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**ENVISIONING DEMOCRATIC CITIZENSHIP:
RHETORICAL CONSTRUCTIONS IN THE PUBLIC SECTOR LABOR MOVEMENT**

A Dissertation in
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by
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ABSTRACT

Labor relations in the public sector were originally modeled after those in the private sector, but key differences between the sectors contributed to whether or not policies would transfer well. Debates over whether public employees should have the right to organize, bargain collectively, or strike highlight these differences and complicate our understanding of democratic citizenship. I consider the rhetorical strategies that union leaders, workers, government officials, intellectuals, and other vernacular voices used in these debates. The arguments and characterizations they used shaped and reshaped how we imagine the responsibilities and relationships between government and citizens.

Four case studies provide insight into different visions of democratic citizenship. The Boston police strike in 1919 concluded with the understanding that public workers should not be allowed to unionize because that would also require that workers be able to go on strike—something thought to be too dangerous to happen. By 1959 Wisconsin passed the first law that allowed public workers to organize and set up guidelines for collective bargaining. In 1969, Pennsylvania passed Act 195, which gave public workers the limited right to strike. Finally, I consider Wisconsin Governor Scott Walker's 2011 success at restricting collective bargaining rights for public workers. These four episodes in the public sector labor movement brought challenges to the meaning of power and those in power, shifted definitions of class and exposed different ways of classifying citizens, questioned whose ideas would be included in decision-making processes and how, and created opportunities for different modes of civic participation and contested the validity of those modes.

I find three visions of citizenship that emerge from these events and provide suggestions for reenvisioning and strengthening our democracy. What I call the powerful government vision of citizenship, in which the government preserves civilization and controls citizens, expects little from citizens. The good citizen vision expects little of government and requires that citizens take responsibility for how everyone behaves. The engaged citizen vision supposes that work and public life reflect one another and imagines citizens engaging in social and political initiatives while the government manages civic action.

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Chapter 1

Introduction

Rules related to public sector labor unions bring into focus issues concerning citizen participation and democratic procedures. Public sector labor unions allow lower income workers to be included in decision-making processes and may hold the key to preventing the rich from wielding excessive power. These unions, however, are frequently criticized for unfairly privileging public organized workers over unorganized and private workers. Labor unions of public employees have been portrayed as powerful special interests acting to corrupt the American political process. Public sector labor unions have come under attack as well for contributing to budget deficits and reckless spending by state governments. Governors have responded to such accusations by working to pass laws that make it difficult for such unions to increase and maintain their membership. This back-and-forth between legislative bodies and public sector unions highlights central issues regarding class, citizen participation, inclusion, and democracy itself.

Although the current state and future of public sector labor unions are certainly issues of concern for workers and employees in general, such flashpoints reveal more complex dynamics within the democratic process. The governors of New Jersey and North Carolina both signed executive orders that exemplify contrasting visions of the place for democratic procedures within local governments. On the same day that Governor Chris Christie of New Jersey signed an executive order restricting unions from bidding on public contracts under New Jersey's "Pay-to-Play" statute, Bev Perdue, the governor of North Carolina, signed an executive order establishing

procedures for government officials to meet and confer with leaders of the State Employees Association of North Carolina. Both executive orders were immediately challenged on the grounds that they somehow inhibit the processes of democratic government.¹ New Jersey's executive order prevents public sector labor unions from obtaining government contracts, whereas North Carolina's facilitates discussions for government officials to hear the concerns and suggestions of workers as they shape their employee policies. New Jersey's Executive Order challenges the privilege of unions in the name of including private unorganized workers whereas North Carolina's seeks to include public workers in the decision-making process.

In both of these situations, the role public workers might play in government—recalling that they are generally American citizens—is at stake. Do organized groups of citizens with shared experiences have the right to be represented, contribute to political candidates, lobby for their interests, collectively bargain, or act in myriad other concerted ways? To what extent is it acceptable or desirable for democratic principles to apply to the workplace? These questions have been at the heart of public debate over public sector unions for the past hundred years and can be applied to other groups as well. I seek to demonstrate that the public sector labor movement and public sector unions offer a vision of democratic citizenship that can provide a means of strengthening democracy in the United States. Such a vision requires consideration of class, the type and extent of participation, who is included in deliberative processes, and how citizens are able to exercise power.

I argue that the rhetoric used in the deliberative process considering decisions allowing public sector workers to organize, strike, collectively bargain, and otherwise extend principles of democracy into the workplace constructs conflicting visions of democratic citizenship that reveal the limits and potential for citizenship. Four themes within these visions need to be considered:

class, participation, inclusion, and power. In order to justify this argument, I first explain the rise of public sector unions. Second, I explore pertinent issues in democratic theory that the labor movement helps to find a way through. Next, I connect this project to social movement and labor studies. Finally, I provide an overview of the case studies in which issues of democracy and citizenship are constructed and negotiated in public discourse.

The Rise of Public Sector Unions

Over the course of the twentieth century the concentration of organized workers declined markedly in the private sector but increased in the public sector. In 2010 36.2% of public workers belonged to unions. Limiting the definition of public workers to those at the local level increased union membership to 42.3%. Although only 6.9% of workers in the private sector belonged to unions, roughly the same number of individuals in public and private sectors are unionized: 7.6 million public and 7.1 million private employees.² Although postal workers and teachers³ began organizing in the 1800's, it was not until the early twentieth century that public workers began attempting to organize on a large scale.

Public sector workers began laying the groundwork for widespread unionizing in the early part of the twentieth century, but those unions did not become strong until states and local communities passed laws granting unions rights. Public sector unionizing was heavily restricted until the 1960's and 1970's.⁴ At that time states began passing laws allowing for union recognition, collective bargaining, and arbitration procedures, and legalizing the right to strike for some workers.

