COLIN GORDON

Why Wagner? A Response to Robert Zieger

Robert Zieger's "Historians and the U.S. Industrial Relations Regime" offers both a crisp historiographical survey of the field and a thoughtful agenda for further research. I agree with much of what he has to say, particularly concerning our fascination with the first fifteen years of modern labor policy (running from the early New Deal through the Taft-Hartley Act) and our relative neglect of the postwar era. Having said this, I want to turn our attention back to 1935, in part because the Wagner Act is such an important and defining moment, and in part because Zieger casually dismisses critical interpretations of the Wagner Act's passage and logic as "ahistorical" or "ideologically-driven speculations."[1] As one whose scholarship is caricatured in this way, I appreciate the opportunity to respond.

Zieger's assessment is typical of the liberal-pluralist understanding of New Deal labor policy. The central premises of this view are twofold. First, workers got what they wanted in the 1930s. This is usually understood to mean both that workers were happy with the Wagner Act and that they were largely responsible for its passage.[2] Second, all of the alternatives to the New Deal legislation of 1935 lay to the right. The threat posed by a loose coalition of business interests, Republicans, and southern Democrats, in this view, vastly overshadowed the romantic and marginal solutions floated by those to the left of the New Deal.[3] Workers could not have done any better in the 1930s, runs the punchline, and they might have done considerably worse.

There are a number of problems with this view, and all that it implies about the practice and structure of American politics, the autonomy of state actors, the constraints and consequences of working-class organization in the Depression decade, and the causal roots of labor's postwar troubles. From the perspective of my own work, however, two important and related

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questions stand out: How, and toward what ends, did business interests confront and influence politics? And how, and toward what ends, did workers and their unions confront and influence politics? What, in other words, did business and labor want from the New Deal and what did they get?

Clearly my disagreement with Zieger over the logic and intent of the Wagner Act rests largely on the fact that we approach the problem with very different starting assumptions. In Zieger's view, American politics is a relatively open, pluralist arena in which voters, organizations, and interests compete for political power and attention. The unique or peculiar political status of any of these interests (employers or investors, for example) must be proven on a case-by-case basis. In my view, economic interests enjoy a substantial and intrinsic political advantage and American public policy reflects this (although not in the crude or functional manner suggested by "instrumentalist" or "structuralist" state theory). The political influence of economic interests is to be assumed, and *disproven* on a case-by-case basis. Zieger would undoubtedly characterize this as an "ideological" assumption, but I would suggest that it is no more or less ideological than the liberal-pluralist position and certainly more logical.

That logic runs something like this: economic interests, as a consequence of labor and political disorganization and *despite* their own disorganization, enjoy a "privileged" political status. This privilege rests on both the generic logic of democratic capitalism and the peculiar logic of American democratic capitalism. Any system of democratic capitalism sets "capitalist" boundaries around "democratic" rule: private interests control employment, investment, and resource allocation; and voters and politicians depend upon economic growth, business investment, and business confidence. In turn, economic power shapes political participation, which demands time and resources, in numerous ways. This can be understood as both a "resource" constraint (those with money can invest in politics and control political information) and as a "demand" constraint (those with money have a greater stake in politics and a greater incentive to be politically active). All of this, of course, is exaggerated in an American setting marked by a weak federal state, piecemeal regulation of private interests, and a privately funded, nonprogrammatic, constituency-service, two-party political system.[4]

It is in this context that we must place the Wagner Act. My own view, based on substantial research in business and political archives, is that the Wagner Act was not a heroic liberal challenge to the power of business but a complex legislative response to the strategic and legal failure of the early New Deal, the disparate demands of economic interests, and the turmoil of labor relations in the wake of the National Recovery Act. Certainly the boundaries of the law, which drew a clear distinction between the "bread and but-

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ter" concerns of production workers on one hand and managerial rights and responsibilities on the other, reflected the core assumptions and interests of the private economy. To the degree that the Wagner Act promised to take wages out of competition and buttress consumption in a closed national economy, it made sense to important fragments of the business community. In the New Deal era, as before and after, labor's legal or political or economic gains were imprisoned by the necessity that such gains at best contribute to, and at least not threaten, the health of the larger economy.[5]

