871 act and to link trade unions with friendly societies without bothering to consult unionists on what they wanted.[15]

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[14]"Friendly Societies Bill 1874," Great Britain, Parliamentary Papers, 1874, II, 153-94.

[15]Masterman, J. M. Ludlow, pp. 222-25; and J. M. Ludlow, "Old Guilds and New Friendly and Trade Societies," Fortnightly Review, VI (October, 1869), 390-406.

Even George Howell had no foreknowledge of the Friendly Societies Bill. Part of his job as secretary to the Parliamentary Committee was to examine and report on all bills relating to the working class, and yet he was as surprised as anyone when Northcote submitted the bill. Immediately Howell wrote three of his friends in parliament and dashed off letters to The Times and Daily News protesting the proposal to repeal the Trade Union Act 1871. Also, he asked Henry Crompton to study the long and complicated bill and render an opinion.[16]

Crompton advised unionists that no one could predict the result of combining unions and friendly societies in the same legislation, but he warned that they might encounter problems. Whereas their present legal position was clear and understood, it would be less clear and perhaps uncertain under the new bill. The bill did re-enact the most important parts of the Trade Union Act 1871, however, and in some sections was an improvement.[17]

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[16]G. Howell to Henry James, June 13, 1874, GHC; G. Howell to William Harcourt, June 13, 1874, GHC; G. Howell to A. J. Mundella, June 14, 1874, GHC; G. Howell, letter to the editor, The Times (London), June 15, 1874; G. Howell, letter to the editor, Daily News, June 13, 1874, Letter Books, GHC; and Howell, Labour Legislation, II, 352.

[17]Henry Crompton, "The Friendly Societies Act," Beehive, June 27, 1874. The Parliamentary Committee later published a brief analysis of the bill. See "Friendly Societies Bill: Proposed Repeal of the Trade Union Act, 1871," in Trades Union Congress Reports (January, 1875). The congress met twice in 1875: at Liverpool in January, and at Glasgow in October.

After the government acceded to union demands and amended the Friendly Societies Bill to exclude trade unions, unionists ceased to oppose the bill and it passed the following year. The Parliamentary Committee was interested in the provisions of the original bill which Crompton described as an improvement on the Trade Union Act, however, and they decided to ask the government for a separate bill granting these concessions.[18]

On November 18 the Parliamentary Committee presented a petition to Sir Stafford Northcote requesting some minor amendments to the Trade Union Act: unions should be permitted to invest their money in land without being limited to only one acre; the branches of a trade society should not be considered individual unions; one registration should be sufficient for a union with branches in Scotland and Ireland; unions should be empowered to replace trustees and to bring legal action against dishonest officials at the place where they committed an offense and not merely at the location of the central office. Northcote was sympathetic and, also, impressed by the cleverness of union strategy. Unionists had persuaded the government to exclude them from the original bill, and now they wanted the benefits which they would have received without the disadvantages of being linked to friendly societies. He mentioned the difficulties of legislating for various types

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[18] *Beehive*, September 26, 1874.

of working class societies without favoring one over the other, but promised that the government would do the best it could to grant their requests.[19]

Northcote's attitude typified the Conservative government at this time, for Disraeli and his cabinet were eager to conciliate labor. In the summer of 1874 they passed a factory act reducing hours of labor for women and children, and the first legislation they introduced in 1875 was a bill to improve housing for the working class.[20] Furthermore, they showed more concern for the interest of organized labor than the Liberals had during their last three years in office; and although Disraeli's appointment of a royal commission displeased unionists, it was a matter of political expediency. Even George Howell later admitted that "our condemnation [of the commission] was too severe."[21]

The commission finished its work by the end of the year, and in February issued a report prepared by the chairman. Their recommendations on the master and servant law were that simple cases of breach of contract should not be regarded as criminal, and in more serious cases the

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[19]The Trade Union Act, 34 & 35 Vict., Cap. 31, A Memorial to the Right Honourable Sir Stafford Northcote, M.P. (London: Trades Union Congress Parliamentary Committee, 1874); and The Times (London), November 19, 1874.

[20]Annual Register, CXVI (1874), 62-63; and ibid., CXVII (1875), 43.