Labor movement scholars have primarily focused on the history and role of private sector unions in American history and politics. One reason is historical; labor unions developed first in the private sector. Since most wage workers were employed in industry, it makes sense that that

is where unions developed first.⁵ Labor unions grew strong in the second half of the twentieth century in major American industries. Since it was not until the 1960's that public sector unions became a force to be recognized, labor historians inevitably devote the majority of their attention to private sector workers. Major gains of the labor movement primarily took place in the private sector, though not without spillover effects for public workers. Precedent for the eight hour day and collective bargaining rights were set by unions working with private industry. When public unions finally did organize, they modeled practices on those of private unions. Despite their similarities to private sector unions, public sector unions deserve more attention in their own right because the structure of the workplace for public workers is unique. Unlike in industry, budget and employment decisions are often made by agencies with different goals. Because those who make both budget and employment decisions can separately or simultaneously be voted out of their positions of authority, power dynamics within the public sector workplace are markedly different from those in the private sector.

Democracy and Unions

Democracy is both a political and social practice. In the United States direct democracy only takes place at the state and local level where citizens vote on initiatives. Representative democracy is the term used to describe the system by which citizens elect legislators who make decisions on their behalf. In both instances of political democracy citizens act politically by voting, offering to become leaders, and proposing legislation (as initiatives or by giving feedback and input to their representatives.) As a social practice, democracy brings groups together to make decisions that affect a given group. In both the political and social exercise of democracy, participants in the decision-making process are expected to consider the good of the group as well as their individual desires. Individuals are thought of as above all reasonable actors. Private

sector unions aim to institute social democracy in the workplace with spillover effects in political democracy. In contrast, the goals of public sector unions blend social and political democracy. Public unions reshape visions of ideal social and political democratic practices. Both senses of democracy bear upon economic class, the level of participation, who is included in the decision-making process, and who has power.

Karl Marx laid the foundation for understanding class and democracy as interrelated. His concept of the political was tied directly to class. Resnick and Wolff observe that Marx's historical and theoretical writings portray class in different ways. In the historical writings, classes are social groups that can be understood in two ways. They write, "These groups are sometimes understood as objective economic categories defined typically in terms of property criteria. However, these groups are often defined in more subjective terms such that a class exists only if and when persons are conscious of common interests and unify themselves in actual social struggles against others."⁶ The latter conception of class suggests that historically, classes are political entities aware of their economic and social commonalities. In *Capital*, however, class is defined by economic processes rather than by property. Friedrich Engels, in "Tactics of Social Democracy," suggests that efforts by workers can bring about simultaneous social and political changes in a democracy.⁷

The history of private sector unionization in the United States suggests that one's place in the economic system is fundamental to class. Skilled and unskilled laborers generally organized in separate unions. Those in management positions were excluded from unions. Public sector labor unions unite workers not as a class defined by their role in production, since public workers are not engaged in industry, but rather as a class defined by their political and social practices.

The concept of social democracy extends the question of political practices to principles of social interaction. Thus, John Dewey describes social democracy: “From the standpoint of the individual, it consists in having a responsible share according to capacity in forming and directing the activities of the groups to which one belongs and in participating according to need in the values which the groups sustain. From the standpoint of the groups, it demands liberation of the potentialities of members of a group in harmony with the interests and goods which are common.”⁸ On the ground, practicing social democracy requires that citizens provide their expertise to relevant conversations and thereby shape decisions in all facets of their lives and communities. Where principles of social democracy are at work, consensus rather than majority opinion determines action. Dewey suggests that dialogue and face-to-face communication can facilitate social democracy within all communities. “The clear consciousness of a communal life, in all its implications, constitutes the idea of democracy.”⁹ Participation, at least from Dewey’s perspective, must be extensive.

Dewey’s way of thinking encourages us to consider parallels between the workplace and society more generally, especially because we typically think of industry in terms of economic principles of capitalism. If management is considered in political terms, most companies are led by a single leader or board of directors similar to a monarchy or oligarchy. Capitalism encourages thinking about industries in terms that separate the interests of employees and managers, the latter seeking the highest compensation for their work and the former wanting to maximize profit by giving as little compensation as possible. Those divergent interests distract from the communal aspect of industry. Dewey explains, “Wherever there is conjoint activity whose consequences are appreciated as good by all singular persons who take part in it, and where the realization of the good is such as to affect an energetic desire and effort to sustain it in

being just because it is a good shared by all, there is in so far a community.”¹⁰ All parties within a company or industry need it to succeed to earn their livelihood. Hence, regardless of the structure of a given workplace, the communal aspect suggests that there is room for consideration of social democracy and increased participation in making decisions.

Private sector unions allow for a measure of political and social democracy to enter the workplace along the dimensions of participation and inclusion. Democracy is present on several levels for employees despite the employer maintaining ultimate power over what policies are implemented. First, many unions allow for democratically elected leadership meaning that the workers participate in the shape of their union. Also, when workers elect to unionize, they choose which union will represent them when management makes decisions affecting them. Industrial democracy¹¹ gives workers a seat at the table. Iris Marion Young explains that inclusion in the deliberative decision-making process is essential for deepening democracy.¹² As with any democratic institution, consensus cannot always be reached even through discussion. Arbitration procedures where binding agreements are forged is one mechanism by which unions have been able to counter the veto of heads of companies and allow for democratic resolutions of disputes. Jane Mansbridge argues that “material interests, and interests in one's deepest values, cannot always be reconciled with the interests, material and ideal, of others. At this point, when conflict remains after good deliberation, a democracy has two choices—to remain at the status quo or to act.”¹³ Binding arbitration is one method used to bridge the divide when deliberation reaches an impasse. Finally, democratic practices are present in the sense that John Dewey promoted: dialogue and discussion. Industrial democracy, more specifically collective bargaining, promotes this type of discussion in facilitating face-to-face dialogue between

workers and management. Although consensus is not always achieved, the deliberative process of collective bargaining allows for the forging of community.

Public sector workers combine political and social democracy in ways that have yet to be thoroughly explored. Similar to private unions, public unions allow workers to be included in more decisions and bring the benefits of collective bargaining and binding arbitration. These practices of industrial democracy are complicated by the commitment to procedures of political democracy when brought into the public sector workplace. Elections and other modes of political participation allow different avenues that may blend the worker's civic and work lives.

The Labor Movement and Union Rhetoric

Despite the responsibility inherent in democratic citizenship to be involved in the political process, often individuals feel powerless and refrain from acting at the most basic level by voting. Similarly, perceptions of powerlessness fuel inaction regardless of calls for individuals to participate in all aspects of community in social democracy. Social movements galvanize citizens into taking personal and collective action. Labor unions are the organizations that teach workers to act democratically at work and in the political process. Thus, by studying the rhetoric of social movements and labor unions, we can better understand how social and political democracy can be reinvigorated.

