FORUM: SHOULD CONGRES

YES!

By Nancy Mayo Waterman

Typical Closed Shop Contract:

The employer agrees to employ none but members in good standing of the union to do all work that may be required. The employer agrees that whenever he may be in need of additional workers, he shall first make application to the union for the same, specifying the number and kind of workers needed. The union shall be given 48 hours to supply the specified help. If the union is unable to furnish the required help, the employer shall have the right to secure his help from elsewhere, and the union agrees to give a working card to such workers upon application for affiliation, which must take place within one week.

A member in good standing is one who is fully paid up or is in arrears for not more than four weeks of dues and assessments in the union, and who carries the union membership card and who has not for any cause been suspended from the union.

THE closed shop has been, since early in the history of organized labor in America, a method by which unions have sought security for their strengthening economic and political structure. In the nineteenth century, the American laborer found himself to a large extent at the mercy of employers and invading hoards of immigrants used to, and willing to continue, life at lower standards than the American workman had become accustomed. The laborers joined in protective organizations to defend their belief in the inherent dignity of man. They had a growing consciousness that the economic conditions under which they must work determined in large part their political freedom as well as their acquisition of daily bread. The closed shop was used as a weapon against recalcitrant non-union workers who were willing to work for lower wages, longer hours and under worse conditions than union members. Through its effective use at this early period, unions gained strength in membership and bargaining power.

I seek to show in the following pages that this weapon, forged in the early days of labor organization, has become a threat to the attainment of those ideals for which workers organized.

It has been, and is continuing to be, argued that the closed shop contract, compelling employers to hire only members of the union with which they are negotiating, is a guarantee against labor difficulties, and should be adopted in fairness to union members who sacrifice time and money in ac-

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BOLISH THE CLOSED SHOP?

NO!

By Sylvan Kling

SINCE 1892, the foes of organized labor have tried to doom the closed shop and deprive workers of their right to bargain collectively. The same forces which tried to label unions "anti-American" in 1892 are at work today. Thwarted in their many attempts to bring the employee under the dictatorial thumb of the employer, these forces are now urging Congress to abolish the closed shop, the instrument which puts the teeth into collective bargaining. Without the closed shop, collective bargaining cannot exist. It would be neither "collective" nor "bargaining." Such a condition would force the employee to accept unjust terms of employment dictated by the employer. Conditions still painfully familiar to industrial workers who suffered under the oppression of sweatshops would be restored.

HISTORY OF CONTROVERSY

The closed shop, as such, came into being in 1892 when hostilities broke out between the Carnegie Steel Company and the Amalgamated Association of Iron, Steel and Tin Workers. Carnegie Steel pressed for an "open shop" and tried to force unions that had been operating under verbal closed-shop agreements to put those agreements in writing. The union resisted the move, and in retaliation, the so-called "open shop" was labelled "The American Plan" by its advocates who hoped that the stigma of "anti-American plan" would be attached to the union shops. The long struggle began.

The debate continued until World War I. In 1917, both labor and management set up a howl for their respective shops. Puzzled and cautious, the National War Labor Board decided to preserve the *status quo*. The hostilities continued.

Well aware that labor was being dominated by management to an unhealthy degree, the National Labor Relations Act was passed by Congress on July 5, 1935. Better known as the Wagner Act, it was not set in motion for practical purposes until a Supreme Court decision in April, 1937, held it to be constitutional. Labor won a hard-fought and well-earned round. Management was whittled down to size: employees and employers now met on a more equal footing.

Realizing that its mastery was being swept away, management sought to minimize the Wagner Act by having it abolished or amended in such a way that it would be rendered impotent. During the years that the Wagner Act has been in existence, its enemies have repeatedly attacked it on one ground or another.

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quiring the advantages which are equally enjoyed by non-union members in an "open shop." It is also argued that it is a convenience for the employer, as the union is thus the sole bargaining agent. Certain union members feel that the very existence of organized labor would be threatened if the closed shop were to be outlawed.

