1954

The repeal of the Combination Acts 1824-1825

William Frank Shawl
The University of Montana

THE REPEAL OF THE COMBINATION ACTS 1824-1825

by

WILLIAM FRANK SHAWL

B. A. Eastern Washington College of Education, 1952

Presented in partial fulfillment of the requirements for the degree of

Master of Arts

MONTANA STATE UNIVERSITY

1954

Approved by:

W. C. Cunningham
Chairman, Board of Examiners

Gordon B. Castle
Dean, Graduate School

May 19 1954
Date

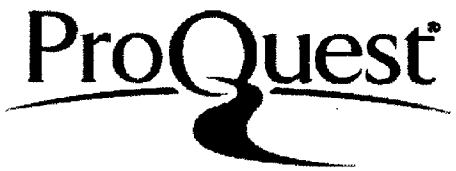

TABLE OF CONTENTS

ACKNOWLEDGMENTS

The author is especially indebted to Professor Melvin C. Wren for his generous assistance and constant guidance throughout the entire work. To Miss M. Catherine White he is deeply indebted for her aid in securing the materials upon which this work is based.

W. F. S.

CHAPTER I

The Evolution of the Law of Conspiracy.

The evolution of the laws of conspiracy had a very definite bearing upon the development of the various laws relating to the combination of workmen which were passed by Parliament in the closing years of the eighteenth century. An examination of the ancient laws of conspiracy, then, may throw some light upon the Combination Acts themselves.

The date at which the doctrine of conspiracy originated in English law is somewhat in doubt. The first definite and reliable information regarding the conception of conspiracy in English law is found in ordinances and statutes passed during the reign of Edward I, a fact which has led some authorities to believe that the crime of conspiracy was created by these enactments. Others are equally emphatic in claiming for the offense a common law origin antedating these statutes.[1]

The Edwardian statutes bear internal evidence that they are intended to deal with an offense not entirely

---

[1] James W. Bryan, "The Development of the English Law of Conspiracy", The Johns Hopkins University Studies in Historical and Political Science, series XXVII (Baltimore, 1909), p.9.

unknown to the law. Not until the third of these statutes is there any attempt made to define conspiracy. But the fact is clear that the law had recognized the dangers of conspiracy at an early date.[2] Present day scholars, however, are cautious about assuming any precise definition of the matter before the fourteenth century. "While claiming for conspiracy an origin in extra-statutory law, however, we must be careful to avoid the common error of holding that the ancient law had developed a conception of the offense in any degree as advanced as that which we have today. The modern law upon the subject is the result of a painful course of evolution lasting many centuries. It has been gradually worked out by the interaction of statutory enactment with judicial elaboration, guided by the circumstances of its history."[3] Here, then, is an admission that the Edwardian statutes could have arisen only from the common law.

During many of the years between the Norman Conquest and the accession of Edward I crime was extremely prevalent throughout England. Civil war was commonplace. Consequently the civil authorities had to put forth their utmost effort

---

[2] Ibid, p.11. Noteworthy is the absence of any but a single statement in the ancient writing that conspiracy originated in these statutes. On the other hand, references by counsel, court and commentator to the common law origin of the offense, in the later Yearbooks and in the later authorities, are numerous.

[3] Ibid, p.11.

to punish the crimes actually perpetrated. Under conditions such as these little could be done by way of punishing mere agreements to commit crimes. Supremacy of the law and stern punishment for crime had to be firmly established before thought could be given to any attempts at prevention of crime.

The first of the Edwardian statutes, usually referred to as the Ordinance of Conspirators, was passed in 1293 (21 Edward I). It provided civil action in the royal courts for damages caused by the acts of unlawful combinations of malefactors. The second of the statutes dealing with conspiracy was the Articuli Super Chartas (28 Edward I, Stat. 3, c.10) passed in 1300. This act was intended to improve the remedy previously established by permitting actions on conspiracy to be begun without writs. However, there is nothing to show that the new procedure was ever followed at all. The third and most important of the Edwardian statutes was the famous Definition of Conspirators.[4]

The Definition of Conspirators (33 Edward I, Stat.2), passed in 1304, was intended to be a codification of the existing law--to spell out the entire law of conspiracy as it was then understood. It was to make clear and certain

---

[4]Ibid, pp.17-18.

the already existing principles of the common law against conspiracies, and to institute and augment the judicial machinery through which that law was to be administered. This famous statute, which acted as the basis for the law for many years after its passage, read in part:

> Conspirators be they that do confeder or bind themselves by oath, covenant or other alliance that every of them shall aid and support the enterprise of each other falsely and maliciously to indite, or cause to be indited, or falsely to acquit people, or falsely to move or maintain pleas; and also such as cause children within age to appeal men of felony, whereby they are imprisoned and sore grieved; and such as retain men in the country with liveries or fees to maintain their malicious enterprises and to supress the truth; and this extendeth as well to the takers as to the givers. And stewards and bailiffs of great lords, which by their seignatory, office or power undertake to bear or maintain quarrels, pleas or debates for other matters than such as touch the estate of their lords or themselves. . . and it is further ordained, that justices assigned to the hearing and determination of felonies and trespasses should have the transcript thereof.[5]

The terms of this statute were confined almost exclusively to combinations to pervert justice, particularly by false and malicious accusations. It was in this statute that the economist Jevons discovered the genesis of the Combination Acts. "The Combination Acts begin with that quaint Act of 33 Edward I (the definition of Conspirators)."[6]

---

[5] Ibid., pp. 17-18.

[6] W. Stanley Jevons, The State in Relation to Labour, (London, 1894), p.113.

The courts trying cases under this statute made it clear that not the conspiracy, but damages arising from the malice of the defendant, must be established in order to convict. Thus the statute was interpreted as being aimed at civil remedy for conspiracy. During this period of the dominance of civil action against conspiracy almost no combinations were included within the offense except combinations to enter false accusations of capital crimes.

The change in the principle regarding combination came from the Court of Star Chamber. At the beginning of the seventeenth century this court found in several cases that an unexecuted conspiracy is criminal in itself. The enlargement of the classification of unlawful combinations extended in the direction of agreements to effect acts that are directly harmful to the public welfare. Under this classification came agreements to hinder the administration of justice, to defraud the government, to defame and extort money by blackmail and finally to conspiracies among merchants to raise prices or among workmen to raise their wages or improve the conditions of their work. These conspiracies among the merchants or workmen were classified as conspiracies to injure the public welfare.[7]

---

[7]Bryan, pp. 55-74.

When making a conspiracy the gist of the crime in a civil action, one great fallacy becomes quite evident. The purpose of the civil suit is to repay the plaintiff for his material loss resulting from legally actionable injury inflicted upon him. However, the plaintiff must have suffered actual damage from the very acts constituting the legal wrong. In other words, the person against whom the combination is directed may not suffer any loss until the acts planned against him are actually performed. To make good a damage suit then, the acts done and not the conspiracy to do them should be regarded as the essence of the crime.[8]

Studies dealing with the theoretical basis of the criminality of conspiracy are few in number. However, Bryan has deduced that the act of conspiracy was considered of an "odious nature", and that the courts felt that the reasons for punishing conspiracy were too obvious to require any explanation. Evidence of this sort of reasoning is seen in the accepted principle that what may be lawful for a single individual to do may be

---

[8] Ibid., p.88. See also, Sir William Holdsworth, Holdsworth's History of English Law, (Boston, 1932), vol. 8, pp. 392-393 for a more detailed discussion of civil action in conspiracy.

unlawful if done by a combination. In the civil courts it became general practice to regard proof of damage suffered by the plaintiff as a prerequisite to liability for conspiracy. At first this same view was adopted also by the criminal courts. The reason given for the punishment of an unexecuted conspiracy was that such punishment tended to prevent crime and needless injury to innocent third parties. In most cases the combination was considered as an element in the offense or as a matter of aggravation, with emphasis being on the actual acts committed. It was not until the nineteenth century that any attempt was made to justify the punishment of a bare agreement to commit an unlawful act.[9]

Complete separation between the conspiracy and the act, with respect to their criminality, took place near the close of the reign of George III. In the leading decision of Rex vs. Gill in 1818, the court declared that since the combination is the gist of the offense of conspiracy, all that need be charged in an indictment is a combination for an illegal purpose. The overt acts performed would serve merely as evidence to prove the conspiracy. However, this was found to work hardship upon those persons accused of

---

[9]Bryan, p. 79.

conspiracy. Because of this, the practice arose of requiring the prosecuting attorneys to furnish bills of particulars in conspiracy cases if the defendants so desired or requested. These bills were to give the particulars and more specific information in respect to the charges to be repelled.[10]

The punishment dealt out to those convicted of conspiracy varied from court to court. In the civil courts the penalty usually included damages to the plaintiff, a fine to the king, and imprisonment of the conspirators. The criminal courts were not so lenient. At various times convicted conspirators were fined, whipped, pilloried, branded, or mutilated. However, fine and imprisonment were the usual punishments alloted at the Court of King's Bench.[11]

Thus far there has been little mention of the combinations of laborers and how they were treated under the laws. In this early period there were a number of repressive acts passed against combinations of journeymen. However, they were not drafted as such, but in the name of regulation of industry. In these earlier acts the prohibition of combination was in all cases incidental to the regulation of

---

[10] Ibid., p. 82

[11] Ibid., p. 80.

industry.[12]

Perhaps the most famous and far reaching of these acts was the Elizabethan Statute of Laborers (5 Eliz., c.4), or Statute of Apprentices as it is popularly called. This ordinance said absolutely nothing about combinations of laborers. Passed in 1562, the statute was a consolidation of existing labor laws, retaining and elaborating most of the provisions of the earlier statutes on the subject.[13] It provided that Justices of the Peace were to fix and revise wages from time to time, and made punishable the giving or taking of more than the prescribed rate. A new feature of this statute was the careful regulation of apprenticeship. The act marked the highest point attained by state regulation of labor in England.[14]

Elizabethan England assumed that it was the duty of Parliament and the law courts to regulate the conditions

---

[12] E. Lipson, Economic History of England, (London,1929), vol. 3, p. 348. Complaints by employers that journeymen extorted excessive wages became frequent after the Black Death, and the demand of the workmen for higher wages coincided with the rise in the cost of living, though it was partly inspired by a desire to share in the material prosperity of the agricultural laborers.

[13] William L. Mathieson, England in Transition 1789-1832, (London, 1920), p. 75. See also, Anonymous, "On Combinations of Trades", (London, 1831), p. 8 for the view that the Elizabethan statute permitted the achievement of English commercial greatness in the seventeenth and eighteenth centuries with "less suffering and discontent, on the part of the labouring classes, than any other age or state of society has known."

[14] Bryan, p. 116.

of labor. Neither combinations nor individuals were going to be allowed to interfere in disputes for which a legal remedy was provided. Although combinations to interfere with these statutory aims were obviously illegal, and expressly prohibited, it was incidental that combinations formed to promote the objects of the legislation were not regarded as unlawful, regardless of their objectionability to the employers. Thus the earliest type of combination of journeymen--the society to enforce the law--seems to have been accepted as permissible. Although it is very probable that such associations came technically within the definition of combination and conspiracy, either under common law or the early statutes, there is no record of any case in which they were indicted as illegal. Probably one reason for the immunity of these combinations to enforce the law was that they included employers and sympathizers from all ranks of society.[15]

However, the laborers themselves were not pleased with this policy of strict regulation as set down in the Statute of Apprentices. Attempts made by them to advance their own interests in spite of the law soon resulted in purely journeymen's organizations. These combinations of

---

[15] Sidney and Beatrice Webb, The History of Trade Unionism, (London, 1907), pp. 58-59.

journeymen stood from the first on a different footing. All journeymen's combinations to regulate the conditions of their work were considered by the judges to be "in restraint of trade" and illegal under common law doctrine. Any combination to resist the regulation of the conditions of labor by the Justices of the Peace was considered to be in the nature of a rebellion and punished accordingly.[16]

Whether the Statute of Apprentices was or was not advantageous to the laboring class of that age is a somewhat debatable question. Bryan suggests that;

> codifying and enacting as it did the fundamental principles of the medieval social order, (establishing a regulating authority to perform the services of the old Craft Gilds), we can scarcely be surprised that its adoption by Parliament confirmed the working man in the once universal belief in the essential justice and good policy of securing by appropriate legislation 'the getting of a competent livlihood' by all those concerned in the trade.[17]

This medieval regulation acted not only in restraint of free competition in the labor market to the loss of the employers, but also in restriction of free contract to the loss of the employees who could obtain better terms for their labor by collective rather than individual bargaining. Thus, the workers, if they had clearly understood the situation, would have been as anxious at this time to abolish the laws

---

16 Bryan, p. 117.

17 Webb, p. 42.

against combinations as they were to uphold those fixing wages and limiting apprenticeship. The employers, better informed, were no less determined in maintaining the anti-combination laws than they were in repealing those in regard to fixed wages and other conditions of employment. The workers were slow to realize their position despite the fact that the laws against combinations of workmen were maintained in force and even increased in severity.

During the eighteenth century the common law had been brought to the aid of the special statutes, and the judges were ruling that any conspiracy to do an act which they considered as unlawful in combination, even if not criminal in an individual, was against common law. The judges tended increasingly to regard all workmen's combinations as criminal conspiracies under the common law. These prohibitions, however, were not often invoked against purely local "trade clubs" of skilled workmen.[18] Some combinations of journeymen were at all times recognized by the law, while others were only spasmodically interfered with.

In the early part of the eighteenth century, workmen's combinations were such a novelty that neither the employers nor the authorities thought of resorting to the existing

---

[18] G.D.H. Cole, Short History of the British Working Class Movement, (London, 1925-27), p. 36.

laws against them. They turned not to the law courts, but to Parliament for protection. From the beginning of the century, Parliament was perpetually enacting statutes forbidding combinations in particular trades. It has been estimated that by the end of the eighteenth century there existed more than forty acts of Parliament to prevent workers from combining.[19]

The first of the notable eighteenth century statutes against combinations among laborers was 7 George I, Stat. I, c. 13 passed in 1720, directed against combinations among the journeymen tailors. Statute 12 George I, c. 34 passed in 1725 was against the wollen manufacturers. Act 22 George II, c. 27, sec. 12 of 1749 extended the operation of this act to the journeymen dyers, hot pressers and all others engaged in the manufacture of woolens, also to workmen employed in the making of felts and hats, fur, iron, leather, mohair, fustian, and various textiles. In 1777 the Act of 17 George III c. 55 was more specifically directed against the organization and meeting of societies and clubs of persons working at the manufacture of hats. By the Act of 36 George III, c. 111 passed in 1796, provisions similar to those of the foregoing series were extended to workmen of the paper trade.[20]

---

[19] A. Aspinall, The Early English Trade Unions, (London, 1949), p. 1.

These are just some of the more important statutes that were passed to prevent specific combinations.