Rhetorical studies of the labor movement focus on private sector unions. They fall into two categories: studies of leaders from the labor movement and studies of the tactics used by the movement. The first set of studies examines the speeches by labor leaders to better understand their appeal. This branch of movement studies was encouraged by Herbert Simons through his leader centered conception of social movement theory. He made the case for focusing on leaders by arguing "The primary rhetorical test of the leader—and, indirectly, of the strategies he

employs—is his capacity to fulfill the requirements of his movement by resolving or reducing rhetorical problems.”¹⁴ Subsequent leader-centered studies sought to explain how leaders managed demands from their various audiences and exigencies. Studies of labor leaders have generally centered on those who spoke from the radical edge. Mary Boor Tonn and Mark Kuhn, for example, analyze the rhetorical style of Mary Harris ‘Mother’ Jones and argue that her participatory style models the type of participation that she hopes her audiences will enact once they join unions. They suggest that her “militant mother” style helps explain why she was such a successful labor organizer—the mother persona allowed for both nurturing and militant rhetorical strategies. Eugene Debs, leader of the Industrial Workers of the World, has been the focus of several studies by rhetoricians. Scholars have struggled to understand how he has become an important voice in the history of the labor movement despite being a radical in his own time. James Darsey looks to Debs public addresses to better understand how his prophetic ethos functioned over time. Ronald Lee and James Andrews looked to the contextual factors that reshaped memory of Debs.

Remarkably little scholarship has focused on mainstream labor leaders. The one rhetorical study that exists of the mainstream leader Samuel Gompers, leader of the American Federation of labor until 1924, looks at his oratorical prowess, but does not situate his words within the labor movement. This too is a legacy from Simons, who specifically excluded recognized labor unions as objects of studies by social movement scholars on the grounds that they are institutionalized collectivities.¹⁵ However, Richard Jensen’s analysis of leadership changes within the United Mine Workers of America and the United Steelworkers of America suggests that established unions do not necessarily function like traditional institutions when there are pressing issues for the members. Rather, Jensen found that the union membership and

emergent leaders reinvigorated the unions to behave more like they did before receiving official recognition and staid reputations.¹⁶

The second category of studies falls into the broader category of social movement scholarship. They look at the rhetoricity of tactics used by organized workers and how arguments are framed. Though much of social movement scholarship in rhetoric takes the Civil Rights movement as a case study, some theoretical arguments have been made using the labor movement. Charles Stewart's analysis of the Knights of Labor is significant because it points out that different rhetorical techniques are used when addressing union members as opposed to those not affiliated with the union.¹⁷ It provides evidence of the different rhetorical techniques needed for the distinct audiences.

These studies tend to operate on two levels: commenting upon a historical reality of the labor movement and simultaneously contributing new ideas for how to approach studying social movements. Dana Cloud's analysis of the cotton mill workers' strike in 1934 is typical of these studies. On one level she examined the rhetorical technique of verbally gesturing at what cannot be said to show the power relations of race in the mill town. On another level this study is important because it shows "how textual scholars, working within a materialist frame, can discover symptoms of contextual power in the text itself and relate them to broader contextual features of social reality."¹⁸ She argues that labor organizers should be working harder to organize across race lines in order to combat these institutionalized divisions that are reflected in rhetorical techniques.

Scholarship conducted by rhetoricians has provided a framework for understanding how workers are motivated to organize, the techniques of effective rhetorical leadership, and public memory of labor leaders and points the way for scholars to examine the consequences of labor

rhetoric for society. While Cloud's study hints at such an approach by pointing us toward considering the construction of race relations, more needs to be done. Looking at public sector labor rhetoric is a fitting place to begin this project because discourse on worker participation simultaneously can be mapped onto the discourse on civic participation.

George Cheney and Dana Cloud provide guidance for studying democracy in the workplace. Cloud points to the limits of change, namely that the material power organized labor holds will restrict what can be done regardless of the solidarity and persuasiveness of the union's rhetoric. Cheney points to another limit to solidarity: the tendency for consumption practices to construct greater loyalty. He points out that while consumer practices are assumed to be democratic, they often hinder democratic practices at work. We do well to be reminded that consumer culture also impacts democratic procedures in the political as well as economic sphere.¹⁹ Similarly, as I will suggest, discussions about the rights and responsibilities of workers constructs a framework for democratic action for public workers and citizens more generally.

The Unique Situation of Public Sector Labor

Scholarship on public sector unions seeks to explain best labor practices for public unions with private unions as the model for union behavior. Scholars tend to assume that organizing principles are the same in both arenas. They have identified several elements that limit what workers in the public sector might hope to gain through collective bargaining and have also identified the differences in union power between the public and private sectors given the variation in laws governing workers in the different sectors. John Macy, for example, suggests that there are three key differences between private sector employers and government that must be weighed when unions consider a strike. First, public officials do not hold ultimate authority, citizens do. Second, "while government leaders do have defined authority to act as management,

the nature of their action is strongly affected by need to weigh the balance divergent interests of major groups among the citizens they represent.”²⁰ And finally, Macy reminds us that “the process of public policy formulation is frequently responsible for many of the working conditions specified for public employees,” so there are limits on what unions can change. These same criteria shape how public workers collectively bargain and the types of agreements they can reach.

Traditional practices of collective bargaining are complicated in the public sector because of the constraints democratic institutions place on managers to bargain. Jonathan Brock’s study of Massachusetts efforts to prevent impasses in negotiations crystallizes and expands Macy’s observations. He, like Macy, suggests that the separation of legislative powers from the employers’ executive powers and issues of sovereignty tie the hands of employers during negotiations. He writes that “the ideology that prevails among public managers frequently tends to reflect the traditional view of sovereignty: that bilateral bargaining is not an appropriate way to allocate an important portion of public resources.”²¹ Concerns over sovereignty are problematic when arbitration is used as a means of settling labor disputes because a nonelected representative of the people is in a sense legislating action. Brock further points to the instability caused by short elected terms. Labor, he argues, has a history of circumventing the employers by lobbying for changes in policy, which means that the rules in the negotiating games tend to keep changing. These differences, compiled with the thirty year delay in developing official bargaining practices in the public sector, mean that collective bargaining, though now generally allowed in public sector jobs, is still imperfect and markedly different from that in the private sector.