Labor has stated that its constitutional right of contract is abridged if the closed shop is denied and that no court in America has the right to force union members to associate with non-union workers whom they neither like nor respect.

That the closed shop contract precludes labor difficulties is obviously erroneous. A large percentage of the strikes in recent years have been over the inclusion of such a clause in contracts, or over the operation of the principle once it is agreed upon by industry and labor. At the present time, United States Steel and the United Steelworkers of America are at loggerheads over the inclusion, by the corporation, of the following clause in its proposals for a new labor agreement: *The Agreement shall not abridge the fundamental right of an employee to determine for himself, free from intimidation, coercion or discrimination from any source, whether or not to be a member of the Union.* On December 19, 1946, the National Labor Relations Board, dealing with the case of the J. I. Case Company, Racine, Wisconsin vs. the United Auto Workers, C.I.O., ruled that the company must bargain on the closed shop issue. The union at that time was carrying on the longest strike in effect in the country, having struck over the issue of the closed shop the day after Christmas, 1945.

The argument that a non-union member should not enjoy the fruits of union activity rests on the assumption that it is indisputable that union action is always beneficial to the worker concerned. It is questionable whether all coal miners agree that the continued strikes organized by John L. Lewis have always been advantageous to their economic position. Once it is agreed that union activity may not be considered beneficial by a worker, the argument that its benefits deserve his membership becomes merely a matter of opinion and falls to the ground.

If workers may differ in opinion on the advantages accrued in joining a union, it becomes no longer a sufficient reason that the employer is convenienced by the closed shop arrangement under which negotiation with only one bargaining agent is necessary.

According to a survey conducted in 1944 by the Opinion Research Corporation of Princeton, New Jersey, the union movement today represents 68 per cent of a cross section of American workers. The statistics show 7 per cent to be pro-union. Only 14 per cent are found to be in favor of the closed shop. The conscription of laborers into unions, obviously against their desire, which occurs when closed shop contracts are signed in an industry, tends, in the opinion of many union members, to be a disrupting and weakening influence and injurious to the union structure. As Herman

Steinkraus points out in the November, 1946, issue of *The Annals of The American Academy*, "the real security of any union in any plant over a period of years rests not on any rules and agreements, but on its doing a good job, for its employees, the customers, and the management."

In defense of the union's position on its right of contract and its freedom of association, Mr. Jackson H. Ralston, wrote: *Labor is property, so to speak, in the hands of the laborer quite as much as a right to do business is property in the hands of the head of a mercantile establishment. . . . Suppose they* [organized workmen] *unitedly determine not to labor in association with Negroes or under a red-haired foreman or with men of another nationality, why may they not do so? In so doing they simply dispose of their own property rights as deemed meet by them.* Mr. Ralston did not foresee that, in time, unions, exercising virtual monopoly rights over labor in certain industries by means of the closed shop, could thus at their whim, exercising their rights of free association and freedom of contract, exclude all Negroes from those industries, or all red-haired foremen or freckled-faced New Englanders, as the mood suited them.

In 1904, Samuel Gompers himself wrote in the *American Federationist*, *The* [closed] *shop rests on the freedom of contract, or individual liberty. There is no greater element of "monopoly" in it than in any other contract for services or materials. If you give work to A, you can not give the same work to B. Has B any grievance? Would it not be ridiculous for him to object to the contract in the name of equality? . . There is no blow at idealism in the* [closed] *shop. There would be if the unions were close corporations, monopolies, aristocracies.*

MONOPOLY VS. FREEDOM

That the American Federation of Labor had achieved a monopoly over the San Francisco Bay area by 1934 became apparent during a longshoremen's strike. Several hundred union members decided to remain at work. They discovered in the ensuing years that they were blacklisted. Some 400 to 500 men completely lost their means of livelihood.

In May, 1936, the International Brotherhood of Electrical Workers, A.F.L., forced an electrical equipment company in New York to sign a closed shop agreement. The employer requested that he be allowed to keep 25 Negro workers whom he had employed for the last 10 years. He was forced to dismiss them when the union refused them membership.