The last quarter of the eighteenth century saw a revolutionary change in the industrial policy of Parliament. The House of Commons exchanged its old policy of medieval protection for one of "administrative nihilism". The legislature decided upon a strict laissez faire policy with regard to fixing wages and conditions of employment. With this change in policy comes the enactment of the Combination Acts of 1799 and 1800.[21]

---

[21] By way of analogy it is interesting to note that there are six criminal conspiracy cases on record in the United States against the shoemakers. These prosecutions were conducted under the English common-law doctrine of criminal conspiracy. There was a heated political controversey over whether the English common law applied in this country carried on between the Federalists who said it did and the Democratic Republicans who maintained that it did not apply. See John R. Commons, History of Labor in the United States, (New York, 1918), pp. 138-147.

CHAPTER II

The Combination Acts of 1799 and 1800.

With Parliament's conversion to a laissez faire policy, all protection of labor conditions by the government was withdrawn. It might therefore be expected that now labor's claim to protect itself by resorting to combination would be recognized. But two new influences arose to defeat this claim. Adam Smith's Wealth of Nations, which appeared in 1776, preached to employers and legislators alike the doctrine, which when it suited their purpose they were only too ready to accept, that industry is its own best regulator when left free to adapt itself to the interaction of demand and supply. And after 1792 trade unionism, in common with all other popular movements, was suspect as an evidence of revolutionary spirit.[1]

Under the influence of this growing economic individualism, fostered by the development of capitalism, the state began to assume a different attitude toward labor problems, particularly those relating to wages, unemployment and technical training, with the result that industrial legislation of the past was allowed gradually to fall into

---

[1] Mathieson, p. 76.

disuse. This change of public policy to one of laissez faire was one of the stimulants to the rise of trade unionism. Another factor was the increasing difficulty of obtaining mastership in a craft.[2]

The disturbed state of the country at this time may help to account for the government's attitude. The members of the ministry were clearly afraid of the workmen's combining for political as well as economic purposes. The Anti - Combination Acts were passed during the period of the dominance of "Old Tory reaction", but even at that time the new school of individualism was issuing its challenge to the reactionary and oppressive doctrines of the older school.[3]

There are two tendencies in eighteenth century law-making technique which bear directly on the Act of 1799. By the first, an interested party petitioned Parliament to enact a private bill for relief of a personal grievance. By

---

[2] Lipson, vol. 3, p. 386.

[3] The reactionary character of this period increased rather than diminished as the century advanced. "Laws passed during this period, (1800-1830) and especially during the latter part thereof, assumed a deliberately reactionary form, and were aimed at the suppression of sedition, of Jacobinism, of agitation, or reform. However the true characteristic of the time was the prevalence of quiescence or stagnation." See, A.V. Dicey, Lectures on the Relation Between Law and Public Opinion in England During the Nineteenth Century, (London, 1905), p. 63.

the second, Parliament passed an extension of summary proceedings before magistrates as a substitute for, or alternative to, prosecutions on indictment at the quarter sessions or assizes. Thus in addition to the common law and general statutes, many acts were procured by particular trades to punish such things as the embezzlement of materials, the destruction of work, and combinations of workmen. The object of the summary proceedings was to avoid the delays and expense which led to reluctance to prosecute and to avoid imprisonment, sometimes lengthy, where bail was not forthcoming.[4]

Why Parliament should have taken such drastic action as the Act of 1799 entailed is not clear. Webb believes that Parliament was prompted to take the step by the marked increase of trade unionism among the textile workers of Yorkshire and Lancashire. Hammond supports this view, noting particularly a published address sent to the Home Office on May 27, 1799, by the newly formed association of journeymen weavers. As this address shows the feelings of the journeymen, it is worth quoting at some length. "The present existing Laws that should protect (journeymen) Weavers, etc. from imposition, being trampled under foot,

---

[4] M. Dorthy George, "The Combination Laws," Economic History, vol. 4, 2 April, 1936, p. 173. Hereafter refered to as George, "Combination Laws."

for want of union amongst them, they are come to a determination to support each other in their just and legal rights, and to apply to the Legislature of the country for such further regulations, as it may in its wisdom deem fit to make, when the real state of the cotton manufactory shall have been laid before it." The journeymen in this address refer to the "mutual interest of both employers and employed" and they ask the legislators for a "candid consideration of how every necessary of life has increased in price, while the price of labor has undergone a continual decrease." They further upbraid their opposition: "And ye who are our enemies, do you not blush to here these facts repeated--Great Britain holding the reins of universal commerce, is it not shameful that her sons should be thus imposed on?--are you affraid that we should approach Government, and there tell the truth?--that ye use the mean artifice of stigmatizing us with the name of Jacobins, that ye raise your rumors of plots, riots, etc." They further disclaim all connection with any attempts to undermine the government. Fearing that they might be misunderstood on this point, they declare that the "late law on meetings (probably the Seditious Meetings Act, 36 George III, c.8) appears to us to be only intended as a bridle to that wild democratical fury that leads nations into the vortex of anarchy, confusion,

and bloodshed."[5] Both George and Aspinall admit the importance of the weavers' address, but point to the petition of the master millwrights of London as probably more influential in precipitating Parliamentary action. The London millwrights petitioned Parliament in 1799 for a bill which would make combination in their trade a summary offence. They complained that their business had been brought to a standstill by combinations, and that the men acted with impunity, since "the only method of punishing such delinquents . . . is by preferring an indictment at the next sessions or assizes after the commission of the offense, but before that the offenders frequently remove."[6] However earlier writers disagree on which trade's effort to organize prompted Parliament to take action, all are convinced that the general increase in trade union activity in the closing years of the eighteenth century was an important, if not the determining, factor which brought about the Act of 1799.

The Act of 1799 came casually and almost accidentally into existance. When the bill sought by the London millwrights came up, Wilberforce suggested that, since combinations were "a general disease in our society", the bill should be widened in scope so as to make all combinations illegal. Since such a comprehensive bill for a public

---

[5] Home Office Papers, 42. 47. as quoted in J. L. and B. Hammond, The Skilled Laborer, (London, 1920), pp. 59-60.

[6] George, "Combination Laws", p. 173. See also, A. Aspinall, The Early English Trade Unions, (London, 1949).

statute must be introduced by a motion and not by a petition, a different procedure had to be followed, and the motion was introduced by the prime minister, Pitt, who helped draft the bill.[7] The measure was read the first time in the Commons on 18 June 1799, and a second time the following day.[8]

The bill was hurried through Parliament with great rapidity during the last four weeks of the session, and received the royal assent only twenty-four days after it was introduced into the House of Commons. There was, therefore, little opportunity for any protest against its provisions. Only, the Journeymen Calico-printers' Society of London petitioned against the measure. They insisted that, although the bill professed merely "to prevent unlawful combinations", it created "new crimes of so indefinite a nature that no one journeyman or workman will be safe in holding any conversation with another on the subject of his trade or employment."[9] But no other trades took action

---

[7] John L. and Barbara Hammond, The Town Laborer 1760-1832, (London, 1917), pp. 117-118.

[8] Aspinall, p. xii.

[9] Webb, pp. 62-63.

and the bill passed unaltered into law.[10]

No one who opposed either the bill of 1799 or that of 1800 did so on the ground that it was wrong to make combinations illegal. For example, Benjamin Hobhouse, M.P. for Hindon, argued that the existing law, by which he clearly meant the common law of conspiracy, would be fully adequate if trials for misdemeanors were not allowed to drag. He charged that the bill would virtually deprive an accused person of trial by jury, and insisted that if the right of trial by jury were taken away, then two magistrates, not one, should constitute a court of summary jurisdiction. He objected that journeymen alone would be imprisoned for breaking the law, although "there is scarcely a single manufacture in the country in which the masters are not guilty of combination."[11]

The main provisions of the Combination Act of 1799

---

[10] "It is remarkable, that in the parliamentary history for 1799 and 1800 there is no account of any debate on these Acts, mor are they referred to in the Annual Register for those years." See Sir James Fitzjames Stephen, A History of the Criminal Law of England, (London, 1883), vol. III, p.208. For evidence on passage of these Acts see "A Full and Accurate Report of the Proceedings of the Petitioners," By One of the Petitioners, (London, January, 1800, 19 pp.), a rare pamphlet in the Foxwell Collection. See also a pamphlet entitled an "Abstract of an Act to prevent Unlawful Combinations among Journeymen to raise Wages," (Leeds, 1799), to be found now in the Manchester Public Library. Both are quoted in Webb's History of Trade Unionism.

[11] Aspinall, p. xii.

may be noted briefly. The Act first cited the prevalence of unlawful combinations among workmen, and the ineffectiveness of former laws to suppress them. It declared illegal "all contracts, covenants, and agreements" heretofore made between any journeymen, workmen, or other persons for the purpose of obtaining an advance in wages, for lessening or altering the hours or time of work, for decreasing the quantity of work, for preventing any person from hiring anyone they may think proper, or for controlling or in any way affecting the management of any "manufacture, trade or business." Anyone guilty of such offences, "being convicted in a summary proceeding," should be imprisoned for not more than three months, or put in a "House of Correction at hard labor for not more than two months." The same punishment was prescribed for any persons who might attend, or in any way induce a workman to attend, any meeting held for the purpose of "forming or maintaining any agreement or combination" for a purpose declared illegal by the act, and for any who should collect or receive money from workmen for any of the aforesaid purposes, or anyone who paid or subscribed money "toward the support or encouragement of any such illegal meetings or combination." A penalty of £5 or imprisonment was imposed on anyone who contributed toward the expenses incurred by any persons acting contrary to the statute.

The Combination Act of 1800 replaced that of the previous year which it repealed, retaining many provisions of the Act of 1799, but it contained two new features. First, "all contracts and agreements between masters or other persons" for reducing wages, for adding to or altering the usual hours of work were declared to be illegal. Secondly, "any person convicted in a summary proceeding before any two justices of the peace" for entering into such an agreement should forfeit £20 or be imprisoned in the jail or house of correction for not less than two nor more than three months. The Act of 1800 also set up an elaborate system for the compulsory arbitration of trade disputes.[12] There is actually little difference between the two acts. Except for the clauses empowering masters and men to arbitrate their disputes, and a few small alterations in the procedure for recovery of penalties, the acts were substantially the same.[13]

The general Combination Acts of 1799 and 1800 were not merely the codification of existing laws, or their extension from particular trades to the whole field of industry. These Acts represented a new departure in government policy. Hitherto the central or local authority

---

[12] For these acts in more detail see Appendix I.

[13] Stephen, p. 207.

had acted as a court of appeal on all questions affecting the work and wages of the citizen. If the master and journeymen failed to agree as to what constituted a fair day's wage for a fair day's work, the higgling of the market was superceded by authoritative determination, presumably on grounds of social expediency.[14] Since the government no longer intended to act as a court of appeal or as a go-between in the regulation of labor disputes, this would seem to be a departure from the stand taken in the old Statute of Apprentices.

Toward the end of the eighteenth century the old statutes fell into disuse, and free bargaining between the capitalist and his workmen became the sole method of fixing wages. It is in this area that the prohibition of combinations was inequitable and unrealistic. A single master

---

[14] Webb, p. 63. However, this viewpoint that there is a new government policy involved in these Acts is disputed by some authorities. Dorthy George insists that, "the legislation of 1799-1800 introduced no new principle and created no new offense; compared with earlier Acts it was far from severe." (p.172) She then proceeds to substantiate her argument by pointing to the common law doctrine of conspiracy but not mentioning any statute law. I admit that punishment was more severe under the common law for this crime, but that does not change the tone of the language used in these Acts nor make them any less oppressive. Regardless of whether these Acts were ever used, they were on the statute books and could be used for the worst sort of oppression. As to this representing a new governmental principle, I believe that it is obvious that the government no longer intended to intervene in labor disputes or to regulate wages etc., and that is certainly a departure from the policy set down in the Statute of Apprentices. I do however agree that the Acts created no new offence. Aspinall agrees with George that the 1799-1800 legislation "represented no change of policy on the part of the government."

was at liberty at any time to turn off the whole of his workmen if they would not accept the wages he chose to offer. But it was made an offence for the whole of the workmen to leave him at once if he refused to give the wages they chose to require.[15] This gave the master a tremendous advantage in dealing with his labor force.

The English Combination Act of 1800 was a specimen of exceptional legislation. It rested on the idea that while men ought in general to enjoy the right of association, yet combinations of workmen and, in theory, of masters, since they tended toward the restraint of trade, ought to be the object of special watchfulness on the part of the government, --the subject of special and peculiar legislation.[16] The French combination law of the same period rested on the general principle that the right of association ought to be very strictly controlled. A trade union was treated as one of a large number of professional associations on all of which the government ought to keep a watchful eye. This law was severe, but it was hardly exceptional legislation

---

15 Webb, pp. 63-64.

16 Dicey, p. 473.

as in the English law.[17] During the nineteenth century the law relating to criminal conspiracy affected labor unions much less in England than in the United States. The English dealt with this subject by means of carefully drawn statutory enactments, while in the United States the problems arising from conflict between labor and capital were largely thrown on the courts for a solution.[18]

The Combination Acts have been termed by Aspinall "an odious piece of class legislation." The clause prohibiting combinations of employers was very difficult to enforce, and masters hardly made a pretence of obeying the law. It was eminently unjust that workmen alone could be cross-examined on oath and sent to prison. The purpose of the Acts was not merely to supress combination, but also to bring offenders "to more speedy and exemplary justice."[19]

---

[17] Ibid, pp. 467-473. The French combination law from 1800 to 1864 bore, as regards its practical effect, a strong resemblence to the English combination law from 1800 to 1824. In each country the combination law which prevailed had in the corresponding stage of its development originated in fact in legislation earlier than 1800. In each country enactments directly applying to combinations, whether of masters or workmen, were supplemented by other parts of the law. Behind the combination law of France lay the extensive power conferred upon the Government (Code Penal, arts. 291-292) of refusing to authorize, or putting an end to whole classes of associations among which trade unions appear to have been included. Behind The English Combination Act lay the common law doctrine of conspiracy.

[18] Bryan, p. 115.

[19] Aspinall, p. xvii.

The master millwrights had emphasized early in 1799 that the then existing law had not been effective in suppressing trade unionism, and had pointed out that there was a need for a better means of controlling the "boldness and impunity" with which their journeymen carried on their combinations. The masters certainly gained all they asked for in the Acts of 1799 and 1800.

There is a clear indication that the courts of the eighteenth century entertained little doubt as to the illegality at common law of the combinations prohibited by the Acts of 39 and 40 George III, and that they were in full accord with the economic views which these statutes embodied.[20] Parliament was in theory opposed to every kind of trade combination.

The whole idea on which the law rested, according to Dicey, was this:

> Workmen are to be contented with the current rate of wages, and are on no account to do anything which has a tendency to compel their employers to raise it. Practically they could go where they pleased individually and make the best bargains they could for themselves, but under no circumstances and by no means, direct or indirect, must they bring pressure of numbers to bear on their employers or on each other.[21]

The problem is always the same--how can the right of combined action be curtailed without depriving individual

---

[20] Bryan, p. 130.

[21] Dicey, pp. 98-99.

liberty of half its value; how can it be left unrestricted without endangering the liberty of individual citizens or threatening even the power of the government?[22]

---

[22] Ibid, p. 466.

CHAPTER III

The Effect of the Combination Laws from 1800-1824.