Research Questions

The arguments that resulted in public sector labor law reveal differing ideals of democracy. They differ in their notions of class, the depth of participation, who is included and how, and how individuals and interests exercise power. My project will attempt to answer the following question: What visions of democratic citizenship are rhetorically constructed in the public sector labor movement and what are the consequences of those visions for citizenship and democracy? The extent and form of democracy present in -- and facilitated by -- public sector unions has shifted over time and has been shaped by the laws governing union behavior. In addition to being interesting because of their role in United States history, public sector unions provide an opportunity to explore conflicting visions of what it means to be a good citizen. Since public employees are both citizens and productive members of the economy, they have a stake as both workers and citizens in the outcome of disputes over public sector unions. Their work is not simply economic, but a form of civic engagement.

I will explore visions of United States citizenship as they are created and contested during pivotal moments in the public sector labor movement as it unfolds at the local and state levels. The visions are ways of imagining the relationships and roles of government and citizens. Public sector workers are in a unique position; their role as laborers in the economy is complicated by their responsibilities as citizens. Since labor unions brought democratic principles into the economic lives of private sector employees, public sector workers have had to articulate what it means to be a citizen in order to improve their economic condition. When one works for the government, the question of what it means to be a good citizen is inseparable from what it means to be a good employee. Several pivotal moments in the public sector labor movement are sites where citizenship was rhetorically constructed and the meaning of democracy was contested. Incidents when Americans grappled with questions of whether or not public workers have the

right to organize, strike, and/or bargain collectively provoke discussion on the extent to which democratic practices can extend into the workplace without undermining the stability of government. I will explore these questions by looking at cases in which those questions were taken up and where decisions had long-reaching consequences. Specifically, I will look at the Boston police strike in 1919, passage of Wisconsin's first public union laws in 1959 and 1962, passage of Pennsylvania's Act 195 (the Public Employee Relations Act) in 1970, and the anti-union governor campaigns of 2010. The debates, demonstrations and declarations during these four episodes rhetorically construct competing visions of democratic citizenship.

These visions can be reconstructed by examining materials produced by the unions, statements from key players, media coverage and commentaries, and public records. These resources provide a glimpse at public discourse that encompasses both elite and official rhetoric as well as vernacular rhetoric from those without an officially recognized voice.²² My dissertation aims to better understand the rights and responsibilities of U.S. citizens that are revealed in these visions by paying particular attention to arguments, characterizations, and ideographs that are used to advance these visions of democracy. Each of these cases also increases our understanding of how class functions in democracy, the extent and nature of participation, who is included in the decision-making process, and how power is maintained, curtailed or exercised.

Case Preview

Given that private sector workers who had the right to organize also had the power to strike, the first case will take up the debate over whether or not public workers should have the right to organize like public sector workers and gain similar power. In August of 1919 the policemen of Boston defied police commissioner Edwin U. Curtis's order banning them from

joining a national organization when they received a charter from the American Federation of Labor. The leadership of the policemen's union was discharged in September of 1919. On September 9, 1500 police officers walked off the job in Boston. Order in the city departed with the police officers. The next day Mayor Andrew Peters asked Governor Calvin Coolidge to send the state guard to restore order. By the time they were in control five people were dead and dozens of others were injured. Other unions within Boston considered striking in sympathy with the policemen, though a general strike did not happen. By September 12, Samuel Gompers, president of the AFL, asked the officers to return to work. Calvin Coolidge was quoted in newspapers across America calling it a "strike against civilization," and declaring that "no one has the right to strike against the public at any time for any reason."²³ Boston fired its entire police force and eventually replaced them with newly returned soldiers from World War I.

The arguments that emerged in Boston surrounding the rights to organize and strike take up the issues of class, participation, inclusion and power. The blend of citizenship and employment status particular to public workers complicated attitudes toward the police demands and tactics of civic engagement. People argued whether or not democratic principles were appropriate when public safety was at stake. That in turn provoked questions concerning what constituted civic responsibility. Was preserving social order part of civic responsibility? The authority of law was called into question. If government workers could strike, would the stability of government be undermined? Finally, was it fair and democratic for unions to exert pressure on government? There seemed to be a fear that organized police, whose role it was to enforce laws passed by government, might have enough power to halt the functioning of that government or control it. While the Boston police strike did not resolve answers to all of these questions, the questions were articulated along with the seeds of answers. One answer that emerged loud and

clear was that public workers could not be allowed to endanger public safety. This resulted in public unions being banned from striking for the next fifty years. States also made efforts to prevent public unions from gaining and exercising power. Finally, while the police union was excluded from the deliberative process, many of their demands were met.

The second case will explore the vision of citizenship that emerged from the debates surrounding the passage of the first law granting public workers the right to organize in Wisconsin in 1959 and the modifications passed in 1962. Wisconsin, in 1959, passed a law allowing for public unions to organize and “be represented by unions in “conferences and negotiations” over wages, hours, and working conditions.”²⁴ The debate surrounding this law took up the concerns about public worker organizing that surfaced in 1919. Although The American Federation of State, County and Municipal Employees (AFSCME) had been organizing workers in Wisconsin since the 1930’s, this was the first time recognition of the workers was protected by law. This law excluded public safety officials and also did not provide for binding arbitration or strikes. I will argue that these exclusions are a consequence of the vision of democracy that emerged from the Boston strike. The 1962 labor bill modified the 1959 law to provide for fact finding and voluntary binding arbitration. These additions were meant to insure bargaining in good faith and provide an enforcement mechanism when agreements were reached. Both government employers and employees did opt to use arbitration despite it being a voluntary step for resolving impasses. It was not until 1977 that Wisconsin modified union rights for public workers by mandating binding arbitration when each side made its last best offer. The 1962 law also specified that negotiations with unions result in a written contract rather than verbal agreements over work compensation as had been the practice. These two laws (1959 and 1962) were the first steps in legalizing public union activities on the model of private sector

unions. This episode is important because unions attempted to both increase the level and quality of workplace democracy for public workers while government simultaneously attempted to limit the scope and power of unions in the deliberative process.