Union members who are at odds with their leaders, as in the case of the members of a shoe union which fell into unscrupulous hands, may find themselves blacklisted as "menaces" to the union and disrupting "influences." Thus a union member, who is part of a minority opposed to the union leaders, is denied his right of freedom of speech, is termed a danger to the organization and faces the threat of expulsion.

In another case, a theatre chain was asked to discharge workers who, in years gone by, had replaced other workers on strike, and, even though the workers wished to join the union, they were refused membership.

Hutton in *The Philadelphia Inquirer*
"OPERATIONS CROSSROADS!"

It becomes evident, as the discussion continues, that various rights and freedoms are at odds with each other. In insisting on *his* right of contract and freedom of association, the union member employs the threat of a labor boycott to deny his *employer's* freedom of contract with non-union men and to force him to associate willy-nilly with union members.

Every American enjoying the fruits of a democratic constitution should have the right to work when, where and for whom he pleases, and to seek the wages that seem suitable to him. The unions are quite frankly attempting to compel the workers to follow their neatly laid out course of attack. Rule by compulsion may seem a neater, more efficient method in the short run, but we in America have always held that freedom of choice is an essential ingredient of life in a democracy.

We have always maintained that a state, "deriving its just powers from the consent of the governed" shall alone exercise the compulsion which limits an individual's freedom and subjects him to taxation (a non-union worker forced to join a union pays a tax in the form of union dues). According to the *London Economist,* such compulsions should be exercised by the state alone, "with all the attendant apparatus of Parliamentary supervision, public discussion and appeal to impartial courts of law. To farm out to private organizations the right to impose compulsion, to do so with open eyes and in the full light of day, would be the beginning of the end of the free society. This is why the community ought always to look with a very jaundiced eye on any manifestations of the 'closed shop' principle."

And the body politic will indeed be menaced as the recent nation-wide transportation and fuel strikes have shown, as long as labor unions are willing to sacrifice the public interest for union gain.

Union leaders, at present, are the servants of often ill-informed, irresponsible groups. They exercise leadership within narrow limits, because they fear dismissal if they stray too far away from consideration of the group's special interests. In such circumstances, the weapon of the rank and file's disapproval of "moderation" in leadership becomes greater than any consideration of society as a whole.

Without the guarantee of safety which the closed shop clause in union contracts gives, the unions must obviously gain security in other ways. They must look to the growth of social responsibility in both union leaders and members. Union members must learn to view their actions as part of the actions of a society anxious for better living conditions for all.

Eleven years have passed since the federal government gave its official sanction to the closed shop in the following clauses in the National Labor Relations Act: *Nothing in this act . . . shall preclude an employer from making an agreement with a labor organization . . . to require, as a condition of employment, membership therein, if such labor organization is the representative of the employees so provided in Section 9(a) in the appropriate collective bargaining unit, covered by such agreements when made.*[1]

According to the Bureau of Labor Statistics, (Bulletin 829) some 10,500,000 of the 14,500,000 workers employed under collective contracts in January, 1945, were working under union security measures of some sort, among which the closed shop was predominant. This number represented more than three times as many workers as were in the entire trade union movement in 1935. In 1944, Arkansas and Florida passed closed shop bans to stem the tide of labor monopoly. Both were careful to word the amendments in such a way as to enforce legally the principle of true freedom of the individual. Employers could not deny workers the right to labor on account of membership *or non-membership* in any labor union. Thus the worker gained by law the security which he sought in the early days of labor organizations against employers too anxious to ban union men altogether.

In the elections of last November, Nebraska, South Dakota and Arizona voted for constitutional amendments barring the closed shop.

That the closed shop should be outlawed by the federal government is the opinion of certain members of our present congress. They feel that the above-quoted clause in the National Labor Relations Act legalizing the practice should be eliminated.

BALL-TAFT-SMITH BILL

Perhaps the best known of the bills including the proviso is that introduced by Senators Ball of Minnesota, Taft of Ohio and Smith of New Jersey. Senator Ball, in reference to the closed shop has described it as "the most reactionary and illiberal thing we've got in our industrial picture."