[21]Howell, Labour Legislation, II, 346.

defendant should be given the option of trial by jury.[22] This option should also apply to cases tried under the Criminal Law Amendment Act, but other than this slight change they wanted the law retained as it was. Thirdly, they suggested a small modification in the law of conspiracy which would limit the number of prosecutions. Only Alexander MacDonald dissented from the majority opinion. He favored repealing section fourteen of the Master and Servant Act 1867, total repeal of the Criminal Law Amendment Act and, he added, the question of conspiracy could be settled by enacting the bill presented by Harcourt in 1873.[23]

Unionists learned from MacDonald what they might expect in the commission report, and as soon as it was published they were prepared to take issue with the commissioners' conclusions. Henry Crompton helped MacDonald with the minority report, and then wrote a lengthy and highly critical analysis of the majority report accusing

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[22]Sections four through nine of the Master and Servant Act 1867 provided minor penalties for "simple" breach of contract; whereas section fourteen imposed up to three months imprisonment for "aggravated" breach of contract. In both instances the cases were usually tried by justices of the peace or police magistrates and not by a jury.

[23]Great Britain, Parliament, House of Commons, Parliamentary Papers, "Second and Final Report of the Commissioners Appointed to Inquire into the Working of the Master and Servant Act, 1867, the Criminal Law Amendment Act, 34 & 35 Vict. C. 32, and for other purposes," 1875, XXX, 31-33.

the commissioners of being ignorant of trade union law.[24] Howell sent copies to members of the government and house of commons, and to newspapers and trade unions; he wrote his friends in parliament asking them to be ready to question the commissioners' report; and he went almost daily to parliament to lobby for legislation.[25] Weeks passed and the government revealed nothing of their plans. Finally, in late April, the Parliamentary Committee petitioned the home office and were told that the government would introduce bills that session, but could not disclose the nature of the legislation.[26]

On June 10 the government kept its word and brought in two bills to reform the labor laws. The Employers and Workmen Bill dealt with matters under the jurisdiction of the civil courts, and the Conspiracy and Protection of Property Bill proposed changes in the criminal law. By his erudite presentation of the bills the home secretary

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[24]Henry Crompton, The Labour Laws Commission (London: Trades Union Congress Parliamentary Committee, 1875); and G. Howell's handwritten "Memoranda" on his personal copy of ibid., GHC. Also, see The Times (London), February 23, 1875, for their analysis of the report.

[25]G. Howell to William Harcourt, January 30, 1875, GHC; G. Howell to Henry James, January 30, 1875, GHC; G. Howell to A. J. Mundella, January 30, 1875, GHC; and Howell, Labour Legislation, II, 366-67. The Labour Representation League joined the Parliamentary Committee in protesting the commission report. See Minute Book of the Labour Representation League, April 30, 1875, Broadhurst Collection.

[26]Beehive, May 1, 1875.

displayed a complete mastery of the subject; and he showed great sympathy for union grievances by granting considerably more than the recommendations of the royal commission.[27] "In the long run," observed Thomas Burt, "the Report of the Royal Commission on the Labour Laws was treated as if the Commission had never sat; and Mr. Cross, the Home Secretary, so far from resisting trade unions, gave way, after much pressure and postponement, to the most important of the trade-unionist demands."[28]

The Parliamentary Committee was pleased that the government had conceded more than they expected, and they praised the home secretary's speech, but expressed disappointment that he did not propose repeal of the Criminal Law Amendment Act. They supported the bills, however, and urged their friends in parliament to suggest amendments which would improve the legislation.[29]

Several prominent Liberals discussed the situation and agreed that Robert Lowe should be their spokesman. When the bills went to committee Lowe proposed that the

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[27]Great Britain, 3 Hansard's Parliamentary Debates, CCXXIV (1875), 1668-1690.

[28]Thomas Burt, Thomas Burt: An Autobiography (London: T. Fisher Unwin, 1924), p. 258.

[29]"The Trades Union Congress Parliamentary Committee Report, 1875," in Trades Union Congress Reports (October, 1875). See the Beehive and The Times (London), June through August, 1875, for numerous articles on the legislation as it moved through various stages in parliament. Also, see the Economist, June 26 and July 17, 1875.

Conspiracy and Protection of Property Bill amend the Criminal Law Amendment Act by substituting the word "person" for the word "workman."[30] This seemingly minor change was eagerly sought by unionists since it would broaden the scope of the law by making criminal offenses in the act apply to all people and not just to workers. One of their main grievances had been that the act was special legislation which discriminated against them by making certain actions criminal when committed by a worker and not criminal when committed by someone else.

Another of their complaints involved the use of the term "coercion." The offenses listed by the act were deemed criminal when committed "with a view to coerce." Judges were often confused by the vagueness of this phrase, and one magistrate had spent a week consulting his law books before he returned a ruling.[31] Therefore, Lowe's amendment proposed to substitute "with a view seriously to annoy or intimidate" for "with a view to coerce."[32]

Cross was too good a politician to let his shadow on the opposition bench take credit for such important changes in a government bill. He countered with an

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[30]Great Britain, 3 Hansard's Parliamentary Debates, CCXXV (1875), 1341-1361.

[31]Henry Crompton, "The Trial of the Cabinetmakers," Beehive, March 6, 1875.