The parallels to private sector unionization institutionalized by this law, and the select features of that process excluded in the law, highlight the distinction between worker and civic activity. AFSCME mobilized public workers to go to the polls to vote in legislators who would support these laws. The calls for democratic political action mirrored the calls for democratic representation in the work process. The mechanisms legalized were intended to help establish an ideal speech situation—creating an environment where negotiations could be conducted fairly and in good faith. The use of the democratic practices codified by the law emphasize the role of extensive participation by workers and the importance of procedural safeguards to insure inclusion that does not unfairly upset power dynamics.

Case three will take up issues of citizenship that emerged from the process of passing a model law legalizing strikes by public workers. Fifty years after Boston's famous strike, public service employees were legally allowed to walk off of the job if they had exhausted established collective bargaining and arbitration procedures without coming to a satisfactory contract. In 1970 Pennsylvania passed Act 195, the Public Employee Relations Act, which established criteria for legal strikes by public workers. I will pay particular attention to the arguments of the various unions that worked to secure passage of Pennsylvania Act 195: AFSCME, the AFL's state Federation of Teachers, and the Pennsylvania State Education Association. This piece of legislation opened the door for legislatures across the country to pass similar laws granting the positive right to strike. Such laws envision participatory democracy where debate and discussion are not always enough to resolve differences.

Passage of Act 195 offers a different vision of democratic citizenship than that which emerged from the case of the Boston strike. While the collective bargaining and arbitration components of the law attempt to insure inclusion similar to the Wisconsin laws, the positive right to strike suggests that legitimate democratic participation is not always deliberative. This case also suggests that organized public workers and strikes may not actually be very powerful – at least not enough to be considered a threat. Additionally, the coalition of unions that worked to pass this law allows for a deeper consideration of the role of class.

The fourth case will explore the passage of Wisconsin Governor Scott Walker's plan to restrict that state's public sector labor unions. This episode is significant because it once again took up the question of whether or not public workers have the right to organize. Unlike in the Boston case, public sector unions had over forty years of experience as legal organizations and accomplishments that helped justify their existence. The case of Wisconsin will be examined post-election because it was the most widely covered anti-union campaign by the news media. It also sparked hundreds of sympathetic demonstrations by public employees across the country. Unions and union sympathizers were immediately reminded that they could challenge any resulting laws by becoming politically active. This raises the question of how anti-union governors were elected and also suggests that the anti-union policies of these administrations will spur greater political engagement by public employees in the next election cycle. More significantly for this project, the 2011 Wisconsin law takes up the question of what appropriate democratic representation looks like for public workers. In particular, opponents of this law, both worker/citizens and legislators, attempted to disrupt democratic deliberation to prevent its passage. The lawmakers walked out and workers protested outside the state capitol.

The passage of this law complicated the relationship between democratic participation and power. One of the interesting arguments in the Wisconsin debate was the plan to require recertification elections for unions yearly, in a sense hyper democratizing the union process. Unions argued that such frequent recertification elections are a barrier to union membership and would hamper union efforts to advocate for their members—depriving them of power. Others argued that the elections are a means to insure that members truly want union representation.

Since unions were encouraging political behavior by the rank and file, but those same principles of behavior were being limited at work, one must ask where is the line between identities as citizen and employee? Is there a point at which democratic practices become burdensome for citizens? This law brings attention to another aspect of citizenship: whether or not there are issues unsuitable for deliberation. In this case, the law restricts collective bargaining to wage increases and limits them to the percentage of increase in the price index. What then is the right level of democracy that citizens should permit and expect?

Conclusion

This project offers us a rhetorical history of key moments in the public sector labor movement with a focus on democracy. The visions of democratic citizenship that are articulated in these four episodes by both the labor movement and representatives of government have shaped and will continue to shape both laws and democratic practices. In each of the four cases public workers were directly affected by whichever vision emerged as dominant in that given time. The visions of democratic citizenship that emerge from these cases reveal attitudes toward class, the extent and nature of participation expected by citizens, who is included and how in deliberation, and how power is controlled in democracy. These four dimensions each contribute to the strength of democracy, the stability of social order, involvement of citizens, and how

citizens relate to one another. I plan to speculate on the implications of the various rhetorical constructions and offer an opinion on a vision that offers hope for improving democratic practices.

A final word is in order regarding the aims of this project. I seek to provide a rhetorical history of key moments in the public sector labor movement that will both enrich our understanding of labor rhetoric and contribute to the history of organized labor in the United States. The visions of democratic citizenship that emerge from this rhetorical history of moments in the labor movement help us to understand the consequences of imagining different relationships between government and citizens and the role of each. These visions of democratic citizenship contribute to our understanding of the possibilities for improving democracy.

¹ See Rob Christensen, “Perdue: SEANC Speaks for State Workers,” *The News and Observer*, Feb. 4, 2010, A and Charles Stile, “Christie’s Chasing a Familiar Villain,” *The Record*, Jan. 28, 2010, L01.

² U.S. Department of Labor. “Union Members Summary,” Bureau of Labor Statistics, January 21, 2011. <http://www.bls.gov/news.release/union2.nr0.htm>

³ The National Education Association formed in the 1870’s with the primary aim of improving education. It was not until the American Federation of Teachers formed in 1916 that a teachers union looked like and had goals similar to other workers unions.

⁴ See Joseph E. Slater, *Public Workers: Government Employee Unions, the Law, and the State, 1900-1962* (Ithaca: Cornell University Press, 2004), and B. V. H. Schneider, “Public Sector Labor Legislation: an Evolutionary Analysis,” in *Public Sector Bargaining*, ed. Benjamin Aaron et al. (Washington: Bureau of National Affairs, 1988), 189-228.

⁵ See John A. Fossum, *Labor Relations: Development, Structure, Process* (New York: McGraw-Hill Irwin, 2006) and Aaron Brenner et al. eds., *Encyclopedia of Strikes in American History* (New York: M. E. Sharpe, 2009).

⁶ Stephen A. Resnick and Richard D. Wolff, *Knowledge and Class: A Marxian Critique of Political Economy* (Chicago: University of Chicago Press, 1987), 109-110.