The fact that the Combination Acts of 1799 and 1800 passed through Parliament without any apparent discussion may be significant, suggesting as it does that the acts reflect the predominant opinion of the beginning of the nineteenth century. The public opinion which sanctioned these acts consisted of two elements. The first, though not in the long run the more important, was a dread of combinations, induced in part by memories of the recent Reign of Terror in France. The second element, inherited from an earlier age, was the tradition of paternal government. This tradition rested upon two bases: one, the conviction that it was the duty of laborers to work for reasonable, that is to say, customary wages; the other, the provision by the state of subsistence for workmen who could not find work. To many Englishmen twenty-five years after their passage these laws seemed no less incomprehensible than intolerable. They appeared utterly indefensible to the economist McCulloch: "Who we ask, were the tyrants who deprived working-men of all freedom, and what was the state of opinion which sanctioned this tyranny?" The answer is that the men who passed the acts

were not despots, and that the acts precisely corresponded with the predominant beliefs of the time.[1]

The prohibition of combinations set down in section three of the law was a consequence of reasoning based in part upon conceptions of status. If no member of society has a legitimate right to expect significant improvement in his material welfare, then any attempt to secure a higher standard of living by means of a strike must necessarily be regarded as a seditious and wicked undertaking. In a sense the statute of 1800 was an attempt to strengthen the power of the magistrates in the enforcement of wage-lists based upon existing standards of living. Such a course would make it easier to compel journeymen "to work for reasonable wages," and in view of the customs of the period there can be little doubt as to the meaning of the word "reasonable" in this statute. The two Combination Acts seem to indicate an intention to insist upon notions of status in order to prevent the dislocations in industry which were likely to be the result of any organized attempt to improve conditions of work and wages. The objection to combinations seems not to have been to the collective character of the action, but to the "unreasonable" desire to change

---

[1] Dicey, pp. 99-100.

established conditions on the part of either masters or men.[2]

Since the government, living under the shadow of the French Revolution, held exaggerated fears of a like revolution in England, it was inevitable that a policy of repression should be pursued.[3] To the politician a combination of employers seemed in no way comparable to a combination of workmen. The former was at most an industrial misdemeanor; the latter was in all cases a political crime. The governing classes looked upon all associations of the common people with utmost alarm. In this general terror that insubordination would develop into rebellion were merged both the capitalist's objections to high wages and the politician's dislike of democratic institutions.[4]

---

[2] Abbott P. Usher, The Industrial History of England, (New York, 1920), pp. 378-379.

[3] Oddly enough the Code Napoleon of 1804, which as regards the right of association, embodies the ideas of French revolutionists or reformers, is at least as strongly opposed to trade combinations, whether among employers or workmen, as the Combination Act of 1800. See Dicey, p. 102.

[4] Webb, p. 64. Just as in the twentieth century strikes are often attributed to communist activities, so a hundred and fifty years ago they were believed to be the work of radical agitators. The democrats who infiltrated into the Lancashire textile unions were active in denouncing the war, and the reactionary government as the cause of it. The arrest of some of these agitators in 1801 encouraged several large-scale manufacturers in Lancashire "to examine into the political opinions of their workmen" and to dismiss such as were known to be Jacobins. See Aspinall, p. xxii.

The government insisted that trade unions, as illegal organizations, must be suppressed and breaches of the law punished; however when the workers' complaints were believed to be reasonable, the Home Office was not indisposed to attend to them. The official view was that the employers must undertake prosecutions of their workmen and that no assistance must be looked for from London.

The magistrates tended to take the side of the employers, but they were not always hostile to the workers. Had they been so they would have shown greater consistency in attempting to suppress trade unionism. Often they did their best to stand aside from trade disputes, earning the reproaches of the masters as a consequence. The courts held that "whatever may be the merits of the matter in dispute between the master and the workmen, the public peace must be preserved. Were the demands on either side just and reasonable, the law could not suffer them to be enforced by violence and outrage."[5] An important fact is that in some cases the masters would declare to the men that they would not appeal to the Combination Laws, and the result was more peaceful relations between the parties concerned. General conviction as to the injustice and inequitability of these laws caused a hesitancy on the part

---

[5] Aspinall, pp. xxi-xxii.

of both masters and justices to use them unless in "seasons of disturbance,"[6] when they were used for other purposes.

The statutes of 1799 and 1800 were not the only basis for legal restraint of workemn's associations. The theory of conspiracy was probably more important because the penalties were more severe. Prosecution for conspiracy rested on certain very old enactments--a statute of Edward I (1305) and a statute of Edward VI (1549)--both long forgotten but rediscovered early in the nineteenth century by energetic lawyers employed by the manufacturers. Both laws embodied the notion that certain kinds of associations could be deemed conspiracies. The earlier of these statutes was not very clearly applicable to the problems arising among wage-earners. The statute of Edward VI, however, was almost surely aimed at craftsmen, its purpose being to prevent the increase of prices to consumers. The craftsman at the time of its passage was more a producer than a wage-earner, but the statute contained certain general clauses against combinations to raise wages. Though they rest in large measure upon statutes, these doctrines are usually thought of and referred to as common law doctrines.[7] The minutes of

---

[6] Jevons, p. 115.

[7] Usher, p. 380.

evidence in the Parliamentary committees show confusion on the part of the witnesses as to the grounds on which prosecutions had been made: conspiracy at common law, combination, (or "under the Combination Laws"), breach of contract, riot, assault, or leaving work unfinished.

The main use of the Combination Laws to the employers was as a threat to checkmate strikes and ward off demands for better conditions of labor. Although clubs of journeymen might be allowed to take, like the London bookbinders, "a social pint of porter together," and even to provide for their "tramps" and carry on all the functions of a trade union, yet the employers could always rely on the power of meeting any demands by a prosecution. Even those trades which evidence a long existence of unmolested combinations furnish examples of rigorous application of the law. Francis Place observed that the Combination Laws:

> were considered as absolutely necessary to prevent ruinous extortions of workmen, which if not thus restrained, would destroy the whole of the Trade, Manufactures, Commerce, and Agriculture of the nation. . . . This led to the conclusion that the workmen were the most unprincipled of mankind. Hence the continued ill-will, suspicion, and in almost every possible way, the bad conduct of workmen and their employers toward one another. So thoroughly was this false notion entertained that whenever men were prosecuted to conviction for having combined to regulate their wages or the hours of working, however heavy the sentence passed on them was, and however rigorously it was inflicted, not the slightest feeling of compassion was manifested by anybody for the unfortunate sufferers. Justice was entirely out of the question: they could seldom obtain a hearing

> before a magistrate, never without impatience or insult; and never could they calculate on even an approximation of a rational conclusion. . . . Could an accurate account be given of proceedings; of hearings before magistrates, trials at sessions and in the Court of King's Bench, the gross injustice, the foul invective, the terrible punishments inflicted would not, after a few years have passed away, be credited on any but the best evidence.[8]

However, it must not be supposed that every combination was made the subject of prosecution, or that every trade union leader of that day spent his whole life in jail. Because of the extremely poor organization of the English police, and the absence of any public prosecutor, a combination was usually let alone until some employer was sufficiently inconvenienced by its operations to be willing himself to set the law in motion. In many cases employers apparently accepted or even connived at their men's combinations, to the constant complaint of other employers.[9] The prosecution did not always depend upon the whims of an employer, however. Occasionally the constables when they heard of a meeting would arrest the members and seize their papers.

In 1819 the infamous "Six Acts" were passed which succeeded in driving the working class movement for political reform underground. At one stroke the enactment suppressed practically all public meetings, enabled the

---

[8] Place MSS. 27,797-8 as quoted by Webb, p. 65.

[9] Webb, pp. 65-70.

magistrates to search for arms, subjected all working-class publications to the stamp duty, and rendered more stringent the law relating to seditious libels. The popular clubs such as the London Corresponding Society soon had practically disappeared. Why, then, was the Act of 1800 less successful in putting an end to trade unions? Why were the employers so mistaken in assuming that all that was needed to coerce their workmen into abandoning their associations was the speeding up of the administration of justice? Why did the employers, in their efforts to suppress combinations, often use, not the Combination Acts, but the common law and pre-1800 statute law, which so recently they had declared to be inadequate to deal with the situation? If the Act of 1800 had succeeded in its aim, these old laws against combination would not have had to be resorted to.[10] Trade unions, being illegal organizations, had to try to insure the loyalty of their officials by administering an oath of fidelity and secrecy, which was in itself illegal. One prosecution of trade unionists in 1803 was made under

---

[10] Aspinall, p. xx. Though the Act of 1800 cannot be compared in point of severity with the "Gagging Acts" which followed the outbreak of war with Revolutionary France, it was actually part of that reactionary legislation. Aspinall, pp. xvii-xviii.

Whatever may have been the effect of the Six Acts in driving incipient trade unionism underground, certainly the combination Acts deterred neither masters nor men in the paper industry from actively combining. See, Coleman, D.C. "Combinations of Capital and Labour in the English Paper Industry," Economica, New Series, vol. 21, Feb., 1954, p. 52.

the act of 37 George III, c.123--"for more effectually preventing the administering or taking of unlawful oaths." However prosecutions under this act were rare because of the difficulty of gathering evidence. Other proceedings were started under the Treason and Sedition Act of 1799 (39 George III, c.79). But most of the prosecutions were instituted under either the Combination Act or the common law.[11] The main object of beginning proceedings under the Act of 1800 seems to have been to secure a speedy conviction by summary jurisdiction. Another legal characteristic of the period must be examined to understand why the Act of 1800 was almost "a dead letter." This was the tendency for acts imposing summary jurisdiction to become almost inoperative. Summary jurisdiction was defeated by the difficulty in drafting an information brief, by appeals to the sessions (usually a great distance away), and by frequent quashing of convictions on technical points. The judges disliked summary procedure. They were very severe on the decisions of the justices of the peace, and they demanded a very strict interpretation of the statutes.[12]

---

[11] Aspinall, p. xx. Joseph Hume said in 1825 that those which flowed from the common law were ten times as oppressive as those which spring from the statute law.

[12] George, "Combination Laws", p. 173.

No statistics exist as to the frequency of the prosecutions or the severity of the sentences handed down in cases of conspiracy. However it is easy to understand from the reports available the sullen resentment with which the working class suffered under these laws. An examination of the newspapers between 1800 and 1824 will reveal numerous accounts of judicial improprieties. In 1818 certain Bolton millowners suggested to their operative weavers that they should join together to leave the employment of those employers who paid below the current rate. Acting on this, a meeting of forty delegates took place. A fortnight later the president and the two secretaries were arrested, convicted of conspiracy, and imprisoned for one and two years respectively. Although the employers gave evidence in the prisoners' behalf, their good services were to no avail.[13] In 1819, fifteen cotton-spinners of Manchester who had met "to receive contributions to bury their dead," were seized by the police, and tried for conspiracy, bail being refused. After three months' imprisonment they were brought to trial; collections were made in London and elsewhere for their defense, but most of the defendants were sentenced to varying terms of imprisonment. The enrollment of their club as a friendly society had little avail. The court held that

---

[13] Committee on Artisans and Machinery, 1824, p. 395, as quoted in Webb, pp. 72-73.

"all societies, whether benefit societies or otherwise, were only cloaks for the people of England to conspire against the State."[14] Perhaps the most striking case of all was that of the Scottish weaver's strike of 1812. The year before certain cotton-spinners had been convicted of combination and imprisoned. The judge at the trial had ruled that there was a clear remedy at law, for the magistrates had full power and authority to fix rates of wages or settle disputes. Thus, when in 1812 many of the employers refused to accept the rates which the justices had insisted upon as fair for weaving, all the weavers at the forty thousand looms between Aberdeen and Carlisle struck to enforce the justices' rates. However the government arrested the men's central committee of five who were directing the proceedings, and these men were sentenced to periods of imprisonment varying from four to eighteen months.[15] The strike failed and the association broke up. These cases serve to illustrate why the men were so resentful of the laws and why they felt they could trust no one who was not a member of their association.

White, the recorder of the Select Committee of 1824, called the Act of 1800 "a dead letter upon those crafts upon

---

[14] See The Gorgon for Jan. and Feb., 1819, as quoted by Webb, p. 73. This is a small weekly trade publication put out by John Wade, selling for three-halfpence a copy.

[15] Second Report of Committee on Artisans and Machinery, 1824, p. 62, as quoted in Webb, pp. 73-74.

whom it was intended to have effect." He added, however, that "it has been extensively felt in local manufacturing trades."[16] The older organizations of the more skilled craftsmen were more adept at evading these new laws than the associations formed in the newer manufacturing areas. When workers were brought to trial they were usually either leading members of the union, or else they were charged with more serious offences arising out of combination. When the employers resorted to "blackleg" labor to break a strike, the inevitable result would be crimes of violence on the part of the strikers in their attempt to protect their jobs.[17] White went on to say that the artisans maintained their regular societies and houses of call as though the Act of 1800 were not in existence. In fact, he observed, it would be almost impossible for many of those trades to be carried on without such societies, which were "in general sick and traveling relief societies." The roads and parishes would be filled with men from these traveling trades, "who travel from want of employment, were it not for their societies to relieve what they call tramps."[18]

---

[16] M. Dorthy George, "The Combination Laws Reconsidered," Economic Journal Supplement, series no. 2, May 1927, p.175.

[17] Aspinall, p. xxi.

[18] "A few Remarks on the State of the Laws at present in existence for regulating Masters and Workpeople," (London, 1823, 142 pp.), p. 84. Anonymous, but evidently by George White and Gravener Henson; as quoted in Webb, pp. 68-69.

One of the most effective systems of combination was that of the journeymen tailors. It is a commonplace that those tradesmen among whom combination is least effective are the most degraded and wretched. Combination was actually necessary and highly useful. "Shut out as these men in common with all other workmen are, from all legal remedy, no other means than those of combination, in order to prevent the utmost degradation, remain, and the more perfect the combination the less the degradation."[19] The Gorgon,[20] a small newspaper of the time editorialized:

> So perfect indeed is the organization of the tailors, and so well has it been carried into effect, that no complaint has ever been heard; with so much simplicity, and with so much certainty, does the whole business appear to be conducted, that the great body of the journeymen rather acquiesce than assist in any way in it.
>
> It will be apparent to every one that this combination, the least known of any, is by far the most important for its purposes; and it must convince every reflecting mind that it cannot be used for any really injurious purposes, while those who are so prejudiced as to see nothing but evil consequences in any thing that demonstrates the knowledge and virtue of the working people, may thank themselves and the stupid laws--intermeddling with trade for compelling the workmen to combine in their own defence. It will be our business to shew, that as the law stands they can make no legal appeal against oppression--

---

[19] Reprinted from The Gorgon, October 3, 1818, as quoted by Frank W. Galton, Select Documents Illustrating the History of Trade Unionism in the Tailoring Trade, (London, 1896), p. 150.

[20] The Gorgon, a trade union publication was subsidised by Jeremy Bentham and Francis Place.