Testifying before the Senate Labor and Welfare Committee on January 28, 1947, the Senator also pointed out that there is no difference in principle between the "yellow dog" or individual agreement, declared illegal, under which an employee says that, as a condition of employment, he will not join a union, and a union security provision under which the employee is forced to join and remain a union member.

[1] Section 9(a) provides that representatives selected by the majority of employees shall

"Our approach," Ball states, "is to eliminate or condition the special privileges and legal immunities of labor unions, to make their vast economic power responsible to the public interest, and to prevent those monopolistic practices which clearly are harmful to the public and dangerous to freedom."

During hearings of the same committee, Dr. Leo Wolman, Professor of Economics at Columbia University, concluded that America faces two alternatives: to continue the *status quo,* which would mean more extensive intervention by the government in labor matters, including compulsory arbitration with wage fixing and loss of freedom in industry; or the "attempt to re-establish equality under the law."

I feel that the structure of society which gave birth to the self-protective instincts of the labor unions has changed with more rapidity than the unions are yet aware. The principle of unionism has been accepted in America. No one aware of the changed living conditions of workers since the days of the appalling sweat shops denies that the union movement has been, in the main, beneficial to the worker and to the economic well-being of our country as a whole. The large number of pro-union workers in America now precludes the contention that without such security clauses as the closed shop the union movement would disintegrate. However, the unions' present tendency to monopolize the labor market, to force small unions to amalgamate with larger unions, to cripple the economic and, in turn, the political freedom of the worker, thus forcing the government to take action in defense of society as a whole, should be halted.

Yes! The worker should have security, which an awakened society of today understands is his due, but outlaw the closed shop which is the weapon of monopoly, stealing the constitutional freedom of choice from some, of the right to labor itself, from others.

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Most recent triumph for the antagonists of collective bargaining have been the catch-phrases "the sacred right to work" and "unfair balance." Realizing the futility of attacking the Wagner Act *per se,* these forces have singled out the closed shop, the machinery that is the heart of the whole concept of collective bargaining. They have declared that the closed shop "violates the sacred right of the worker to work." They assert that the closed shop slams the door in the face of the non-union worker who seeks employment in such a shop. But these forces deliberately ignore the fact that the non-union worker is free to seek employment elsewhere, and that there are thousands of non-union shops. They overlook the fact that the worker can join the union—in fact, is welcomed into the union—and they imply that union membership is restricted to a privileged few. They imply also that the employees of a closed shop dictate the terms of employment to the employer. This is their notion of "an unfair balance on the side of the employees". Nothing could be further from the truth. As a matter of fact, neither side dictates to the other. As the term " collective bargaining" implies both employer and employees agree upon the terms of employment.

If there is any unfair balance of power, it most certainly lies on the side of the employer, unions and closed shops notwithstanding.

This erroneous assumption can be seen by examining the definition of the closed shop and the conditions under which it can legally operate. A closed shop is one in which only union members may be hired, and employees must remain members of the union in order to maintain their employment. Furthermore, a closed shop contract is entered into voluntarily by the employer and the union. It can exist only where there is an agreement between labor and management. The employer sits down at a table with the union representative of the employees, and after careful deliberation, must himself decide that he is willing to grant his employees a closed shop and abide by the rules of the contract. *Unless the employer is agreeable to the idea there can be no closed shop.*

WAGNER ACT

Prior to the Wagner Act, even a minority of union men in a shop could win a closed shop contract. With the passage of the Wagner Act, however, only a majority of union men could legally gain a closed-shop agreement. The Act provides further that the employees do not have to join a union which is not of their own choice. Section 7 says in part:

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

In Section 8(3), the employer is prevented from denying these rights:

"It shall be an unfair labor practice for an employer . . . by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization . . ."

This would have automatically sealed the fate of the closed shop, since the employer who enters into such a contract is compelled, according to the contract's terms, to require that the employees join a specified union. However, a proviso attached to Section 8(3) states in part:

"Nothing in this Act . . . shall preclude an employer from making an agreement with a labor organization . . . to require as a condition of employment, membership therein, if such labor organization is the representative of the employees as provided in Section 9(a) in the appropriate collective bargaining unit, covered by such agreements when made."