In short, the Wagner Act must be understood as both part of the history of national labor policy and part of the history of the New Deal. The elaboration of collective bargaining rights was less important, in this respect, than the relationship between labor law on one hand, and intertwined questions of economic recovery, competitive regulation, international trade, and purchasing power on the other. Not surprisingly, business influence on these points was fragmented, anxious, and often contradictory. Many business interests, of course, dug in their heels against the Wagner Act's affirmation of workers' rights, but much of the shouting simply reflected the fact that some producers were using the New Deal to shuffle the costs of social and economic order onto other producers. And the rhetorical confrontations of 1935 were quickly overshadowed by the ease with which many employers accommodated themselves to the new law. Zieger is of course correct to dismiss the hoary notion that the Wagner Act was drafted by "shrewd corporate interests."[6] But I never make such a claim. Indeed most of *New Deals* is devoted to the argument that business interests were anything but shrewd; that their scramble for competitive order and political advantage was invariably shortsighted and often dysfunctional. The ruling class rules, but not very well.[7]

Just as business interest and influence cannot be inferred from the managerial anxieties of some employers after 1935, the goals and influence of workers cannot be simply inferred from the fact that the Wagner Act passed. In a sense, Zieger and others confuse the assessment that workers wanted what they got with the assessment that workers got what they wanted. The former is an obvious point: clearly Wagner was a significant victory and a vast improvement over the vagaries of the NRA's Section 7(a). The latter is a much more complex question, and it speaks less to workers' view of the Wagner Act than it does to the disparate aspirations of workers in a range of regional and industrial settings and the constraints under which those aspirations were translated into political options. There are two points of contention here. The first rests on whether or not there were meaningful alternatives to the left of a New Deal system characterized by workplace contractualism, pattern bargaining by industry, close reliance on federal regu-

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lation and protection, and political alliance with the Democratic party.[8] The second rests on the conditions under which workers "chose" the New Deal. In both respects, liberal scholars must juggle their admiration for the achievements of 1935 with the stark reality that, in the long run, the New Deal did little to check corporate power or secure the material and organizational security of the American working class.

At issue, in other words, is not really the immediate history of the New Deal but the degree to which the dismal trajectory of postwar labor relations confirmed or challenged the premises of the Wagner Act. Ironically, it is liberal scholars who have largely accepted the determinist view that prevailing intellectual and institutional conditions left few or no options, while radical scholars have held out for the historically contingent (often tragic) view that other paths were possible and preferable. Both views of course are right in certain respects, but both also glide over the larger historical and institutional context. Certainly American workers have, at critical organizational moments, opted for security at the (apparent) expense of social change. But such choices reflected immediate practical and material constraints, the necessary shortsightedness of working-class politics and workplace organization, and not working-class aspirations. [9] The trick here of course is to understand working-class politics without falling back on a variation of three common, but equally unsatisfactory, explanations: that workers got exactly what they wanted, that "falsely conscious" workers did not know what they wanted, or that workers knew what they wanted but were frustrated by a shrewd cabal of corporate liberals or misled by timid CIO bureaucrats. Workers knew what they wanted, but they also understood the material and political costs of fighting for it. This pragmatic politics of consent was embedded in the New Deal system and elaborated by the "business unionism" of the postwar era.

In this sense, the lament for "lost opportunities" cannot be dismissed as the romantic nostalgia of the academic left: workers wanted something more and accepted something less. At the same time, that lament too often assumes that a critical juncture (1919, 1935, 1942, 1946, 1950) represented a truly "open" historical moment. Tellingly, efforts to pinpoint the tragic misstep of the modern labor movement have stumbled backwards from a failure to adjust to the economic and demographic changes of the 1960s and 1970s, to the managerial backlash of the late 1940s and 1950s, to the legal blow of Taft-Hartley in 1947, to the postwar politics of inflation and full employment, to the constraints of wartime labor regulation, to the CIO's loss of momentum and political favor in the late 1930s, to the premises of the Wagner Act itself.[10] The important point here, of course, is not the moment at which the American labor movement is misled or betrayed, but the pat-

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tern by which workers, with relatively meager material and organizational resources, have sought some semblance of security in a notoriously business-dominated political system. It's trite but true: women and men make history, but not under circumstances of their own choosing.