> the very act of attempting an appeal to the laws, being declared by the law to be a combination to which it has attached the most savage punishments.[21]

Place was of the opinion that the repeal of the Combination Laws would lead to the disappearance of trade unions. It was his belief that they were formed chiefly to resist the ever-present combination of employers and to defend the workmen against the tyranny of the law.[22]

The issue of The Gorgon for October 10, 1818, observed that the journeymen tailors "are a very worthy, industrious and humane class of workmen, as any in the kingdom." The history of their combinations "affords a good practical illustration of some important and disputed principles in political economy, as to the tendency of such associations." While the journeymen tailors were united "in such an ingenious and admirable manner, as to defy the law, and every power on earth to dissolve them," they never once used this advantage for the purpose of extortion or to demand unreasonable and exorbitant wages. On the contrary, they always demanded less than they ought to have demanded,

---

[21] Quoted from The Gorgon, October 10, 1818. See Galton, pp. 154-155.

[22] Graham Wallas, The Life of Francis Place (1771-1854), (New York, 1919), p. 217.

according to the price of bread,[23] if they were to preserve themselves from degradation and to maintain their relative rank in society. To this the masters replied in the Morning Chronicle that "combinations can do no good, that masters will always give what they can afford." To this The Gorgon retorted, "let him look at our table--a table comparing wages with the price of bread--and the employer will see that the journeymen received an advance of wages in 1795, 1801, 1807, 1810,and 1813, always in opposition to the Laws, always in opposition to the Magistrates; and nothing but a determined opposition to this formidable phalanx, could have procured the advance." A look at the comparison between the price of bread with the wages demanded by the journeymen tailors shows the privations they suffered and suggests sufficient justification for striking. Moreover at the different periods that they obtained an advance they never were placed in as good circumstances as they had been in "for 18 years previous to the late abominable war against

---

[23] "The Journeymen Tailors," Articles reprinted from The Gorgon, September and October 1818. ". . . From the table it appears that the tailors have, on an average, sustained a weekly loss of more than 7 quartern loaves since 1794; and even now, taking the quartern loaf at 12½d., they are suffering a weekly loss of 3 21/53 quartern loaves, and would require an advance of 3/9 a week to place them in the same comfortable circumstances they were in, prior to the above period." See Galton, p. 146

"Thus it is demonstrated that his weekly earnings in
im not much more than half the quantities
procured him from 1777 to 1795." See

human knowledge and happiness."[24]

The Combination Laws failed to alter the somewhat dominant position of the skilled handicraftsmen in the field of trade unionism. Because of the rigid class distinctions then in existence, the skilled artisans were able to prevent the growth of permanent unions among unskilled workers. The artisan formed an intermediate class between the shopkeeper and the great mass of unorganized laborers or operatives in the new machine industries. Membership in the crafts was assured to the members and their eldest sons because of the substantial fees that were demanded for apprenticeship in the crafts, and they maintained a virtual monopoly. The records show that the crafts were averaging from thirty to fifty shillings in weekly wages at the time the operatives in the textile mills were earning barely ten shillings.

This difference in the standard of life is reflected in the character of the combination formed by the two classes.[25] In the skilled crafts, even under repressive laws, there is no evidence of unlawful oaths, seditious emblems, or other common paraphenalia of secret societies. In some of their unions they went so far as to insist "that no person shall be admitted a member who is not well

---

[24] The Gorgon, October 10, 1818, as reprinted in Galton, pp. 159-160.

[25] Webb, pp. 74-75.

affected to his present Majesty and the Protestant Succession, and in good health and of respectable character." However this does not mean that they were a conservative or reactionary element. On the contrary, the prevailing tone of the skilled handicraftsmen was clearly radical, and their leaders took a prominent part in all working-class political movements of the time. The records of their trade clubs show no evidence of anything that could now be conceived as political sedition. These clubs of handicraftsmen formed the backbone of the "central committees" which for the next thirty years dealt with the main topics of trade unionism. Their influence gave a certain dignity and stability to the trade union movement. The principle effect of the Combination Laws on these well-organized handicrafts was to make internal discipline more rigid and the treatment of non-unionists more arbitrary.[26]

It was in the new textile industries that the weight of the Combination Laws fell heaviest. In these new machine industries the workers were gradually reduced to a condition of miserable poverty by repeated reductions of wages, by the rapid alterations of processes, and by the substitution of women and children for adult male workers. The employers were often entrepreneurs who devoted their whole time to

---

[26] Webb, p. 77.

the commercial side of the business and let their managers buy labor in the market at the cheapest possible rate. They did not recognize any customary standard of living as the masters in the older crafts did for their journeymen.[27] The factory managers recruited labor for all localities and many different occupations. It was brigaded and controlled by despotic laws enforced by numerous fines and disciplinary reductions. The workers in the new mills, without a common standard, a common tradition, or mutual confidence, were helpless against their employers. In contrast to the situation in the skilled crafts, their combinations and frequent strikes were usually only struggles to maintain a bare subsistence wage. Instead of a steady organized resistance, the organizations in the machine industries are marked by alteration of outbursts of machine-breaking and rioting, with intervals of abject submission and reckless competition with each other for employment. In such organization as there was, the repressive laws had the effect of throwing great power into the hands of a few men, who were implicitly obeyed in times of industrial conflict. However the repeated defeats which they suffered prevented that growth of

---

[27] Ibid, pp. 77-78.

confidence which is indispensable for permanent organization. Both the leaders and the rank and file were implicated in political seditions, and were the victims of spies and ministerial emissaries of all sorts. This sort of thing led to the prevalence among them of fearful oaths, mystical initiation rites, and other sorts of sensationalism.[28]

Despite these differences between the classes of workers, there grew up during this period of oppression a sense of solidarity among the whole body of wage-earners. There was a loose federal organization extending throughout the country in most of the trades in which it was usual for workers to tramp from place to place seeking employment. In some cases there was an elaborate national organization with geographical districts and annual delegate meetings. This national organization was occasionally very effective despite the repressive laws.[29] This is pointed out in the

---

[28] See, on all these points, the evidence given before the Committee on Artisans and Machinery, 1824, especially that of Richmond, as quoted by Webb, pp. 78-79.

[29] Webb, p. 80.

case of Rex vs. Yates and others.[30] Such solidarity was not confined only to members of a particular trade. The masters continually complained that one trade supported another. Old account books of the trade unions for this period show numerous entries of sums contributed to aid in disputes in other trades, either in the same town or elsewhere. It was also common practice for various trade societies in a particular town to unite in sending witnesses to Parliamentary Committees, preparing petitions to the House of Commons, and paying counsel to plead for them. Webb points out that: "with the final abandonment of all legislative protection of the Standard of Life, the complete divorce of the worker from the instruments of production, the wage-earners in various industrial centres became, indeed, ever more conscious of the widening of the old separate trade disputes into 'the class war" which

---

[30] Rex vs. Yates and others, Liverpool Sessions, Aug. 10, 1823. When a certain firm attempted to put laborers to the work, the local society of ropespinners informed it that this was "contrary to the regulations of the trade," and withdrew all their members. The employers, failing to get men in Liverpool, sent to Hull and Newcastle, but found that the Ropespinners' Society had already appraised the local trade clubs at those towns. The firm then emported "blacklegs" from Glasgow, who were met on arrival by the local unionists, inveigled to a "trade club-house", and alternately threatened and cajoled out of their engagements. Finally the head of the firm went to London to purchase yarn; but the London workmen, finding that the yarn was for a "struck shop" refused to complete the order. The last resource of the employers' was an indictment at the Sessions for combination, but a Liverpool jury, in the teeth of the evidence and the judge's summing up, gave a verdict of acquittal. As quoted by Webb, p. 80.

characterizes the present century."[31]

The position of the masters was made clear in an "Address from the Committee of Master Tailors," submitted to the trade at large in April, 1811:

> From the Committee of Master Tailors, associated for the purposes--of resisting the illegal proceedings of their journeymen--of removing the injurious and disgraceful controul which the men exercise over their masters--of preventing their combination--and terminating the mischiefs they occasion to themselves, to the masters, and to the Community--submitted to the trade at large, at a general meeting held at the Crown and Anchor Tavern, in the Strand, on Thursday the 4th April, 1811.
>
> If the contempt in which the master tailors are held by their journeymen--if the disgrace and insult to which they are repeatedly subjected--if vexations insupportable, and loss almost incalculable--if the unnatural system of husbands and fathers preventing their families from earning an honest and comfortable livlihood--if that respect, which an important and most useful class of men should command, be worth regard--if the interest of the public at large be worth attention--nay, if the subversion of all order in society be worth preventing--if these, or any one of these considerations, have weight, then the object of the above Association is most meritorious and imperative.[32]

This committee believed the existing acts of Parliament inadequate to enforce the objects it had in mind, and it drew up a bill to effect the objects of the Association and presented it to the legislature. The Committee then called upon each individual of the trade to raise any objection he might have to the proposed bill. On 24 April

---

[32] Galton, pp. 99-100.

two petitions were presented to the House of Commons against the bill. The first was from "several master tailors residing in the city of London, or within a few miles thereof," the other was a petition from several journeymen tailors.[33] The petition of the master tailors, said to have come from the wealthy employers who made the best work, held that the bill before the House was drawn up by only the small employers who made the common work, that the workmen who made the best work always had been and must be paid a higher rate of wages than the others, and that it was unjust to fix one scale of pay for men of all degrees of skill and ability. The petition supported free competition as opposed to legislative interference with the conditions of employment, and it ended by urging that all restrictive legislation, whether of the men's combinations or of their working conditions, should be speedily removed. This onslaught from a section of the employers themselves plunged the House of Commons Committee on the Tailors' Bill into perplexity. The Committee issued no report and the whole matter dropped quietly out of existence by the Committee's ceasing to meet.[34] This was one

---

[33] Of the two petitions, only that of the master tailors has been preserved. This petition bears throughout the impress of the style and arguments of Francis Place, by whom it was probably written. See Galton, p. 108.

[34] Galton, pp. lxvii-lxix and pp. 108-121.

of the most concerted efforts of the masters to defeat the men's combinations and it failed. However it proves that there was set up on this occasion a combination of masters to fight against the journeymen. This was a violation of the Acts, but no prosecution was forthcoming. This is just one of the cases of flagrant or avowed combination to which Webb and Place refer, when they point out that while thousands of journeymen suffered for the crime of combination, there is absolutely no case on record in which an employer was punished for the same offence.[35]

It had become quite evident by about 1820 that the Combination Laws were ineffective or inoperative in carrying out the purpose for which they were enacted, that of preventing combination. The Laws had become obnoxious to both masters and journeymen. The laws were difficult to apply because of the strict construction, insisted upon by the judges, which the local justices could not live up to because of their lack of time and education. The laws were supposed to speed up prosecutions, but the difficulty encountered by the justices made this almost impossible. Thus the laws became a dead letter and prosecutors resorted to pre-1800 statute law or to the common law. The general

---

[35] Adam Smith, The Wealth of Nations, (New York, 1937) p. 66. . . ."whoever imagines . . . that masters rarely combine is as ignorant of this world as of the subject."

concensus at this time seems to have been to repeal the Combination Laws, but there were varying opinions as to what should take their place.

CHAPTER IV

The Trade Union Emancipation of 1824.

The movement to repeal the Combination Laws began in a period of industrial dislocation and severe political repression following the end of the Napoleonic Wars. The economic results of this long war, and the comparatively low prices which followed during the peace, led in 1816 to an almost universal reduction of wages throughout England. There were many instances of masters deliberately combining in agreements to pay lower rates, although this was in open defiance of the law. In an attempt to justify their action the masters argued that, owing to the fall in prices, the standard of life of the journeymen would not be depressed. In the great staple industries the employers were engaged in a cutting competition with one another in an attempt to secure orders in a falling market, attempting to undersell each other by beating down wages below the subsistence level. That they could do so was made possible by the then common practice of supplementing insufficient wages out of the Poor Rate. This practice threw a great strain on the local citizens to maintain the Poor Rates and many protests were forthcoming from various localities

against this practice. Even the employers themselves publicly denounced those among their ranks who forced them into this ruinous cutting of wages.[1] It was during this period of economic difficulty that the man who was to emancipate the trade unions against their own will began his indefatigable work toward repealing the Combination Laws.[2]

The man who almost single handedly accomplished the repeal of these laws was Francis Place, an ex-journeyman breeches-maker and now master tailor, the "Radical Tailor of Charing Cross" as he was sometimes called.[3] It was his behind-the-scenes political maneuvering, his keen practical intellect, and his stubborn persistence which inspired the movement for repeal. In 1814 Place became convinced that the standard of living of the journeymen was being encroached upon by the widening gap between the price of their wages and the price of commodities needed for subsistence. In

---

1 Webb, pp. 82-83.

2 Not a single journeyman at any subsequent time did anything to promote the repeal of the Combination Laws. The workmen could not be persuaded to believe that the repeal of the laws was possible. Galton, p. 202.

3 After 1818 Place left the conduct of the business (breeches-maker) to his son, and devoted his energy entirely, first to the repeal of the Combination Laws, and next to the Reform Movement. In social theory he was a pupil of Bentham and James Mill, and his ideal may be summed up as political democracy with industrial liberty. Webb, pp. 85-86.

that year he began his long campaign against the anti-combination laws. In 1818 Place secured the aid of a small weekly newspaper called The Gorgon, then being edited by John Wade.[4] Place contributed many articles to this little periodical. He ran a series of articles on the London tailors and their clubs in which he included a table of all the changes in the wages of tailors since 1777, and the fluctuations in the price of bread during the same period. These articles brought him into contact with Joseph Hume who became interested in the repeal. Hume was M.P. for Aberdeen, a man of Place's temprament, a professional agitator, and an indefatigable advocate of reforms to which Parliament was yet as a whole indifferent.[5] Place furnished Hume with much information and a mass of manuscript material which he had collected on the Combination Laws. This was transmitted by Hume to J. R. McCulloch, the editor of the Edinburgh Review and a man who favored the program of the radicals.[6] These three men, Place, Hume, and McCulloch made up the leadership core of the movement for the repeal of the Combination Laws.

---

[4] The Gorgon was subsidized by Bentham and Place and distributed among the trade societies. Usher, p. 381.

[5] Joseph Hume was one of the leaders of the growing party of Philosophic Radicalism. Webb, p. 85.

[6] J. R. McCulloch was the editor of the Edinburgh Review, the most important provincial newspaper of the time. He later gained fame as an economist. Webb, pp. 86-87.

McCulloch used the information furnished him by Place and Hume in his editorials. His giving so much space to the discussion of the Combination Laws gave a decided tone to several other country papers, and consequently the subject was discussed in a way, and to an extent, which it had never been before. Finally in 1822 Hume announced to the House that he intended to bring in a bill to repeal all the laws against combinations of workmen. Place did not believe Parliament was yet in a frame of mind to deal properly with the subject and urged Hume not to proceed beyond merely indicating his purposes.[7]

On February 4, 1823, the recessed Parliament was again convened, and a few days later Hume tried to obtain the concurrence of a number of members for his proposal. However he did not make much progress. Soon, however, a circumstance occurred which led many to support his proposition for a Committee. On March 3, 1823, Peter Moore, M.P. for Coventry moved for leave to bring in a curiously assorted bill which, among other things, would repeal the Combination Laws.[8] Moore's bill caused considerable alarm

---

[7] Wallas, pp. 206-207.