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- ⁷ Karl Marx and Friedrich Engels, *the Marx-Engels Reader*, trans. Robert C. Tucker (New York: W. W. Norton & Co., 1978), 556-573.
- ⁸ John Dewey, *The Public and Its Problems* (New York: Henry Holt and Co., 1954), 147.
- ⁹ Dewey, *Public and Its Problems*, 149.
- ¹⁰ Dewey, *Public and Its Problems*, 149.
- ¹¹ "Industrial democracy" is commonly used with an equivalent meaning to "social democracy."
- ¹² Iris Marion Young, *Inclusion and Democracy*, (Oxford: Oxford University Press, 2000).
- ¹³ Jane Mansbridge, "Using Power/Fighting Power: The Polity," in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996), 47.
- ¹⁴ Herbert W Simons, "Requirements, Problems, and Strategies: A Theory of Persuasion for Social Movements," in *Readings on the Rhetoric of Social Protest*, 2nd ed., eds. Charles E. Morris III and Stephen Howard Browne (State College: Strata, 2006), 36.
- ¹⁵ Simons, "Requirements," 36.
- ¹⁶ Richard J. Jensen, "Leadership in Contemporary American Labor Unions: Adaptation and Renewal," *Communication Quarterly* 25 (Spring 1977).
- ¹⁷ Charles J. Stewart, "The Internal Rhetoric of the Knights of Labor," *Communication Studies* 42 (Spring 1991): 67-82.
- ¹⁸ Dana L. Cloud, "The Null Persona: Race and the Uprising of '34," *Rhetoric and Public Affairs* 2, 2 (Summer 1999): 175.
- ¹⁹ George Cheney and Dana L. Cloud, "Doing Democracy, Engaging the Material: Employee Participation and Labor Activity in an Age of Market Globalization," *Management Communication Quarterly* 19, 4 (May 2006): 529.
- ²⁰ John W. Macy, "The Role of Bargaining in the Public Service," in *Public Workers and Public Unions* ed. Sam Zagoria (Englewood Cliffs: Prentice-Hall, 1972), 11.
- ²¹ Jonathan Brock, *Bargaining Beyond Impasse: Joint Resolution of Public Sector Labor Disputes* (Boston: Auburn Publishing House, 1982), 9.
- ²² Gerard A. Hauser, *Vernacular Voices: The Rhetoric of Publics and Public Spheres* (Columbia: University of South Carolina Press, 1999), 272.
- ²³ Francis Russell, *A City in Terror: 1919, the Boston Police Strike*, (New York: The Viking Press, 1975), 191.

²⁴ Joseph E. Slater, “State Legislation as a Fulcrum for Change: Wisconsin’s Public Sector Labor Law and the Revolution in Politics and Worker Rights.” Working Paper 516, Berkeley Electronic Press, 2005, 47.

Chapter 2

Strike: The Right to Organize and the Policemen

1919 was a strike-filled year for unionized workers. The tone was set when 110 union locals joined in solidarity with workers from Seattle ship yards in a general strike, bringing that city to a standstill for several days in February. Mayor Ol' Hanson's crackdown on workers to bust the strike also set the precedent for government officials taking a strong line against collective action by organized labor. In addition to the general strike, workers across the country went on strike to gain better working conditions and wages. American industries, communications, and transportation were disrupted by strikes in cities all across the country. 3,600 strikes took place in the United States in 1919; most of them were lead by workers in the private sector. One of those strikes, the Boston police strike, however, was lead by public workers.

Most troubling was the growing unionization of policemen that year. Between the end of June and August 26, 1919, 65 police unions formed and 37 were granted charters by the AFL. AFL president Samuel Gompers explained that the sheer number of police organizations forming “shows that the need existed and exists for some remedial agency to secure for the policemen, whose rights and interests have been disregarded, ignored, frowned down upon, the justice which is theirs. They were treated not as self-respecting human beings, but as if they were vassals and who dared not open their mouths, or they would place their livelihood in jeopardy. . . .”¹ However, police typically had been used to help break strikes. The thought that organized policemen might use the strike was a threat to cities. What would happen if no one was on duty

to enforce the law? What would happen if police no longer felt that striking workers were in the wrong? The Boston police strike brought these fears into the light.

Although it was neither the first nor the last strike by public employees, public discourse and actions that concluded the strike set the national attitude toward striking public workers for decades to come. The discourse also drew clear lines on appropriate behavior for citizens and government officials as if they were distinct entities. This particular strike stands out because it was a moment in which government employees identified with employees working in industry rather than with their elected government official bosses. The exchanges between those government officials and the police officers indicate that responsibilities of workers and citizens could potentially be at cross purposes or in harmony depending on one's understanding of citizenship. I argue that two visions of citizenship emerge from the discourse regarding whether or not police officers should have the right to strike. These visions of citizenship can only be understood in the context of Post World War I America, so I will begin with a discussion of labor and nationalism in this era. Second, I will provide a brief overview of Boston's political culture. Finally, I will show how those influences converged when the Boston police force walked off the job in September of 1919, revealing the two dominant visions of citizenship. These visions of citizenship become clear by a careful consideration of how class, power, inclusion, and participation are articulated in the context of the strike.

Organized Labor in the Early 20th Century

Workers organized in earnest during the early 20th century. Through their organizations, workers gained increased wages, better working conditions, and shorter work days because of the bargaining power that such organizations provided.² These gains were made both in

negotiations with individual companies and made on the state and national level when they were codified into law because of the work of labor unions.

Two labor organizations exemplify contrasting types of unions during this period. The Industrial Workers of the World (IWW) and the American Federation of Labor (AFL) both emerged from the collapse of the Knights of Labor (KOL) at the end of the 19th century. These organizations differed in the types of workers they organized, their purposes for organizing, and their relationships to politics.