[32]Great Britain, 3 Hansard's Parliamentary Debates, CCXXV (1875), 1341-1361.

amendment of his own which called for total repeal of the Criminal Law Amendment Act; the substitution of new words for the old phrase on coercion; and the application of the law to all persons.[33] Most of his proposals were similar to Lowe's, but on the whole it was a better amendment and parliament approved. With support from leaders in both parties the two bills passed a third reading without opposition.

The Employer and Workmen Act replaced the Master and Servant Act 1867, a change in title which indicated the new status parliament accorded workmen. By this act breach of contract became a civil rather than a criminal offense. Failure to fulfill a contract could lead to a civil suit for payment of damages, but criminal penalties such as imprisonment or fine were abolished.[34]

The second act deserves more attention. Despite its rather foreboding title, the Conspiracy and Protection of Property Act was a benevolent measure which repealed the hated Criminal Law Amendment Act and effected other legal changes for which unionists had long contended. The most important change was in the law of conspiracy, generally defined as a combination of two or more persons to commit a crime, or to do something legal by illegal means.

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[33] Ibid., pp. 1579-1589.

[34] "Employers and Workmen Act 1875," 38 & 39 Vict. c. 90.

The Trade Union Act 1871 intended to remove the taint of conspiracy from unionism by stating that unions were not to be considered conspiracies because they restrained trade. Nevertheless, judges sometimes ruled that trade action such as a strike, which might be perfectly legal, was calculated to coerce the employer and hence involved illegal means to do a legal thing. It was this kind of twisting of the law which convicted the gas stokers of conspiracy in 1872, when they were guilty of no more than breach of contract. The Conspiracy and Protection of Property Act closed those loopholes left in the law of conspiracy after 1871 by declaring that action taken to promote a trade dispute was not punishable just because it was done by more than one person. Hereafter, the law of conspiracy to commit a crime carried no greater penalty than actually committing the crime.

Also, the new law described two instances where breach of contract was still a criminal violation: when gas and water workers suddenly left work and deprived a community of basic utilities then they could be prosecuted for a criminal offense, and so could workers who "wilfully and maliciously" left work knowing that their action could endanger life or result in serious injury to valuable property.

The seventh section replaced the Criminal Law Amendment Act by re-enacting most of the prohibitions

against violence and intimidation, but it omitted all references to "coercion" and "molestation," and became part of the general criminal law which applied to everyone and not just to workmen. Furthermore, the defendant could request trial by jury as an option to trial by magistrate or justice of the peace.[35]

Another important feature of this act was that it restored the unions' right to picket, which had been legalized in 1859 and then banned by the Criminal Law Amendment Act in 1871. Strikes were often ineffective without pickets, but the courts were so zealous in their prosecution that the Beehive warned workers to avoid picketing unless it was absolutely necessary.[36] In 1875 when parliament authorized strikers "to obtain or communicate information," they intended to sanction all peaceful picketing, and they rejected as unnecessary an amendment

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[35]"Conspiracy and Protection of Property Act 1875," 38 & 39 Vict. c. 86. The best and most complete commentary on the labor laws of 1875 is Henry Crompton, "Digest of the Labour Laws," pp. 189-98, in Howell, A Handy-Book of the Labour Laws. Frederic Harrison and the Parliamentary Committee approved the digest, and it was the official statement of the Trades Union Congress. Also, see Citrine, Trade Union Law, pp. 13-15; A. V. Dicey, Lectures on the Relation between Law and Public Opinion during the Nineteenth Century (London: Macmillan and Co., 1924), pp. 270-72; George Howell, The Labour Laws: An Address on the Employers and Workmen Act, 1875, and the Conspiracy and Protection of Property Act, 1875 (London: Coningham Bros., 1876); and W. A. Hunter, "Mr. Cross's Labour Bills," Fortnightly Review, XVIII (August, 1875), 217-27.

[36]Beehive, May 15, 1875.

to add "peaceful persuasion."[37] Employers refused to accept picketing in any form, however, maintaining that it placed them under siege and in most cases led to violence;[38] and with help from the courts they managed to circumvent the intention of the act by prosecuting strikers who exceeded the narrow limitation of getting or giving information and tried to persuade other workers to join in the strike.[39]

It is interesting that employers did not exert a greater effort to keep the bills from being enacted. When the National Federation of Associated Employers of Labour held their first annual meeting in April, they resolved that they would urge the government to maintain existing labor laws.[40] After the labor bills were introduced in June, however, employers decided against organizing a drive to defeat the legislation, and they seldom participated during the debates in parliament. They were disappointed to find so many members of parliament "currying favor" with the workmen,[41] but since both political

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[37]Great Britain, 3 Hansard's Parliamentary Debates, CCXXVI (1875), 715.