[8] T. C. Hansard, The Parliamentary Debates (London, 1825), New Series, vol. 13, p. 866.

to many members of the House of Commons and especially to the ministers.[9] Huskisson, then President of the Board of Trade, asked him to postpone it until the next session so that the House could consider its contents at more leisure. The employers petitioned against the bill and it was abandoned. Toward the end of the session Hume gave notice of his intention again to bring the question forward.[10]

Just before Parliament met again in February, 1824, there appeared in the Edinburgh Review a vigorous essay by McCulloch on the propriety of repealing the combination laws and also those against the emigration of artizans. It had a remarkable effect on many members of Parliament, several agreeing that there was no resisting the conclusive arguments it contained. By the time of the opening of

---

[9] George White, a clerk of committees of the House of Commons, had formed a partnership with Gravener Henson, a bobbin netmaker at Nottingham; they, and some half-dozen others had concerted a plan with Peter Moore to bring in a bill to repeal the laws against combinations of workmen. White understood the progress Hume was making, but he and Henson had an involved scheme of legislative maneuvering, though it was complicated and they did not understand the means necessary to do well. White had collected from the statutes everything he could find in any way related to masters and workmen; this he showed to Moore together with the draft of a bill; and Moore at once agreed to introduce the bill. This course was taken to prevent Hume either from moving for a Committee or bringing in a bill, and it nearly succeeded. Wallas, p. 207.

[10] Aspinall, pp. xxv-xxvi.

Parliament members on all sides were convinced that the combination laws not only had failed in their object but that they had also dangerously antagonized the working class.[11] Even many of the employers felt that the attempts at suppression had done more harm than good, and that wages should be regulated by the market price for labor. The ideas embodied in the Wealth of Nations were gradually finding acceptance among the governing class.

Despite this situation, however, Hume met with more opposition than he had anticipated. Moore's bill might hinder Hume's freedom of action. Place advised Hume to take no notice of the Moore bill and to move at once for a Select Committee. However Huskisson advised him to forget the motion for a Committee on the Combination Laws and to take in only the emigration of artisans and the exportation of machinery. Hume was afraid to take up the Combination Laws because Moore would then come in with his bill and create a schism in the committee. Hume consequently backed away from the task of taking up the Combination Laws. However, Place was not so easily discouraged. On February 7, 1824, he wrote to Huskisson and Hume in an open letter:

> .. I am decidedly of the opinion that you should take in the Combination Laws, and also that you should

---

[11] Aspinall, p. xxv.

> at once take Peter Moore into the Committee. Moore is not a man to be put aside, and the only way to put him down is to let him talk his nonsense in the Committee, he will come with his book of petty legislation before the House, and compel the House to negative his mass of absurdities. The public will, however, see nothing in this but, as they will conclude, an evident resolution in the Government not to do justice.
> The business is really very simple, and it lies in a small space. Repeal every troublesome and vexatious enactment and enact very little in their place. Leave workmen and their employers as much as possible at liberty to make their own bargains in their own way. This is the way to settle them amongst themselves, with an appeal to a Justice of the Peace in cases in which the parties cannot of themselves come to a decision.[12]

This convinced Hume and Huskisson that they must act on the Combination Laws.

Accordingly on February 12, 1824, Hume rose to offer his motion. He reasoned that the subject he was about to bring forward was one of the greatest importance, and admitted that perhaps it was attended with more difficulties than he had yet suspected. He noted that during the last session the ministers had shown a disposition to simplify the more complicated laws, and to repeal others which were no longer suited to the altered circumstances of the country. He therefore felt that he was introducing the present question under favorable auspices and that

---

[12] Cited in Wallas, pp. 209-210.

although it was very involved the House ought not to turn away from it because of its difficulty. His proposition was more comprehensive than he had originally intended it to be. First he wished to review the laws preventing artizans from leaving the country, and secondly to consider how far the laws relating to the exportation of machinery ought to be continued, modified, or repealed. At the request of various members from both sides of the House, he had agreed to add a third area of inquiry, namely into those statutes which interfered with freedom of contract between master and men. With regard to the Combination Laws he believed they contained a gross inequality which had been the source of perpetual dissatisfaction. He upbraided those who smugly believed that in the eyes of British law, all were equal,—that high and low, rich and poor, were alike protected. He admitted that this might be so theoretically, but argued in this instance the men were not protected against the injustice of their masters while the masters were protected from the combinations of the men. It was the opinion of many lawyers, he said, that if all the laws against combinations of workmen for the increase of their wages were repealed, the common law of the land would be sufficient to prevent any mischievous effects of such combinations. Hume concluded his speech with the

motion:

> That a select committee be appointed to inquire into the state of the law in the United Kingdom, and its consequences, respecting artizans leaving the kingdom, and residing abroad; also, into the state of the law, and its consequences, respecting the exportation of tools and machinery; and into the state of the law, and its effects, so far as relates to the combination of workmen, and others, to raise wages, or to regulate their wages and hours of working; and to report their opinion and observations thereupon to the House.[13]

Huskisson rose, "not for the purpose of opposing, but of concurring in the present motion." He observed that the question was one of wide extent and great difficulty, and one which would require skill and ingenuity because of the complicated system of law it would be necessary to unravel. He was convinced that the anti-combination laws had tended to increase the number of combinations and that the laws greatly aggravated the evil which they were intended to remove. It was no slight objection to those laws, he said, that they created between employer and worker relations diametrically opposite to those which ought to exist. He was of the opinion that this inquiry ought to be instituted by the House "to relieve itself from the numerous applications which the House received in periods of distress from the manufacturing interest, calling upon it to interfere between the masters and the men--to remove from the Statute-book some

---

[13] Hansard, vol. 10, pp. 141-147.

laws which were too oppressive to be executed, and others which it was impossible to execute."[14] The motion was carried and Hume set up his committee.[15] At first he could hardly get twenty-one members interested enough to sit as members, but by the time it had sat three days it had attracted so much attention that members were scheming to get appointed to it, the final number being forty-eight members.[16]

When the committee first met no one had any idea that its proceedings were going to be of any great importance, so the Ministry took no trouble with regard to its composition. Hume was appointed chairman and took into his own hands the entire management of the proceedings. However, he found himself in a very difficult position because he had been too busy with various other matters to give sufficient attention

---

14 Hansard, vol. 10, pp. 149-150.

15 Hume named the following committee, observing that he should be happy to receive the assistance of any other members who were disposed to attend it--Mr. Hume, Mr. Huskisson, Mr. C. Grant, Mr. S. Bourne, Mr. Copley, Mr. G. Bennet, Mr. Dawson, Mr. D. Gilbert, Mr. Bernal, Mr. F. Lewis, Sir H. Parnell, Mr. G. Philips, Mr. P. Moore, Mr. Littleton, Mr. S. Wortley, Mr. Birch, Mr. Pares, Mr. T. Wilson, Mr. Egerton, Sir T. Acland and Mr. Hobhouse. See Hansard, vol. 10, p. 150.

George White was clerk of the Committee. He was at first annoyed by the interference of Hume, whose conduct had set Peter Moore entirely aside. However White soon became convinced the matter was going the right way and gave all the assistance he could. Moore never once attended the Committee. See, Wallas, p. 213.

16 Usher, pp. 381-382.

to the details of this problem. Place offered to attend the Committee as his assistant, but the "jealousy of the members" prevented him from doing so. Hume wrote a circular letter announcing the appointment of the Committee and inviting people to come and give evidence before it. Copies were sent to mayors and other officers of corporate towns, and to many of the large manufacturers. A copy was obtained by some country paper which printed it and it was consequently reprinted in all the newspapers, thus giving due notice to everyone.[17]

To Hume and Place the main goal of this Committee was the repeal of the Combination Laws. Huskisson and his colleagues, however, regarded the inquiry into the possibility of encouraging the rise in the manufacture of machinery, which was seriously hampered by the prohibition of sales to foreign countries, as the Committee's primary object. Huskisson tried to no avail to persuade Hume to omit any reference to the Combination Laws in committee sessions.[18]

Meetings were held in many places and both masters and men sent deputations to give evidence before the committee. Place cross-examined each of the men before

---

17 Wallas, p. 212.

18 Webb, p. 89.

they went to the committee, took down the leading factors in each case, and arranged them as briefs for Hume, thus putting him in complete possession of the whole case.[19] Each brief contained the principal questions and answers and was accompanied by an appendix of documents. Place observed the workmen were not easily managed and were filled with false notions all attributing their distresses to the wrong causes. All of the men expected a great and sudden rise of wages when the Combination Laws were repealed.[20] No hostile witness was denied a hearing, but it was evidently arranged so that the employers who favored the repeal were heard first, and that the preponderance of evidence was in favor of repeal. Webb is convinced that "whilst those interests which would have been antagonistic to the repeal were neither professionally represented nor deliberately organized, the men's case was marshalled with admirable skill by Place, and fully brought out by Hume's examination."[21] One thus acted as the men's "Parliamentary solicitor" and the other as their "unpaid counsel."

---

19 By this time Place had acquired the full confidence of the chief leaders of the working class, and he secured the attendance of artizan witnesses from all parts of the kingdom. See, Webb, p. 90.

20 Wallas, pp. 213-214.

21 Webb, p. 90.

Through the evidence given before it, the Select Committee found that there was hardly a trade in which the journeymen were not regularly organized, and that these organized workmen were prepared to support with considerable money any other group of workmen who chose to stand out against their employers. The Committee also found that the Combination Laws were inefficient in curbing those associations of workmen which so often had dictated to their masters the rate of wages and the hours or manner of working. It was found that sometimes the workmen proceeded to the most outrageous excesses, even to murder in order to obtain their ends. The evidence proved that in some places the object of the combination had been, not so much to raise wages, as to prevent workmen who had not served a regular apprenticeship in the district from finding work there. One of the most important findings of the Committee was that "While the laws against combination failed in their object, the terror they inspired from being sometimes, though but rarely, enforced, produced, it was conceived, in the workmen, a feeling of personal hostility towards the masters, and a growing dissatisfaction with the laws of their country."[22] The Committee declined to give

---

[22] The Annual Register, or a view of the History, Politics, and Literature, of the Year 1824, (London, 1825), vol. 66, p. 80.

any opinion on the question of the exportation of machinery and recommended that the inquiry be renewed in the next session.

It was customary when the evidence before a Select Committee had been taken to discuss the matter of a report. Place and Hume were convinced that the consequence of this would be alterations, ommissions, and additions which would make the report useless and defeat its purpose. They therefore agreed to deviate from custom and draw up resolutions which they would try to substitute for a report. They reasoned that it would be more difficult for members to cavil at or alter such short resolutions, each containing a fact, and that few members would make the attempt. Thus the resolutions were drawn, printed, and circulated amongst the members of the Committee. No alterations were proposed and it was agreed that Hume should report the resolutions to the House.[23]

On May 21, 1824, Hume rose to present the Report of the Select Committee on Artizans and Machinery. He announced that the members had come to the following resolutions:

> 1. That it appears, by the evidence before the committee, that combinations of workmen have taken

---

[23] Wallas, pp. 214-215.

place in England, Scotland and Ireland, often to a great extent, to raise and keep up their wages, to regulate their hours of working, and to impose restrictions on the masters, respecting apprentices or others whom they might think proper to employ; and that, at the time the evidence was taken, combinations were in existence, attended with strikes or suspension of work; and that the laws have not hitherto been effectual to prevent such combinations.

2. That serious breaches of the peace and acts of violence, with strikes of the workmen, often for very long periods, have taken place, in consequence of, and arising out of the combinations of workmen, and with considerable inconvenience and injury to the community.

3. That the masters have often united and combined to lower the rate of their workmen's wages, as well as to resist a demand for an increase and to regulate their hours of working; and sometimes to discharge their workmen who would not consent to the conditions offered to them; which have been followed by suspension of work, riotous proceedings, and acts of violence.

4. That prosecutions have frequently been carried on, under the Statute and Common Law against the workmen, and many of them have suffered different periods of imprisonment for combining and conspiring to raise their wages, or to resist their reduction, and to regulate their hours of working.

5. That several instances have been stated to the committee, of prosecutions against masters for combining to lower wages, and to regulate the hours of working; but no instance has been adduced of any master having been punished for that offence.

6. That the laws have not only not been efficient to prevent combinations, either of masters or workmen; but, on the contrary, have, in the opinion of many of both parties, had a tendency to produce mutual irritation and distrust, and to give a violent character to the combinations, and to render them highly dangerous to the peace of the community.

7. That it is the opinion of this committee, that the masters and workmen should be freed from such

restrictions, as regard the rate of wages and hours of working, and be left at perfect liberty to make such agreements as they may mutually think proper.

8. That, therefore, the statute laws that interfere in these particulars between masters and workmen, should be repealed; and also, that the common law, under which a peaceable meeting of masters or workmen may be prosecuted as a conspiracy, should be altered.

9. That the committee regret to find from the evidence, that societies, legally enrolled as benefit societies, have been frequently made the cloak, under which funds have been raised for the support of combinations and strikes, attended with acts of violence and intimidation; and without recommending any specific course, they wish to call the attention of the House to the frequent perversion of these institutions from their avowed and legitimate objects.

10. That the practice of settling disputes by arbitration between masters and workmen, has been attended with good effects; and it is desirable that the laws which direct and regulate arbitration, should be consolidated, amended, and made applicable to all trades.

11. That it is absolutely necessary, when repealing the combination laws, to enact such a law as may efficiently, and by summary process, punish either workmen or masters, who by threats, intimidation, or acts of violence, should interfere with that perfect freedom which ought to be allowed to each party, of employing his labour or capital in the manner he may deem most advantageous.[24]

Place and White, the clerk of the committee, drew up the bills in a form with the fewest possible words. However, Hume had the Attorney-General employ Anthony

---

[24] Hansard, vol. 10, pp. 811-814. See these pages for resolutions pertaining to emigration of artizans and the exportation of machinery.

Hamond, a barrister, to draw up the bills. Place indicated that Hamond made "pretty specimens of nonsense of them." This caused Place and White to attack his draft, but he paid little attention to them. However, Hamond considered his job done after the bills were once printed and gave them no further concern. Place and White once again got them into their hands and altered them as they chose. Their draft was presented to the House, which found the revised draft to contain all that was needful, and no inquiry was made as to who drew the bills.

Place was still certain that if the bills came under discussion in the House they would not pass. Of this he convinced Hume who refrained from speaking on them. Place and Hume together persuaded other members not to speak on the bills' several readings also. The bills passed the House of Commons on June 5, 1824, almost "without the notice of the members within or newspapers without."[25] Four days later the bills were read for the first time in the House of Lords. Here a new difficulty arose, for Lord Lauderdale indicated that he would oppose the bills. He said he approved of the bills in principle, but that it was beneath the dignity of the House of Lords to pass the bills until

---

[25] Wallas, pp. 215-216.

its members had had an opportunity to examine the evidence taken before the Common's committee, which evidence had not yet been reprinted by the Lord's printer. If Lord Lauderdale had used those words in the House of Lords the bills would certainly have been put off until the next session. However, Lauderdale was induced to be silent and the three Acts were passed:

> 5 George IV. c. 95--An act to repeal the laws relating to the combination of workmen, and for other purposes therein mentioned.
>
> 5 George IV. c. 96-- An act to consolidate and amend the laws relative to the arbitration of disputes between masters and workmen.
>
> 5 George IV. c. 97--An act to repeal the laws relative to artisans going abroad.[26]

The bills received the royal assent on June 21, 1824.