And Section 9(a) says that representatives selected by a majority of employees shall be the exclusive representatives of all employees.

Does the closed shop justify its existence? Labor emphatically points out that if the closed shop were eliminated, labor would not only lose its power to bargain collectively but would in time fall back to where it stood before the Wagner Act was passed. Collective bargaining is the only means of assuring the worker a fair deal for himself when he seeks and gains em-

ployment. Without collective bargaining, the employee would be on his own. He would have to meet the employer face to face and work out terms of his employment. In some cases, the employer would be fair about it. In most cases, he would take advantage of the situation. Not as articulate as the employer, not as forceful, and realizing that his services are not indispensible, the employee cannot hope to meet the employer on equal terms. He, therefore, loses not only the initiative but also a great many points which he would have won through collective bargaining. In union there is strength, and this strength can be translated into terms of benefits to the workers.

RIGHT TO ORGANIZE

The government has long realized that without unions, workers are helpless in modern industry and cannot protect their economic interest or their freedom. A Report of the Industrial Commission as far back as 1898 revealed that: "It is quite generally recognized that the growth of great aggregations of capital under the control of single groups of men . . . necessitates corresponding aggregations of working men with unions. . . . A single workman face to face with one of our great modern combinations is in a position of very great weakness."

The United States Supreme Court, in the Tri-City case decision given almost 30 years ago, declared that workers must have the right to organize in order to protect their interests. The late Chief Justice Taft said:

"They (the labor unions) were organized out of necessity of the situation. A single employee was helpless in dealing with an employer. He was dependent ordinarily, on his daily wage for the maintenance of himself and his family. If the employer refused to pay him wages that he thought fair, he was nevertheless unable to leave the employ and to resist arbitrary and unfair treatment. . . . Union was essential to give laborers opportunity to deal on equality with their employers."

Long before the Wagner Labor Relations Act was passed, a reactionary campaign was started to create a public impression that the Law is heavily over-balanced in favor of labor and against the employers. Actually, the law does not create an inequality but corrects inequalities which existed previously. *The New York Times* for October 26, 1938, carried a speech by Senator Wagner himself, in which he said, "In the sense that the Act acknowledges only the liberty of the workers to organize and bargain collectively it is as 'one-sided' as all rights and liberties are. The liberty to join a union is the employees' right, not the employer's. Industry has a right to organize, and that is its exclusive right, which it enjoys without interference from employees. No statute was required to acknowledge this right because it has never been challenged but the workers' right has been violently resisted and legislation was necessary to remedy this specific evil."

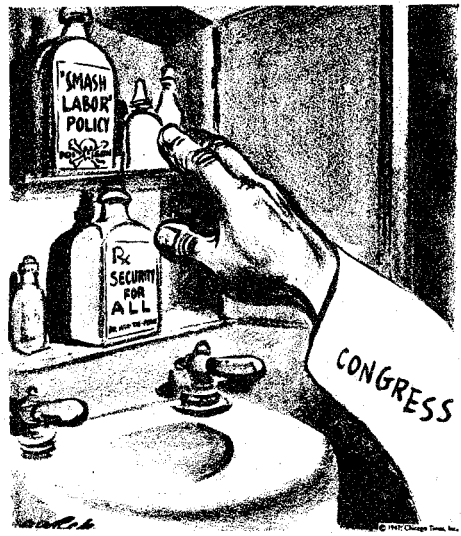
In a decision upholding the constitutionality of the Wagner Act, Chief Justice Hughes said:

"In its present application, the statute goes no further than to safeguard

the right of employees to self-organization and to select representatives of their own choosing for collective bargaining or other mutual protection, without restraint or coercion by their employers.

"That is a fundamental right. Employees have as clear a right to organize and select their representatives for lawful purposes as the respondent has to organize its business and select its officers and agents. . . ."