University of Iowa

Notes

1. Robert Zieger, "Historians and the U.S. Industrial Relations Regime," *Journal of Policy History* 9 (1997): 477.

2. See David Brody, "Workplace Contractualism in Comparative Perspective," in *Industrial Democracy in America: The Ambiguous Promise*, ed. Nelson Lichtenstein and Howell Harris (New York, 1993), 176–203; Brody, "Section 8(a)(2) and the Origins of the Wagner Act," in *Restoring the Promise of American Labor Law*, ed. Sheldon Friedman et al. (Ithaca, 1994), 29–44; Lizbeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919–1939* (New York, 1990), 251–90, Melvyn Dubofsky, *The State and Labor in Modern America* (Chapel Hill, 1994), 107–35.

3. See especially David Plotke, *Building a Democratic Political Order: Reshaping American Liberalism in the 1930s and 1940s* (New York, 1996), 92–127, 364–71.

4. I draw here from Joel Rogers, "Divide and Conquer: Further 'Reflections on the Character of American Labor Laws,'" *Wisconsin Law Review* (1990): 43–98; Thomas Ferguson, *Golden Rule: The Investment Theory of Party Competition and the Logic of Money-Driven Political Systems* (Chicago, 1995), 17–172; Charles Lindblom, "The Market as a Prison," *Journal of Politics* 44 (1982): 324–36; Lindblom, *Politics and Markets: The World's Political-Economic Systems* (New York, 1977), 154–57, 170–200; and Joshua Cohen and Joel Rogers, *On Democracy* (New York, 1982), 47–51.

5. I develop these points in greater detail in *New Deals: Business, Labor, and Politics, 1920–1935* (Cambridge, 1994). See also Joel Rogers, "Reforming U.S. Labor Relations," in *Restoring the Promise of American Labor Law*, 15–17; Christopher Tomlins, *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880–1960* (New York, 1985), 103–47, 317–28; Bruce Kaufman, "Why the Wagner Act? Reestablishing Contact with Its Original Purpose," *Advances in Industrial and Labor Relations* 7 (1996): 15–68; and Peter Swenson, "Arranged Alliance: Business Interests in the New Deal," *Politics and Society* 25:1 (1997): 66–116.

6. Zieger, "Historians and the U.S. Industrial Relations Regime," 477.

7. I develop these ideas in "Does the Ruling Class Rule?" *Reviews in American History* 25:2 (June 1997): 288–93; "A Disorganizational Synthesis? Business, Labor, and Politics in Modern America" (paper presented at the Seminar in the Comparative History of Labor, Industry, Technology, and Society, Atlanta, October 1996); and "Why No Corporatism in the United States? The Political Disorganization of Business and Its Consequences" (paper presented at the Business History Conference, College Park, March 1998).

8. See Tomlins, *State and the Unions*, 317–28; David Montgomery, "American Workers and the New Deal Formula," in *Workers' Control in America* (New York, 1979), 153–80; and Mike Davis, *Prisoners of the American Dream* (New York, 1987), 52–101. I do not consider here the related question of the relationship between rank-and-file radicals and CIO leadership. The parameters of this debate are neatly laid out in Zieger at al., "We Are All Leaders: A Symposium on a Collection of Essays Dealing with Alternative Unionism in the Early 1930s," *Labor History* 38 (1997).

9. See the debate suggested by Brody, "Workplace Contractualism in Comparative Perspective," 176–203; Tomlins, *The State and the Unions*, 99–196; Nelson Lichtenstein, "Great

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Expectations: The Promise of Industrial Jurisprudence and Its Demise, 1930–1960," in *Industrial Democracy*, 113–41; and idem, "Industrial Democracy, Contract Unionism, and the National War Labor Board," *Labor Law Journal* 33 (1982): 520–26.

10. See, in addition to the work cited above, Howell Harris, *The Right to Manage: Industrial Relations Policies of American Business in the 1940s* (Madison, 1982), Nelson Lichtenstein "From Corporatism to Collective Bargaining: Organized Labor and the Eclipse of Social Democracy in the Postwar Era," in *The Rise and Fall of the New Deal Order*, ed. Steve Fraser and Gary Gerstle (Princeton, 1989), 122–52; David Gordon, "Chickens Home to Roost: From Prosperity to Stagnation in the Postwar Economy," in *Understanding American Economic Decline* (New York, 1994), 55–61; Michael Goldfield, *The Decline of Organized Labor in the United States* (Chicago, 1987); Kim Moody, *An Injury to All: The Decline of American Unionism* (New York, 1988).

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