Act 5 George IV. c. 95 was the real workman's emancipation act. Its first clause repealed, either in whole or in part, thirty-five statutes respecting combinations, "together with all other laws . . . now in force . . . relative to combinations." The second clause stated that workmen would not be liable to punishment for conspiracy or combination under the common law or the statute law. Thus not only the statute law but the common law of conspiracy was repealed. Common law could now be applied only

---

[26] Ibid, p. 216.

where a breach of the peace actually occurred.[27] These were the two most important clauses to the workmen and their freedom. The bills had more or less embodied the resolutions brought in by the Committee almost to the letter. The workmen now had complete freedom of combination and liberty of emigration.

Although the governing classes were unaware that any important change in the laws or in government policy had taken place, the new laws had a "great moral effect" in all the large industrial centers. Nassau Senior, the economist, commented:

> It confirmed in the minds of the operatives the conviction of the justice of their cause, tardily and reluctantly, but at last fully, conceded by the Legislature. That which was morally right in 1824 must have been so, they would reason, for fifty years before. . . . They conceived that they had extorted from the Legislature an admission that their masters must always be their rivals, and had hitherto been their oppressors, and that combinations to raise wages, and shorten the time or diminish the severity of labour, were not only innocent, but meritorious.[28]

---

[27] Aspinall, p. xxvii.

[28] MS. Report of Nassau Senior to Lord Melbourne on Trade Combinations (1831, unpublished, in Home Office Library). As quoted in Webb, p. 92.

CHAPTER V

The Superseding Legislation of 1825.

In 1824 trade was flourishing, commodity prices were rising rapidly, and the workmen were quite generally employed. Freed as they now were from the law which had oppressed them, and convinced that their wages had been kept down lower than they ought to have been by these laws, many trades "stood out" for higher wages. Trade unions now sprang up everywhere, contrary to Place's prediction that repeal would lead to their disappearance.[1] There followed an epidemic of strikes which soon alarmed not only the masters and the government, but also some of the worker's best friends. Joseph Hume himself sent the strikers several warning letters regarding their activities. He said to the Manchester cotton spinners, "I should be very uncandid if I did not inform you that, unless the operatives act in a manner more moderate and prudent than they have done in some parts of the country, I fear that many members of the House of Commons may be disposed to re-enact the laws they have repealed."[2] This spread alarm

---

[1] Wallas, p. 217.

[2] Aspinall, p. xxviii.

over the manufacturing districts, and had some effect in keeping the people quiet. However, in March, 1825, Hume wrote again, this time to the shipwrights of Dundee: "I am quite certain that if the operatives do not act with more temper, moderation and prudence than they are now doing, the Legislature will be obliged to retrace its steps, and to adopt measures to check unreasonable proceedings and exprbitant demands, too often accompanied with violence."[3]

The workers were abusing their new freedom in a number of ways. A miner's union in Scotland had a rule that no one coming into their district would be allowed to work as a miner until he had paid five pounds to the union funds. Employers were not allowed to have stocks of coal on hand because they would be less dependent on their workmen. Employers were prohibited from employing non-union labor. The shipwrights on the Thames dictated how many men their employers should hire. Some unions tried to dictate to their employers whether they should take any apprentices or not.[4] Hume condemned many of these practices as violating the principle of freedom of action which the workers themselves had demanded and gained.

---

[3] Hansard, vol. 13, p. 1463.

[4] Aspinall, p. xxix

Grave crimes were being committed in this struggle for power and the victims were usually workers who refused to join the unions, or "blacklegs" whom the employers brought in to break a strike. In Dublin at least two such people were murdered. A miner in Stirlingshire was almost beaten to death. In Ireland between seventy and eighty people were wounded, over thirty of them having their skulls fractured. There were numerous cases of vitriol throwing and several people were seriously burnt and blinded for life. However, no convictions followed these acts because it was impossible for the victims, who were assulted in darkness, to identify their assailants.[5]

By the time that the Parliamentary session of 1825 opened, the employers throughout the country were thoroughly aroused. The great shipowning and shipbuilding interest had gained the ear of Huskisson, President of the Board of Trade and M.P. for Liverpool, and this group was noted for its century of unswerving hostility to trade unionism.[6] They tried to persuade him to either repeal "Mr. Hume's Act" or to pass another act which they had drawn up and

---

5 Hansard, vol. 12, p. 1307 and vol. 13, pp. 360 and 1401.

6 Webb, pp. 94-95.

presented to him as being much more effectual.[7] Huskisson told them he did not understand the matter, and recommended that they see Hume who had paid much attention to it. Although they never went to see Hume, the shipping interests did not drop the matter, but kept after Huskisson. Finally Huskisson suggested to Hume that perhaps it would be a wise move if he (Huskisson) were to mention the complaints of the employers in the House, and threaten the workmen that unless their conduct was lawful and their demands more reasonable, the old laws would be restored. He also suggested that Hume say something along this same line, which he did. Hume figured that this would end the matter, but was much surprised when a few days later Huskisson gave notice that he would the next day move for a committee on the act of last session. Hume asked him what it was that he intended to propose, to which he replied that he did not intend to restore the old laws, but to introduce some commercial regulations which would relate principally to the unruly seamen and that the motion for the Committee

---

[7] It was an act to prevent workmen from subscribing money for any purpose whatever, unless they first obtained the consent and approbation of some local magistrate, and unless that magistrate, or some other such magistrate, also consented to become their treasurer, and see to the due application of the money. See Wallas, p. 223.

would be in favor of the workmen in general.[8] This threw Hume off his guard. On March 29, 1825, Huskisson rose to make a very lengthy and very partisan anti-labor speech, ending with his motion for a committee.

Huskisson began by insisting that the repeal of the Combination Laws in the last session had been attended with most inconvenient and dangerous consequences. He felt that the interested parties in these proceedings had been acting under a misconception of the intentions of the legislature. However, he wished to make it clear that he was not in favor of reenacting the old laws against combinations. He said he had always advocated allowing every man to dispose of his labor to his own best advantage and he believed this right was being violated. He then proceeded to attack the act of 5 George IV. c. 95 and its objects stating that in principle these objects seemed fair and proper, but that he felt they were not so in actual practice. He further stated that as long as this act continued to exist it would have a strong tendency to prolong a spirit of alarm and distrust between workmen and their employers. Reviewing the course and effects of the proceedings of last session, he excused himself for not attending his

---

[8] Wallas, pp. 223-224.

place on the Committee. He complained that the Committee instead of making a report containing the necessary information as to the reasons why they recommended such a change in the existing law, had instead adopted a string of resolutions which involved no such statement whatever. He expressed his regret that the aspects of the enactment which were of a legal nature had not been discussed with all the technical knowledge which might have been beneficially applied to them. As a consequence of this, he said, some of the provisions of the act were of a very extraordinary nature:

> Not only did the bill repeal all former statutes relative to combinations and conspiracies of workmen, but it even provided, that no proceedings should be had at common law, on account of any such combination, meeting, conspiracy, or uniting together of journeymen, etc; for, in fact, almost any purpose: and thus, by one clause, it went to preclude the possibility of applying any legal remedy to a state of things which might become, and which had since become, a great public evil.[9]

Hume had argued, he reminded the members, both in the House and in the Committee, calling upon high legal authority to support his view, "that if all the penal laws against combinations by workmen for increase of wages were struck out of the Statute-book, the common law of the land would still be amply sufficient to prevent the mischievous

---

[9] Hansard, vol. 12, p. 1290.

effects of such combinations."[10] Huskisson continued, commenting that the bill had been hurried through the House and that not enough time had been given to discussion of it. He then launched into a very long and very impassioned account of the state of the country. He said that detailed reports coming into the Home Office pointed out that the working class had misconceived the real object of the legislature in the act of 1824, and that if permitted to remain unchecked, this disposition to combine against the masters and the tendency toward the destruction of the property and business of the masters must end in producing great trouble to the country. If these rapidly growing troubles which had reached so alarming a pitch were not soon interrupted he felt that the civil authorities would be needed to protect the property and liberty of the king's subjects. He complained that congresses of workmen were formed and federal republics established, and he feared that all the different branches of an industry would unite and control commerce. He had hoped that regardless of the first feelings of the workmen on finding themselves emancipated from some of the restraints imposed by the old laws, that their own good sense would have

---

[10] Ibid, vol. 11, p. 146.

shown them that they must withdraw from the difficult and dangerous path which they had so unwisely chosen. That hope, he said, he would no longer indulge, and with the expectation of thereby doing justice to both parties--the workmen and the employers--he moved, "for the appointment of a select committee to inquire into the effects of the act of the 5th George IV., cap. 95, in respect to the conduct of workmen and others in different parts of the United Kingdoms and to report their opinion how far it may be necessary to repeal or amend the said act."[11]

Hume rose immediately to answer Huskisson. He began by announcing that he was aware of the disturbance which had taken place since the enactment of last session. He was convinced that many classes had gone further beyond their own interest or the interest of the community than could possibly be permitted. His opinion on the matter was "that both parties ought to be free to make what bargains, and to act in what manner, they should deem the best for their own interest. He thought, the law as it at present stood, was as strong as it ought or need be; and he should, therefore, oppose any increase of its severity upon one of the parties, while the other was left at full liberty."[12] In some instances the conduct of the

---

[11] For Huskisson's speech see Hansard, vol. 12, pp.1288-1301

[12] Hansard, vol. 12, p. 1302.

masters was worse than that of the men, and he went on to give several instances of it much the same as Huskisson had done in the case of the men. He believed that both sides had carried their measures far beyond the point that he had hoped they would when the Combination Laws were abolished. He wished to make one point particularly clear, the fact that the fault in these cases did not rest with the journeymen alone. This being once admitted, he said that there was no one who more heartily concurred in the propriety of punishing any measures connected with threats and intimidation, whether used by masters or by men. In concluding he said that the old Combination Laws had proved that strong and violent measures were not the best means of putting down an evil of this kind.

Robert Peel, Secretary of State for the Home Department, next rose to speak. He thought that the law as it then stood was not what it ought to be. His first objection was that men could be convicted only on the testimony of two credible witnesses. He felt that under this part of the law the criminals were able to escape any penalty for their misconduct, because what they did or said was done or spoken only to the master and not in the presence of any witnesses. He also felt that the system of having a committee of delegates represent the men was "an excessive and infamous tyranny." One thing that he thought was

injurious to the workers themselves was their attempt to establish a maximum wage. He painted almost the same picture of the state of the country as Huskisson had done. Peel warned that the actions of the operatives had produced the effect of breaking the bonds of civil society, and that the men had come to the point where force was the only arbitrator of all the differences. He thought such a state of society dreadful in the extreme and wished to put an end to it. He took his final stand on the premise "that there existed the strongest necessity for a law to repress combinations--a law which should equally bind both masters and men--which should be founded in principles of the most perfect equality of punishment, and which should provide an efficient remedy for this disgraceful system of combination." He promised therefore to support the motion for a committee to examine into the effect of the repeal of the Combination Laws, and that the matter should be considered carefully but in the immediate future as it was a pressing matter. He concluded by announcing that he would give every civil and military aid in his power to protect the property of the employers, but that he thought the best thing the masters could do, though he gave such advise with reluctance, was for the masters to enter into counter combinations by which they might succeed in

defeating the objects of the men.[13]

Hudson Gurney then rose to defend the conduct of the Committee of last session, adding that he could not attribute the lives lost, according to Huskisson's statement, to the repeal of the Combination Laws. He noted that Huskisson's instances had occurred in Ireland where, according to the evidence given to the committee, such violences had always taken place. Several other members rose to speak on the motion which was then passed.

The committee was appointed, but this time the ministry took more interest in its make up. Huskisson and Peel were the originators of the whole matter and they had in mind to adopt the suggestions of the shipowners and shipbuilders and to prepare a bill on the basis of these suggestions. They had the idea that the committee would be more a formality than one of business and that it would only sit a few days. However, they underestimated the opposition they had to encounter. Huskisson named his committee from amongst those whom he was sure would follow his and Peel's views, many being representatives of rotten boroughs. Many of the members who had been on the committee in the preceding session requested to be named to the committee

---

[13] For Peel's speech see Hansard, vol. 12, pp. 1205-1210.

but were refused, Huskisson saying that the committee would sit no more than three or four days. However, Huskisson could not exclude Hume because the House would have demanded that he be put on the committee. It has been noted that ordinarily the old committee would have been revived, but that the usual mode was departed from.[14]

The Right Honourable Thomas Wallace (Master of the Mint) was appointed as committee chairman. Place says that he was not very wise, but conceited with his own wisdom and importance. However, before the committee met several events took place. Huskisson had made an unfortunate blunder in wording his motion "to inquire respecting the conduct of workmen." Under this phrase Place and Hume could operate against him. Huskisson was astounded during the committee hearings when it was demanded that workmen against whom no complaint had been made should be examined for the purpose of proving the beneficial effects of the 1824 Act, and that the demand was grounded on the words of the motion.[15] He had meant no such thing and was determined that none of the working people should be examined ex-

---

[14] Wallas, pp. 226 and 229.

[15] Webb states that for the inner history of this Committee we have to rely on Place's voluminous memoranda, and Hume's brief notes to him. This material may be found in Wallas's, Life of Francis Place.

cepting those who had been personally accused. Another miscalculation which Huskisson and Peel made was in their timing. The appointment of the committee was so near to the Easter recess that it could not meet for nearly two weeks. This gave Place and Hume time to organize their resistance. Place went among the London trades and persuaded them to meet and appoint delegates and to form a large committee to direct the proceedings and to collect money for Parliamentary agents and other expenses. The delay in the committee meeting also gave Place time to write a small pamphlet entitled "Observations on Huskisson's Speech." The Trades Committee printed two thousand copies of this pamphlet and very carefully distributed it, especially to all members of both Houses of Parliament. Considerable effect was produced by it in favor of the men and Place and Hume's cause. A much quoted paragraph from the pamphlet reads:

> If keeping down wages in some cases, by law, was a national good; if the degradation of the whole body of the working people by law was desirable; if perpetuating discord between masters and workmen was useful; if litigation was a benefit; if living in perpetual violation of the law was a proper state for workmen and their employers to be placed in, then the laws against combinations of workmen were good laws, for to all these did they tend.[16]

---

16 Francis Place, "Observations on Huskisson's Speech," (London, 1825), p. 21. As quoted by Wallas, pp. 199-200.

Thus by the time that the committee finally met, the opposition was well organized. Though the workmen had nothing to gain their freedom of association, they were now determined to defend it.[17]

When the committee met the members were informed that about a half-dozen gentlemen would be examined and then a bill would be submitted to remedy the evils complained of. Peel proposed a bill based on the plan set down by the shipbuilders and shipowners, and the Attorney-General, Copley was requested to prepare the bill. However, before the bill was drawn Hume spoke to the Attorney-General and showed him how the proposed bill would be absolute nonsense in actual practice. Hume used the following logic:

> How if money was not to be subscribed but by permission of a magistrate; and how, if none but a Justice of the Peace was ever to be a treasurer, school societies, Bible societies, charitable societies, and other useful associations, could exist? In fact, how any association for desirable purposes could be formed in which contributions were necessary, unless every such society first obtained an Act of Parliament? Whether, indeed, in the present state of society, such an Act could be passed; and whether, if it could be passed, it would not be calculated to change the character of the whole body of the people for the worse?[18]

The Attorney-General saw the force of the objections and

---

17 Wallas, pp. 227-229 and Webb, p. 95

18 Wallas, p. 229.

he declined to draw the bill. Hume and Place had gained an important point.