[38]"Picketing Illegal," Capital and Labour, May 19, 1875; and "Picketing," ibid., November 3, 1875.

[39]Citrine, Trade Union Law, p. 15.

[40]Capital and Labour, March 3, 1875.

[41]Ibid., June 30, 1875.

parties supported the measures any effort to block passage would have been futile. The employers' association had Dr. Aubrey, editor of Capital and Labour, act as its lobbyist to counter the influence of Howell and the Parliamentary Committee, but after the two labor bills passed parliament Aubrey accepted defeat graciously and was the first to congratulate Howell.[42] Some of the wealthier employers, including Sir George Elliot, who hired more workers than anyone in England, actually approved of the legislation and believed that it would satisfy workmen and end their agitation.[43]

The government considered the legislation a political triumph, and with good reason, for it was one of their most successful social reforms. The two acts placated the working class without costing the treasury a farthing; and by granting what Gladstone had refused, Disraeli hoped to win the workmen's gratitude and wean them from their attachment to the Liberal party.[44]

At least one historian has questioned Disraeli's commitment to working class legislation, and suggests that

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[42]Howell, "Autobiography," Vol. V, GHC.

[43]B. Disraeli to Queen Victoria, July 17, 1875, Queen Victoria, The Letters of Queen Victoria, ed. by George Earle Buckle (3 vols.; New York: Longmans, Green and Co., 1926), Vol. II, 1870-1878, p. 414. Two employers spoke in favor of the bills during the parliamentary debates.

[44]Robert Blake, Disraeli (New York: St. Martin's Press, 1967), pp. 554-55.

he had little to do with initiating either the Reform Bill of 1867 or the labor laws of 1875.[45] It is true that the home secretary, Richard Cross, was primarily responsible for presenting the labor bills in 1875, but the prime minister played a key role in having them adopted. Disraeli had been studying the labor question for the past two years, and he supported Cross when the rest of the cabinet opposed the legislation as going too far.[46] Furthermore, he thought the labor laws so significant that he wrote the queen that all the "long-envenomed disputes" between employer and workmen were settled; and he described this legislation as "the most important of the class that has been carried in your Majesty's long and eventful reign."[47]

The next year parliament passed a short act which corrected some minor defects in the Trade Union Act 1871, including most of the changes unionists requested when they

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[45] James Cornford, "The Transformation of Conservatism in the Late Nineteenth Century," Victorian Studies, VII (September, 1963), 43-44.

[46] Disraeli's biographers emphasize his strong interest in the labor laws. See Blake, Disraeli, p. 555; and William Flavelle Monypenny and George Earle Buckle, The Life of Benjamin Disraeli (6 vols.; London: John Murray, 1920), Vol. V, 1868-1876, p. 371.

[47] B. Disraeli to Queen Victoria, June 29, 1875, in Monypenny and Buckle, Disraeli, V, 372. The queen replied that she was pleased by the favorable reception of the labor acts. See Sir Thomas Biddulph to B. Disraeli, July 1, 1875, Victoria, Letters, II, 411. Biddulph was "keeper of the queen's privy purse."

petitioned Sir Stafford Northcote. The 1871 act granted certain benefits to unions which previously had been unlawful because they restrained trade. Later it was discovered that a few trade societies could not claim the benefits of the act because their rules were not in restraint of trade, and paradoxically they did not fit within the precise definition of a trade union! The Trade Union Act Amendment Act 1876 extended the legal definition of a trade union to include such societies. Also, the act permitted a union to change its name, facilitated amalgamation, provided for the dissolution of a union, and dealt with a number of relatively unimportant matters.[48]

The labor legislation passed in 1875 and 1876 marked the end of a long and sometimes bitter struggle which began in 1867. It secured virtually all the unions' demands concerning their legal status. George Howell, who was primarily responsible for the last phase of the struggle, considered his mission accomplished and resigned as secretary of the Parliamentary Committee in September, 1875.[49] When the Trades Union Congress met the following month the chairman of the committee announced that finally workingmen were "free . . . of the last remnant of bondage."[50]

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[48]"Trade Union Act Amendment Act 1876," 39 & 40 Vict. c. 22.

[49]G. Howell to Robert Knight, September 29, 1875, GHC.

[50]Trades Union Congress Reports (October, 1875), p. 3.

Unionists could look with satisfaction on what they had accomplished. Workingmen had come a long way since 1867 when there was no protection for funds, no legal rights for unionism, and when a mere scowl at a non-unionist could lead to imprisonment for intimidation. The four labor acts of the 1870's were a fair and just settlement of the union's legal problems, and collectively they represent a charter of trade union rights.

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