In the same decision, the Supreme Court held that "the Act does not interfere with the normal exercise of the right of the employer to select its employees or to discharge them. The employer may not, under cover of that right, intimidate or coerce his employees with respect to their self-organization and representation. . . ."



—Burck in *The Chicago Times*
"LOOK OUT"

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Before the Wagner Act was passed, labor was protected by the National Industrial Recovery Act. When the N.I.R.A. was declared unconstitutional by the Supreme Court, labor faced a crisis. In this critical period, two of labor's best-known spokesmen summed up the situation in radio broadcasts. On December 7, 1934, John L. Lewis, President of the United Mine Workers of America, followed the course of big business and its growing authority. Speaking about the post-war era of World War I, Lewis said:

"Control of wealth and credit thus became more highly concentrated. Our self-governing institutions together with destinies of all classes of our people came to be dominated by an immeasurably strengthened and more highly developed banking and financial system. Ruthless individualism and profits were its gods. It knew not humanity nor humanitarian considerations. Under this dictatorship, 4 per cent of the people acquired more than 80 per cent of the wealth of the country. On the other hand, 60 per cent of the industrial workers of the country in the prosperous period of 1926-1929 could not earn a wage above a bare, animal subsistence and could make no provision against sickness, disability, old age, or death.

"Unionism was opposed. Workers were denied a fair participation in the output of industry. Inordinate industrial profits were capitalized and made the basis for speculation. Finally, in 1929, industry was permitted to collapse because this selfish group in power, who dictated industrial policies, would not give to wage earners and salaried workers a sufficiently large participation in industrial output in the form of increased payrolls, to enable them to purchase the goods. . . . Thus we were dramatically confronted in 1930 with the fundamental problems of today and of the future.

"Industrial workers are also convinced that they must have industrial freedom and sound measures of industrial equality. . . . The labor movement expects to reach an equality in bargaining power with capital, or in other words, to attain an economic strength at least equal to that of the stupid financial leadership which up to the present time has resisted the democratization of our basic industries and whatever the ordeal may be, the labor movement knows such a degree of unionization is both necessary and just."

LABOR CONDITIONS IN THE THIRTIES

On June 7, 1935, a month before the Wagner Act was passed, William Green, President of the American Federation of Labor, spoke to the nation from Washington, D. C., through the facilities of the National Broadcasting Company. He said:

"As a result of the (Supreme) Court's decision, code-making is at an end. The Nation now reverts to the economic policies and practices which prevailed in 1930, 1931 and 1932, when more than thirteen million people were unemployed. Child labor was a common practice in those days. Sweat shops prevailed in the sweated industries. Employers were not restrained by any industrial code of fair competition. We now revert to the same status which made child labor and the existence of the sweat shop possible.

"The same employers who employed child labor and established the sweat shop own and control industry now. They have not changed. Furthermore, the effect of ruthless competition is the same whenever and wherever practiced. Child labor and the sweat shop are abolished only where they are forbidden by law. Employers who employed children and maintained sweat shops before the N.I.R.A. became effective will do so now when free from legislative restraint. The reports which are being received from labor representatives in the cities and industrial sections of the Nation show many employing interests are abandoning code provisions relating to wages, hours, and conditions of employment.

"Surely the experience of the past several years has taught the people of our great country that unrestrained competition and industrial demoralization with resultant low wages, long hours and sweat-shop conditions, are economically unsound and injurious to the civic and social life of the Nation. . . .

"It is the selfish employers, the minority among those engaged in the manufacture of goods and commodities, who violate every rule of business ethics. They can be classified properly as sappers who undermine sound

business structures. . . . It is necessary that they be compelled by law to conform to sound business principles, pay decent wages and maintain reasonable hours of employment. They will not do this willingly. They know only force and compulsion. They emphasize rugged individualism and personal liberty. They protest against any interference with their pursuit of unethical policies. They cry persecution when required by law to respect and observe industrial codes of fair competition. . . . Inasmuch as workers can no longer rely upon industrial codes of fair practice for economic advancement and protection they must now resort to and rely upon their own mobilized economic strength. They can only develop that strength to its maximum capacity and service through the creation of a strong organization. They can achieve this objective when accorded the free and unrestricted right to decide for themselves to join a union of their own choosing and to determine what form and what kind of a union they wish, as provided in the Wagner-Connery Disputes Act and to make that decision as free American citizens enjoying and exercising the right to organize and bargain collectively with their employers through representatives of their own choosing."