The committee soon found that it was not so easy to proceed in the way it had proposed. The members were surprised to find the passage to the committee-room blocked up by men demanding to be examined. They were still more shocked at finding offers from the men to rebut the evidence which had been given the preceding day, since great pains were taken that nothing which went on in the committee should be known outside. Petitions to be examined before the committee were sent to the House which referred them to the committee.[19] This crowding of the committee-room had considerable effect on the members of the committee and it attracted the attention of many members of the House who found out the procedure that the committee was following.

The Committee found itself in a dilemma, and because of a fear that its injustice would be exposed in the House as well as in the newspapers, it consented to examine some of the men. However the Committee did not give up its original intention and persisted in examining only those men who were accused by name. The workmen of Dublin and Glasgow were accused of very serious crimes, including

---

[19] Hansard, vol. 12, pp. 1351-1352.

murder, and these accusations were heard in the Committee; yet the Committee persistantly refused to hear any of these people. Huskisson referred to these men as "acquitted felons," but they were unacquitted because they had only been accused before the Committee and it would not condescend to try them. It goes without saying that no one who came with a complaint against the workmen was refused a hearing.[20]

In regard to this Committee, Francis Place was in much the same situation as in the previous year. He examined a vast number of workmen, made digests and briefs of the testimony for Hume, and wrote petitions to the House and to the Committee on behalf of the men. He acted as their unpaid agent as before.[21] The Committee became exceedingly indignant with his meddling and threatened to have him committed to Newgate for daring to interfere and tampering with their witnesses.

The Committee made its report, recommending that the laws of the last session be repealed. The effect of this repeal was to restore the operation of the common law in those special instances in which it had been sus-

---

[20] Wallas, pp. 231-232.

[21] Place says "The repeal of the laws against combinations of workmen in 1824 and 1825 cost me upwards of £250 in money." See Wallas, p. 234.

pended by the 1824 law. The Committee was of the opinion, however, that an exception should be made in its operation in the case of meetings and consultations amongst either masters or workmen, where the object was to consult peaceably upon the rate of wages to be given or received, and to agree to co-operate with each other in endeavoring to raise or lower it or to settle the hours of labor. It further recommended that any resolutions adopted by such an association should bind only parties actually present or giving their personal consent. Along this same vein, the Committee recommended that every precaution should be taken to ensure safe and free option to those who might have no inclination to take part in such associations. Anyone becoming a party to any association, or subject to their authority, should be allowed to act under the impulse of their own free will alone in perfect security against molestation. All combination beyond that allowed in the act was to be subject to common law and dealt with according to the circumstances of each case. For the punishment of offences under the act the Committee recommended that a summary jurisdiction should be established, and that conviction would be permitted on the oath of one credible witness. Punishment could be up to six months imprisonment, with or without hard labor. A bill founded on the Committee report was brought into the House of

Commons June 27, 1825.[22]

There was considerable discussion in the House of Commons when it went into committee of the whole on the bill. Hume objected to the clause which made it penal to induce any man to leave his work by threat, intimidation or insult. He pointed out that the word "insult" might be construed a thousand ways and that the wording was too vague. Others also objected to the clause as too ill-defined. Huskisson supported the clause and after some further discussion the committee voted: for the clause 90, against it 18. Sir Francis Burdett then rose to give three objections to the proposed bill: first, because its language was vague and indefinite; secondly, because insufficient time had been allowed for a trial of the bill which it was intended to amend and repeal; and thirdly, because it deprived the people of trial by jury and left them to the arbitrary discretion of a single magistrate. A member then moved that in place of conviction before two magistrates, it should read by the verdict of a jury. The committee voted on this motion: for the original clause 78, against it 53. Hume said that he protested against punishing men for what was called

---

22 Annual Register, vol. 67, pp. 96-97.

"molesting" their fellow men. He opposed this clause as vague and undefinable. Again the House voted: for the original clause 56, against it 2. The report was then brought in and agreed to.[23]

After the report had been printed and the bill came to be discussed, the shipping interests again tried to introduce new clauses. They printed a comment on the report of the Committee and had it put into the hand of each member as he entered the House on the second reading of the bill. However, the shipping interests received nothing for their trouble and were completely defeated. Hume was able to get some small modifications to the bill. There was added a clause for directing that justices should transmit to the sessions a copy of the commitment, and another clause allowing appeal to the quarter sessions.[24]

During the course of the bill's three readings the debate was very stormy. Place says that "no terms either as to truth or decency of language, to the utmost extent which ingenuity could use, so as not to be reprehended by the Speaker, were spared." Hume was supported by several members, but was opposed by the whole Ministerial bench--

---

[23] Hansard, vol. 13, pp. 1400-1459.

[24] Ibid, p. 1462.

Huskisson, Peel, Wallace, Canning, and Attorney-General Copley. There was much vehemence and ill-temper shown in some of the speeches. The bill was read a third time in the House of Commons on June 30, 1825, and after some discussion was passed.[25]

Act 6 George IV, c.129, while it fell short of the statute of the previous session, still effected a real emancipation of the trade unions. The right of collective bargaining was recognized by the 4th and 5th clauses which declared that combinations were legal "for the sole purpose of consulting upon and determining the rate of wages or prices."[26] The major difference between this act and the one of the preceding session is that the words "common law" are wholly excluded from these two clauses.[27] The other alterations were of lesser importance. There is a long clause (3) respecting intimidation and punishments for offenders. Also, conviction is permitted on the evidence of only one witness in this act, and there is an allowance for appeal to quarter sessions from the magistrate's sentence. The new Act therefore differed very little from Hume's Act in its final analysis. Once more

---

25 Wallas, pp. 235-238.

26 See Appendix III for a more detailed account of these clauses.

27 Wallas, p. 238.

Hume, Francis Place, and the trade union movement had weathered the storm of Parliamentary enactment.

CHAPTER VI

Conclusion

Despite the differences in opinion as to whether the 1800 law worked oppression upon the working classes, it is generally agreed by most authorities that the law was inequitable and very difficult to administer. The spasmodic manner in which this law was applied had the effect of inducing working people to disregard all laws. It made them suspicious of every man who attempted to help them, and it made workers hate their employers with a rancor which nothing else could have produced. It also turned them against those of their own class who refused to join them.

By the time that this law was repealed it had already become wholly inoperative. The act of 4 George IV may be said to be simply a declaratory measure, making legal that which already existed and which would have continued to exist even without such sanction. However, the desire by the Benthamites to extend contractual freedom had considerable effect on the reform of the Combination Laws. "The Act of 1824 was the work of known Benthamites. Mc Culloch advocated its principles in the Edinburgh Review; Joseph Hume brought it as a Bill into Parliament; the

astuteness of Francis Place, in whose hands Hume was a puppet, passed into law a Bill, of which the full import was not perceived, either by its advocates or by its opponents."[1] The Act is based upon two convictions. The first is that trade in labor ought to be as free as in any other type of trade; the second, that there ought to be one and the same law for journeymen and for masters. This was an attempt to extend the laissez faire principles of liberty and equality into the realm of labor relations. It was an attempt to establish absolute free trade in labor. Perhaps this policy was too theoretical or perhaps Parliament would have been wise to have left the Act of 1824 unrepealed.

The workmen, however, used their unrestricted freedom unwisely and their newly acquired power with imprudence and unfairness. There was a large number of strikes accompanied by violence and oppression. The classes of society which had the power in Parliament were panic-stricken by this situation. Many people had visions once more of a French Revolution in England. It might be said that this Act simply moved too fast and too far and that the pendulum of English political thinking must swing back from

---

[1] Dicey, pp. 194-195.

this radical position.

While the Act of 1824 extended the right of combination in order to enlarge the area of individual freedom, the Act of 1825 limited the right of trade combination in order to preserve the contractual freedom of workmen and masters. Dicey concludes that "the two Acts which seem contradictory are in reality different applications of that laissez faire which was a vital article of the utilitarian creed." The Act of 1825 allowed the trade unions more than just a bare existence. The right of collective bargaining and the right to strike were recognized for the first time. Also it was no longer illegal to levy or pay voluntary contributions to enable trade union and strike action to be carried on.

This Act remained in force for fifty years and during that time there was no further attempt to limit the combinations of workmen. In the years that followed the trade union movement concerned itself with widening its scope into national organizations and with bringing working-class opinion to bear upon the political situation of the day.

APPENDIX

COMBINATION ACT (Statute, 39 George III, c. 86),1799.[1]

Sect I- From and after the passing of this act all contracts, covenants, and agreements whatsoever, in writing or not in writing, at any time or times heretofore made or entered into by any journeymen manufacturers or other workmen, or other persons within this kingdom, for obtaining an advance of wages of them or any of them, or any other journeymen manufacturers or other workmen, or other persons in manufacture, trade or business, or for lessening or altering their or any of their usual hours of time of working or for decreasing the quantity of work, or for preventing or hindering any person or persons from employing whomsoever, he, she, or they shall think proper to employ in his, her, or their manufacture, trade or business, in the conduct or management thereof, shall be and the same are hereby declared to be illegal, null, and void, to all intents and purposes whatsoever.

Sect. II - No journeyman, workman, or other persons at any time after the passage of this act should enter into, or be concerned in the making of or entering into such illegal contract, covenant or agreement; and every journeyman workman, or other person, who, after the passing, shall be guilty of any of the said offenses, being convicted in a summary proceeding before justices of the peace, should be imprisoned in the common gaol for not more than three months, or in a House of Correction at hard labor for not more than two months.

- -

[1] This brief of the Combination Acts is taken verbatum from Bryan's Developement of the English Law of Conspiracy and Bland, Brown, and Tawney's Select Documents in English Economic History. I have attempted to put together as complete an account of the Acts as possible from the information available, fitting in the parts from each author where the other was lacking. Though this is not an exact copy of the text of the acts, it includes the important sections pertinent to this thesis.

Sect. III - The same penalty shall be imposed upon every workman who shall at any time after the passing of this act enter into any combination to obtain an advance of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or for any other purpose contrary to this act. The other offenses similarly punished were certain acts done by individuals, which were made criminal without regard to the element of combination.

Sect. IV - Pronounced the same punishment against persons who might attend, or in any way endeavor to induce any workman to attend, any meeting held for the purpose of forming or maintaining any agreement or combination for any purpose declared illegal by this act, or who might endeavor in any manner to induce any workman to enter into or be concerned in any such combination; also against those who should collect or receive money from workmen for any of the aforesaid purposes, or who should pay or subscribe money toward the support or encouragement of any such illegal meeting or combination.

Sect. V - Imposed a penalty of £5 or imprisonment upon any person who might contribute toward the expenses incurred by any persons acting contrary to the statute, or toward the support or maintenance of any workman for the purpose of inducing him to refuse to work or be employed.

Sect. VI - Provided that money already contributed for any purpose forbidden by the act, unless divided within three months after its passage, was declared forfeited.

Sections VII through XVII prescirbed in detail the manner of the law's execution, and granted supplementary powers essential thereto.

APPENDIX II

COMBINATION ACT (Statutes, 39 and 40 George III, c. 106), 1800.

An Act to repeal an Act, passed in the last session of Parliament, intituled, An Act to prevent unlawful combinations of workmen: and to substitute other provisions in lieu thereof.

The first sixteen sections of this act were identical with the corresponding sections of the old, except for a few minor improvements, chiefly verbal.

All contracts heretofore entered into for obtaining an advance of wages, altering the usual time of working, decreasing the quantity of work, etc. (except contracts between masters and men) shall be void.

Sect. II - And be it further enacted, that no journeyman, workman, or other person shall at any time after the passing of this act make or enter into, or be concerned in the making of or entering into any such contract, covenant, or agreement, in writing or not in writing, as is herein-before declared to be an illegal covenant, contract, or agreement; and every journeyman and workman or other person who, after the passing of this act, shall be guilty of any of the said offences, being thereof lawfull convicted, within three calendar months next after the offence shall have been committed, shall, by order of such justices, be committed to and confined in the common gaol, within his or their jurisdiction, for any time not exceeding three calendar months, or at the discretion of such justices shall be committed to some house of correction within the same jurisdiction, there to remain and to be kept to hard labour for any time not exceeding two calendar months.

Sect. III - And be it further enacted, that every journeyman or workman, or other person, who shall at any time after the passing of this act enter into any combination to obtain an advance of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or for any other purpose contrary to this act, or who shall, by giving money, or by persuasion, solicitation, or intimidation, or any other means, wilfully and maliciously endeavour to prevent any unhired or unemployed journeyman or workman, or other person, in any

manufacture, trade, or business, or any other person wanting employment in such manufacture, trade, or business, from hiring himself to any manufacturer or tradesman, or person conducting any manufacture, trade, or business, or who shall, for the purpose of obtaining an advance of wages, or for any other purpose contrary to the provisions of this act, wilfully and maliciously decoy, persuade, solicit, intimidate, influence, or prevail or attempt or endeavour to prevail, on any journeyman or workman, or other person hired or employed, or to be hired or employed in any such manufacture, trade, or business, to quit or leave his work, service, or employment, or who shall wilfully and maliciously hinder or prevent any manufacturer or tradesman, or other person, from employing in his or her manufacture, trade, or business, such journeymen, workmen, and other persons as he or she shall think proper, or who, being hired or employed, shall without any just or reasonable cause, refuse to work with any other journeyman or workman employed or hired to work therein, and who shall be lawfully convicted of any of the said offences, shall, by order of such justices, be committed to and be confined in the common gaol, within his or their jurisdiction, for any time not exceeding three calendar months; or otherwise be committed to some house of correction within the same jurisdiction, there to remain and to be kept to hard labour for any time not exceeding two calendar months.

Sect. IV - And for the more effectual suppression of all combinations amongst journeymen, workmen, and other persons employed in any manufacture, trade or business, be it further enacted, that all and every persons and person whomsoever, (whether employed in any such manufacture, trade, or business, or not), who shall attend any meeting had or held for the purpose of making or entering into any contract, covenant, or agreement, by this act declared to be illegal, or of entering into, supporting, maintaining, continuing, or carrying on any combination for any purpose by this act declared to be illegal, or who shall summons, give notice to, call upon, persuade, entice, solicit, or by intimidation, or any other means, endeavour to induce any journeyman, workman, or other person employed in any manufacture, trade, or business, to attend any such meeting, or who shall collect, demand, ask, or receive any sum of money from any such journeyman, workman, or other person for any of the purposes aforesaid, or who shall persuade, entice, solicit, or by intimidation, or any other means, endeavour to induce any such journeyman, workman, or other person to enter into or be concerned in any such combination, or who shall pay any sum of money, or make or enter into any subscription or contribution,

for or towards the support or encouragement of any such illegal meeting or combination, and who shall be lawfully convicted of any of the said offences, within three calendar months next after the offence shall have been committed, shall, by order of such justices, be committed to and confined in the common gaol within his or their jurisdiction, for any time not exceeding three calendar months, or otherwise be committed to some house of correction within the same jurisdiction, there to remain and be kept to hard labour for any time not exceeding two calendar months

Sect. VI - And be it further enacted, that all sums of money which at any time heretofore have been paid or given as a subscription or contribution for or towards any of the purposes prohibited by this act, and shall, for the space of three calendar months next after the passing of this act, remain undivided in the hands of any treasurer, collector, receiver, trustee, agent or other person, or placed out at interest, and all sums of money which shall at any time after the passing of this act, be paid or given as a subscription or contribution for or towards any of the purposes prohibited by this act, shall be forfeited, one moiety thereof to his Majesty, and the other moiety to such person as will sue for the same in any of his Majesty's courts of record at Westminster; and any treasurer, collector, receiver, trustee, agent, or other person in whose hands or in whose name any such sum of money shall be, or shall be placed out, or unto whom the same shall have been paid or given, shall and may be sued for the same as forfeited as aforesaid.