The AFL was a federation of like-minded unions that were the building blocks of the organization. Led by Samuel Gompers, the AFL was founded on the principles of “pure and simple trade unionism”. This meant that the AFL primarily organized skilled laborers who would be difficult to replace during strikes. However, while willing to strike when appropriate, the AFL primarily attempted to exert power over employers through the use of the bargaining table. The AFL’s main concern was with the trade unions making up the larger organization. The AFL worked to pass legislation through established political channels in order to help its member unions achieve their goals. The organization had a pro-labor legislative agenda, backed candidates from both the Republican and Democratic parties who supported that agenda, and sought to avoid the radicalism of the Socialist party. Samuel Gompers, president of the AFL, had a strong track record of being anti-socialist and worked to keep the American Federation of Labor separate from socialist politics. Well before the Bolshevik revolution in Russia Gompers spoke at a Convention in 1903 and said:

I want to tell you socialists that I have studied your philosophy; your works upon economics, and not the meanest of them; studied your standard works, both in English and German —have not only read, but studied them. I have heard your orators and watched the work of your movement the world over. I have kept close watch upon your doctrines for thirty years; have been closely fascinated with many of you, and know how you think and what you propose. I know, too, what you have up your sleeve. And I want

to say that I am entirely at variance with your philosophy. I declare it to you, I am not only at variance with your doctrines, but with your philosophy. Economically, you are unsound; socially, you are wrong; industrially, you are an impossibility.³

This vehement opposition to the politics of socialists was reinforced by Gompers' commitment to exclude socialists from the AFL. He rejected charters from New York because the Socialist Party was included on their membership list.

By contrast, the IWW was an industrial union with strong ties to the Socialist Party of America. Although the Socialists and the IWW eventually split with each other, during the first part of the 20th century the IWW consistently backed Socialist party candidates. Eugene Debs, one of the IWW's most prominent leaders at its founding, was the Socialist party's nominee for U.S. president four times. He viewed organized workers as a means of establishing political power and thus did not object to the economically lower class unskilled laborers being part of the union. The IWW was organized on the principle of "One Big Union," which would gather together all of the workers regardless of skill and give the working class political power through their numbers. The IWW was the more radical of the two organizations not only for its affiliation with socialists, but also because its leaders were firebrands.

The AFL and IWW both grew during the early 20th century. The AFL had 1,675,000 workers following successful coal strikes in 1904 and, after a period of fluctuating membership, organized 2,370,000 workers by 1917. In just two years membership increased to 3,260,000 in 1919 and 4,078,000 by the start of 1920.⁴ Although the IWW's membership peaked at 118,000 in 1912, it was quite strong politically. The Socialist Party had 1,000 members elected to political office in 1912.⁵ The IWW was far more radical than the AFL because of its Socialist politics. The Bolshevik revolution in Russia in 1917 increased American distrust of Socialists, which severely hurt membership.

Labor and WWI

Both the AFL and IWW articulated clear positions on the relationship between workers as citizens and their government when the U.S. joined World War I. Woodrow Wilson began the second term of his presidency opposed to joining the war with Europe, but he changed his mind as American trade was threatened when ships were attacked. Although Americans generally remember Wilson's call to "Make the world safe for democracy,"⁶ from his War Message as the reason for joining the war, trade and commerce were at the root of American entry into the war. The centrality of trade brought unions to the forefront as they also tried to protect workers.

Woodrow Wilson articulated an identity for Americans that included not only the principles of liberty and freedom, but also principles of trade and commerce. These principles became clear when Wilson explained the United States' position of armed neutrality and eventually justified entry into the war. In March of 1917, Wilson stated in his second inaugural address, "The currents of our thoughts as well as the currents of our trade run quick at all seasons back and forth between us and them. The war inevitably set its mark from the first alike upon our minds, our industries, our commerce, our politics and our social action."⁷ In this speech Wilson connected the American principle of liberty to the specific circumstance of the ability to trade unimpeded by other government actions—in this case German submarine attacks. He further claimed that the extent of these international trade connections meant that even the isolationist policies of the United States were not up to the task of blocking those ties: "To be indifferent to it, or independent of it, was out of the question."⁸

Trade was a theme in Wilson's Second Inaugural address and it emerged as a central reason for entering the war when Wilson approached Congress a month later. Wilson demonstrated in his War Message that German submarine attacks were interfering with trade by destroying American property, and since property equals individual worth in a capitalist society, it followed that Americans themselves were being threatened by the attacks. Although Wilson lamented the loss of American lives, he made it clear that the direct threat that German submarine torpedoes posed was a threat to commerce—the deaths were a sad byproduct. He said, "Property can be paid for; the lives of peaceful and innocent people cannot be. The present German submarine warfare against commerce is a warfare against mankind."⁹ By elevating the attacks on commerce to attacks on mankind, Wilson tightened the bonds between property and people. This makes sense given that property rights are central to national identity. At the same time, Wilson extended the civic responsibility to respect property to the international level. He told Congress, "We are at the beginning of an age in which it will be insisted that the same standards of conduct and of responsibility for wrong done shall be observed among nations and their governments that are observed among the individual citizens of civilized states."¹⁰ Because American citizens have their property rights protected in the capitalist democracy, going to war to protect trade makes sense. By reminding Congress of the submarine warfare, Wilson reminded them that protecting property and commerce are essential elements and purposes of democratic governments.

The state of war and the stated intention of the United States entering the war placed organized labor in a unique position politically. In order to maintain authority and power, Gompers and the AFL had to rhetorically distance themselves from radical labor unions and ally themselves with the war effort. Gompers accomplished this by echoing Wilson's connection

between labor, democratic principles, and ultimately the war effort by saying “It devolves upon liberty loving citizens, and particularly the workers of this country, to see that the spirit of the methods of democracy are maintained within our own country while we are engaged in a war to establish them in international relations.”¹¹ He argued that the work of laborers was as important to the nation’s war effort as that of citizen soldiers: “War as it is being waged to-day is not determined merely by the men on the battle field, but also by the mobilization of the national resources, national industries and commerce.”¹² This reminder united the worker with the soldier in the common pursuit of the war. Indeed, the work of the worker was given equal weight to that of the citizen soldier. He strengthens this parallel by saying, “The contest between industries, the question of commercial control, of superiority of economic organization, are fully as important as the contest between the soldiers on the battle field.”¹³ American workers were waging a parallel war against industries in Germany and her allies. Workers are thus construed as the soldiers of industry. In recognizing the importance and equality between soldiers and workers, Gompers did not advocate the proposed ban on unionized men enlisting in the military. His stance supported workers who wanted to become soldiers.