Most recent noteworthy view of unions towards the proposed abolishment of the closed shop is contained in a letter from Kenneth Douty, Georgia State Director of the Textile Workers' Union of America, an affiliate of the C.I.O., to Ralph T. Jones, associate editor of the *Atlanta Constitution*. "You overlook entirely," wrote Douty, "the reason for the need for a closed shop in America. You know, of course, that it is peculiar to our labor relations climate, practically unknown in Europe. A cursory reading of our labor history reveals why that is so. In no other country has the fight for collective bargaining been so bloody and so bitter. That fight has not stopped today; although in some industries the unions are accepted as permanent institutions, that is not true of most of them. The closed shop is not aimed at keeping workers in line but at mitigating the effect of, or discouraging the pursual of an anti-union course by an employer. With a closed shop, an employer's incentive to attempt union-destroying activities is considerably lessened.

"This is the real basis of management opposition to the closed shop or any form of union security He wants his hunting season to be open 24 hours a day, 12 months a year; and he still has a prodigious appetite for the sport.

"Until collective bargaining is an accepted part of our industrial system, we have no recourse but to press for some sort of union security."

• **Desire, not intelligence, rules character. It is far harder to want the right thing than just know what it is.**

—Swanson Newsette

• **Education, whether of black man or white man, that gives one physical courage to stand up in front of a cannon and fails to give one moral courage to stand up in defense of right and justice, is a failure.**

—Booker T. Washington

Partisanship vs. Government

THE Eightieth Congress was slow getting under way; in its first month, Republican weakness and friction were apparent to all. After the Senate had temporarily disposed of a Democratic hot potato, the Bilbo controversy (see *Forum*, February, 1947), it began a prolonged discussion of special committees vs. standing committees, in which partly lines once again were split. Led by Robert Taft, the Republicans upheld Senate Resolutions 20 and 46;[1] Taft was not strong enough, however, to suppress opposition from such Republicans as Senator Tobey of New Hampshire.[2]

The question of special committees came up as the first order of business under general orders, when Senator Wherry of Nebraska offered Senate Resolution 20, to create a "special committee to study the problems of small business." (The net effect of this resolution, according to Senator Tobey, would be the ousting of Republican Senator Wilson of Iowa as chairman of the former Committee on Small Business, and his replacement by Wherry.) The second order of business was Resolution 46, offered by Senator Brewster of Maine, "continuing the authority for the investigation of the National Defense Program." (This would aid Senator Brewster and provide him with a committee chairmanship.)

As Senator Tobey pointed out in the speech quoted below, both resolutions had by-passed the standing committees that would normally have considered them. And both, according to their opponents, violated the "spirit" of the Legislative Reorganization Act of 1946. Although this act featured frequently in the debate, in its final form it had not contained the Senate-approved "express legislative condemnation of special committees." (The clause had been dropped in the House.)

Democrats had feared that the War Investigating Committee, led by Republican Brewster, would be more hostile to the Democratic conduct of the war than the Committee on Armed Services (standing) led by Republican Senator Gurney of South Dakota.

In spite of strong Democratic (some Republican) opposition, Senate Resolution 46, as amended by Mr. Brewster, was passed on January 22, (49 to 43) and Senate Resolution 20 passed on January 23 (46 to 42).

Excerpts from the final debate on Senate Resolution 20 follow:[3]

1 Both Resolutions were reported out of the Committee on Rules and Administration on January 10.

2 Other Republicans opposed were Senators Aiken of Vermont, Morse of Oregon, Cooper of Kentucky.

3 *The Congressional Record*, Senate, Vol. 9 No. 17, pp. 605, ff.