Sect. XVII - Declared that all contracts and agreements between masters or other persons, for reducing the wages of workman, or for adding to or altering the usual hours or time of working, or for increasing the quantity of work, should be illegal and void; and any person convicted in a summary proceeding before any two justices of the peace of entering into such an agreement should forfeit £20, or be imprisoned in the gaol or the house of correction for not less than two or more than three months.

Sect. XVIII - And whereas it will be a great convenience and advantage to masters and workmen engaged in manufactures, that a cheap and summary mode be established for settling all disputes that may arise between them respecting wages and work; be it further enacted by the authority aforesaid, that, from and after the first day of August of the year of our Lord one thousand eight hundred, in all cases that shall or may arise within that part of Great

Britain called England, where the masters and workmen cannot agree respecting the price or prices to be paid for work actually done in any manufacture, or any injury or damage done or alleged to have been done by the workmen to the work, or respecting any delay or supposed delay on the part of the workmen in finishing the work, or the not finishing such work in a good and workmanlike manner, or according to any contract; and in all cases of dispute or difference, touching any contract or agreement for work or wages between masters and workmen in any trade or manufacture, which cannot be otherwise mutually adjusted and settled by and between them, it shall and may be, and it is hereby declared to be lawful for such masters and workmen between whom such dispute or difference shall arise as aforesaid, or either of them, to demand and have an arbitration or reference of such matter or matters in dispute; and each of them is hereby authorized and empowered forthwith to nominate and appoint an arbitrator for and on his respective part and behalf, to arbitrate and determine such matter or matters in dispute as aforesaid by writing, subscribed by him in the presence of and attested by one witness, in the form expressed in the schedule to this Act: and to deliver the same personally to the other party, or to leave the same for him at his usual place of abode, and to require the other party to name an arbitrator in like manner within two days after such reference to arbitrators shall have been so demanded: and such arbitrators so appointed as aforesaid, after they shall have accepted and taken upon them the business of the said arbitration are hereby authorized and required to summon before them, and examine upon oath the parties and their witnesses, (which oath the said arbitrators are hereby authorized and required to administer according to the form set forth in the second schedule to this act), and forthwith to proceed to hear and determine the complaints of the parties, and the matter or matters in dispute between them: and the award to be made by such arbitrators within the time being after limited, shall in all cases be final and conclusive between the parties; but in case such arbitrators so appointed shall not agree to decide such matter or matters in dispute, so to be referred to them as aforesaid, and shall not make and sign their award within the space of three days after the signing of the submission to their award by both parties, that then it shall be lawful for the parties or either of them to require such arbitrators forthwith and without delay to go before and attend upon one of his Majesty's justices of the peace acting in and for the county, riding, city, liberty, division, or place where such dispute shall

happen and be referred, and state to such justice the points in difference between them the said arbitrators, which points in difference the said justice shall and is hereby authorized and required to hear and determine and for that purpose to examine the parties and their witnesses upon oath, if he shall think fit.

APPENDIX III

THE REPEAL OF THE COMBINATION ACTS (Statutes, 5 George IV, c.95), 1824.

An Act to repeal the Laws relative to the Combination of Workmen; and for other purposes.

(A large number of statutes, wholly or partly repealed, including 39 and 40 George III, c. 106, except the arbitration clauses).

Sect. II - And be it further enacted, that journeymen, workmen or other persons who shall enter into any combination to obtain an advance, or to fix the rate of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or to induce another to depart from his service before the end of the time or term for which he is hired, or to quit or return his work before the same shall be finished, or, not being hired, to refuse to enter into work or employment, or to regulate the mode of carrying on any manufacture, trade or business, or the management thereof, shall not therefore be subject or liable to any indictment or prosecution for conspiracy, or to any other criminal information or punishment whatsoever, under the common or the statute law.

Sect. III - And be it further enacted, that masters, employers or other persons, who shall enter into any combination to lower or to fix the rate of wages, or to increase or alter the hours or duration of the time of working, or to increase the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof, shall not therefore be subject or liable to any indictment or prosecution, or for conspiracy, or to any other criminal information or punishment whatever, under the common or the statute law.

Sect. V - And be it further enacted, that if any person, by violence to the person or property, by threats or by intimidation, shall wilfully or maliciously force another to depart from his hiring or work before the end of the time or term for which he is hired, or return his work

before the same shall be finished, or damnify, spoil or destroy any machinery, tools, goods, wares or work, or prevent any person not being hired from accepting any work or employment; or if any person shall wilfully or maliciously use or employ violence to the person or property, threats or intimidation towards another on account of his not complying with or conforming to any rules, orders, resolutions or regulations made to obtain an advance of wages, or to lessen or alter the hours of working, or to decrease the quantity of work, or to regulate the mode of carrying on any manufacture, trade or business, or the management thereof; or if any person, by violence to the person or property, by threats or by intimidation, shall wilfully or maliciously force any master or mistress manufacturer, his or her foreman or agent, to make any alteration in their mode of regulating, managing, conducting or carrying on their manufacture, trade or business; every person so offending, or causing, procuring, aiding, abetting or assisting in such offence, being convicted thereof in manner hereafter mentioned, shall be imprisoned only, or imprisoned and kept to hard labour, for any time not exceeding two calendar months.

Sect. VI - And be it further enacted, that if any persons shall combine, and by violence to the person or property or by threats of intimidation, wilfully and maliciously force another to depart from his service before the end of the time or term for which he or she is hired, or return his or her work before the same shall be finished, or damnify, spoil or destroy the machinery, tools, goods, wares or work, or prevent any person not being hired from accepting any work or employment; or if any persons so combined shall wilfully or maliciously use or employ violence to the person or property, or threats or intimidation towards another, on account of his or her not complying with or conforming to any rules, orders, resolutions or regulations made to obtain an advance of wages or to lessen or alter the hours of working, or to decrease the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof; or if any persons shall combine, and by violence to the person or property, or by threats or intimidation, wilfully or maliciously force any master or mistress manufacturer, his or her foreman or agent, to make any alteration in their mode of regulating managing, conducting or carrying on their manufacture, trade or business; each and every person so offending, or causing, procuring, aiding, abetting or assisting in such offence, being convicted thereof in manner hereinafter mentioned, shall be imprisoned only, or imprisoned and kept to hard labour, for any time not exceeding two calendar months.

APPENDIX IV

AN ACT REVISING THE LAW AFFECTING COMBINATIONS (Statutes 6 George IV, c. 109), 1825.

An Act to repeal the Laws relating to the combination of Workmen, and to make other Provisions in lieu thereof.

Sect. III. - And be it further enacted, that from and after the passing of this act, if any person shall by violence to the person or property or by threats or intimidation, or by molesting or in any way obstructing another, force or endeavour to force any journeyman, manufacturer, workman, or other person hired or employed in any manufacture, trade, or business to depart from his hiring, employment, or work, or to return his work before the same shall be finished, or prevent or endeavour to prevent any journeyman, manufacturer, workman, or other person not being hired or employed from hiring himself to or from accepting work or employment from any person or persons; or if any person shall use or employ violence to the person or property of another, or threats or intimidation, or shall molest or in any way obstruct another for the purpose of forcing or inducing such person to belong to any club or association, or to contribute to any common fund, or to pay any fine or penalty, or on account of his not belonging to any particular club or association, or not having contributed or having refused to contribute to any common fund, or to pay any fine or penalty, or on account of his not having complied or of his refusing to comply with any rules, orders, resolutions, or regulations made to obtain an advance or to reduce the rate of wages, or to lessen or alter the hours of working, or to decrease or alter the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof; or if any person shall by violence to the person or property of another, or by threats or intimidation, or by molesting or in any way obstructing another, force or endeavour to force any manufacturer or person carrying on any trade or business, or to limit the number of his apprentices, or the number or description of his journeymen, workmen or servants; every person so offending, or aiding, abetting, or assisting therein, being convicted thereof in manner hereinafter mentioned, shall be imprisoned only, or shall and may be imprisoned and kept to hard labour, for any time not exceeding three calendar months.

Sect. IV - Provided always, and be it enacted, that this act shall not extend to subject any persons to punishment who shall meet together for the sole purpose of consulting upon and determining the rate of wages or prices which the persons present at such meeting, or any of them, shall require or demand for his or their work, or the hours or time for which he or they shall work, in any manufacture, trade or business, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices which the parties entering into such agreement, or any of them, shall require or demand for his or their work, or the hours of time for which he or they will work, in any manufacture, trade, or business; and that persons so meeting for the purposes aforesaid, or entering into any such agreement as aforesaid, shall not be liable to any prosecution or penalty for so doing; any law or statute to the contrary notwithstanding.

Sect. V - Provided also, and be it further enacted, that this act shall not extend to subject any persons to punishment who shall meet together for the sole purpose of consulting upon and determining the rate of wages or prices which the persons present at such meeting, or any of them, shall pay to his or their journeymen, workmen, or servants for their work, or the hours or time of working, in any manufacture, trade, or business; or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices which the parties entering into such agreement, or any of them, shall pay to his or their journeymen, workmen, or servants for their work, or the hours or time of working, in any manufacture, trade or business; and that persons so meeting for the purposes aforesaid, or entering into any such agreement as aforesaid, shall not be liable to any prosecution or penalty for so doing, any law or statute to the contrary notwithstanding.

BIBLIOGRAPHY

PRIMARY SOURCES

Books:

Bland, A. E., Brown, P.A., and Tawney, R.H., English Economic History (select documents), London 1820.

Cheyney, Edward P., Readings in English History from the Original Sources, Boston, (n.d.).

Galton, Frank W., Select Documents Illustrating the History of Trade Unionism in the Tailoring Trade, London, 1896.

Hansard, T.C., The Parliamentary Debates, New Series, vols. 11, 12, and 13, London, 1825 and 1826.

Pamphlets and Periodicals:

Anonymous, "On Combinations of Trades," London, 1831.

Brief history of the Combination Laws written from the unionist's viewpoint.

London Trades Combinations Committee, "Combinations defended: being a commentary upon . . . the evidence given before the Parliamentary Committee of inquiry into Combinations of Employers and Workmen. . . .", London, 1839.

Contains the questions and answers given in the investigation of the Parliamentary Committee with comments on each case by the London Trades Combinations Committee.

The Annual Register, or a view of the History, Politics, and Literature of the Year 1824 also 1825, vols. 66 and 67, London, 1825 and 1826.

SECONDARY MATERIALS

Books:

Ashley, Sir William J., Economic Organization of England, London, 1914.

Ashley, Sir William J., Surveys: Historic and Economic, London, 1900.

Ashton, T.S., The Industrial Revolution 1760-1830, London, 1950.

Aspinall, A., The Early English Trade Unions, London, 1949.

Beer, Max, History of British Socialism, London, 1923.

Bryan, J.W., "The Development of the English Law of Conspiracy," Johns Hopkins University Studies in History, series 27, Baltimore, 1909.

Cheyney, Edward P., An Introduction to the Industiral and Social History of England, New York, 1901.

Clapham, J.H., An Economic History of Modern England, London, 1926.

Cole, G.D.H., A Short History of the British Working Class Movement, London, 1925-27.

Cole, G.D.H., An Introduction to Trade Unionism, London, 1918.

Commons, John R., History of Labor in the United States, vol. 1, New York, 1918.

Cunningham, W., The Growth of English Industry and Commerce, 4 vols., Cambridge 1905.

Dicey, A.V., Lectures on the Relation Between Law and Public Opinion in England During the Nineteenth Century, London, 1905.

Dietz, Frederick C., Economic History of England, New York, 1942.

Fay, Charles R., Great Britain From Adam Smith to the Present Day, London, 1928.

Fay, Charles R., Life and Labor in the Nineteenth Century, London, 1920.

Gibbins, H.D., Industry in England, New York, 1903.

Gross, Charles, The Gild Merchant, vol. 1, Oxford, 1890.

Hammond, John L. and Barbara, The Skilled Laborer 1760-1832, London, 1919.

Hammond, John L. and Barbara, The Town Laborer 1760-1832, The New Civilization, London, 1920.

Hammond, John L. and Barbara, The Village Laborer 1760-1832, London, 1911.

Holdsworth, Sir William, Holdsworth's History of English Law, vols., 2, 3, and 8, Boston, 1932.

Hutchins, Beatrice L, and Harrison, Amy, A History of Factory Legislation, London, 1911.

Jevons, W. Stanley, The State in Relation to Labour, London, 1894.

Lipson, E., Economic History of England, 3 vols., London, 1929.

Mathieson, William L., England in Transition 1789-1832, a Study of Movements, London, 1920.

Smart, William, Economic Annals of the Nineteenth Century, 2 vols., London, 1910 and 1917.

Smith, Adam, An Inquiry into the Nature and Causes of the Wealth of Nations, Edwin Cannan ed., New York, 1937.

Stephen, Sir James F., A History of the Criminal Law of England, vol. 3, London, 1883.

Toynbee, Arnold, Lectures on the Industrial Revolution of the Eighteenth Century in England, London, 1908.

Unwin, George, The Gilds and Companies of London, London, 1938.

Usher, Abbott, P., Industrial History of England, New York, 1920.

Wallas, Graham, The Life of Francis Place, New York, 1919.

Ward, A.W., Prothero, G.W., and Leathes, S., (ed.) The Cambridge Modern History, vol. 10, New York, 1911.

Webb, Sidney and Beatrice, History of Trade Unionism, London, 1894.

Webb, Sidney and Beatrice, Industrial Democracy, London, 1920.

Williams, Judith B. (ed. by James T. Shotwell), A Guide to the Printed Materials for English Social and Economic History 1750-1850, 2 vols., New York, 1926.

Periodicals:

Anonymous, "Combinations", Blackwood's Edinburgh Magazine, vol. 35, May, 1834.

Anonymous, "Combination Laws, Repeal of," Blackwood's Edinburgh Magazine, vol. 18, July, 1825.

Coleman, D.C., "Combinations of Capital and of Labour in the English Paper Industry, 1789-1825," Economica, New Series, vol. 21, February, 1954.

George, M. Dorthy, "The Combination Laws" Economic History, vol. 3, 2 April 1936.

George, M. Dorthy, "The Combination Laws Reconsidered," Economic Journal Supplement, vol. 6, May 1927.