Gompers rhetorically positioned the AFL as a patriotic organization supporting the nation’s identity as economically and militarily strong. Although the issues facing the working class, wages, hours, working conditions, etc., extended beyond national boundaries, Gompers’ emphasis on the patriotism of workers positioned the AFL as a nationalist organization more devoted to American labor interests than labor interests more generally. Just as soldiers are praised as patriots, so too Gompers praised the patriotism of the worker: “There are no citizens of our country who are more truly patriotic than the organized wage earners—or all of the wage earners—and we have done our share in the civic life of the nation as well as in the nation's wars.

We have done our share to protect the nation against insidious attacks from within that were directed at the very heart of our national life and would have inevitably involved us in foreign complications. The wage earners stood unfalteringly for ideals of honor, freedom, and loyalty.”¹⁴ Statements such as these underscored Gompers’ contention that being anti-capitalist did not mean being anti-American.

The American Federation of Labor successfully allied itself with the government. It worked with the federal government to establish decent working conditions for workers involved in the war effort. Five of the 12 seats on the War Labor Board were held by AFL representatives and it was the only labor organization represented at all on that board.

Given that Wilson’s War Message aligned democracy with capitalism, it is no wonder that principles of socialist democracy were labeled un-American. The war aligned socialists with radicals and anti-nationalists. The 1917 Bolshevik revolution in Russia made the revolutionary power of socialism into a threat to American stability and made it exceedingly important for American labor unions to clarify their understanding of the political role of unions. As we have already seen, the AFL aligned itself with the federal government’s policies during the war. The IWW, however, chose to identify with the universal struggles of the proletariat and Socialist revolutions. In 1918 and 1919 many Americans feared the spread of Bolshevism to the United States. The term captured anti-immigrant and anti-Socialist sentiments growing in the nation. Eugene Debs, in his June 16, 1918 speech in Canton Ohio linked the cause of labor with that of socialists. He began by saying, “To speak for labor; to plead the cause of the men and women and children who toil; to serve the working class, has always been to me a high privilege; a duty of love.”¹⁵ His focus, however, was the righteousness of socialism and the role of workers in that cause. He reminded his listeners, “There is but one thing you have to be concerned about, and

that is that you keep foursquare with the principles of the international Socialist movement.” Being allied with the socialist movement meant that workers would stand with the revolutionaries in Russia. He goes on to say, “Aye, all our hearts now throb as one great heart responsive to the battle cry of the social revolution. Here, in this alert and inspiring assemblage our hearts are with the Bolsheviks of Russia.” This siding with the Bolsheviks was construed as threatening because it suggested that Debs might lead labor in a similar revolution and overthrow the American government.

The United States federal government passed laws making it illegal to speak out against the government as a way to strengthen the appearance of American solidarity and curtail Soviet propaganda. The fear of the outsider and fear of dissenting voices can be understood as the counterpart to the increasing patriotism encouraged by the government as part of the war effort. In order to punish those not in line with the patriotic nationalism, the Espionage Act of 1917, Sedition act of 1918, and approximately 20 state criminal-syndicalism laws made it illegal to speak out against the draft, the war effort, and be part of organizations that undermined or planned to overthrow American institutions.¹⁶

The close ties between Eugene Debs, the IWW and socialism meant that Debs was vulnerable to prosecution under these laws. He was arrested shortly after the Canton Ohio speech. Eugene Debs explained in his 1918 Statement to the Court, "I have stated in this court that I am opposed to the form of our present government; that I am opposed to the social system in which we live; that I believed in the change of both—but by perfectly peaceable and orderly means."¹⁷ However, his criticism of the military in the Canton Ohio speech that led to his arrest under the Espionage Act seemed to undermine the political system and the war effort. While his position was not new, the context of World War I meant that it was received as threatening.

The end of World War I in November of 1918 did not end the fear of socialism. After the nation returned to peacetime, the nation was far from peaceful within its own borders. Four million soldiers returned home within the year, wartime industries had to convert to peacetime production, and workers were impatient with the stagnant wages and increased cost of living. Progressive era improvements to the standard of living and working held steady or backslid during the war. By the start of 1919 citizens wanted the country to be something that it could not become overnight following the signing of the Armistice.

Labor organizations immediately mobilized workers to demand wages that could keep up with the cost of living. The Seattle General strike, though unsuccessful, marked the beginning of a wave of strikes. Radical socialists within the IWW mailed bombs to the nation's wealthiest capitalists and to government officials throughout the spring. These violent tactics increased the national fear of socialism and planted the seeds of fear that a socialist revolution could happen in America. The reputations of the two major labor unions that were cultivated during World War I became less distinct; the impression of violence committed by the IWW extended to considering strikes by the AFL as violent.¹⁸

Boston Leading up to the Strike

The policemen in Boston walked off the job in the context of post-war fears as the fear of socialism was escalating. They were part of the strike wave rocking the nation. The police were experiencing the consequences of inflation and stagnant wages as well as deteriorating working conditions. All of the necessary conditions for organizing and striking were present in the late summer of 1919.

Boston was a typical city in post World War 1919. Several sectors of workers went on strike that year including the elevated railway workers. They effectively stopped elevated trains

and streetcars in the city from July 13 to the 16. Existing workers were dissatisfied with their wages and returning soldiers sought work in a market of job scarcity. The Boston police felt the same economic pain as other members of the working class. However, police had never before been equated with workers; rather, the police were seen as the arm of the state. By looking at how this new identification was made and the discourse surrounding their strike, we can better understand competing notions of citizenship in the first part of the 20th century. Before turning to an analysis of the four markers of democratic citizenship, we need to first understand the political structure in Boston at that time. I will then provide a general overview of the events of the police strike. A more complete timeline of the events can be found in Appendix A.

The Boston Players

Boston's police were controlled by two offices in the city. The mayor, Andrew Peters, was in charge of making the city budget and allocating funds for the police. The police commissioner set policies for the police and were their liaison with the mayor. The superintendent of police communicated between the commissioner and the police. Prior to unionizing, Boston's police had a fraternal organization called the Boston Social Club, which was the main line of communication between the police officers and the commissioner's office. It was founded in 1906 at the urging of Commissioner O'Meara. Although it eventually became a venue for communicating officer concerns with the administration, it was not initially politically active. In 1917, however, the officers communicated to Commissioner O'Meara that they needed a \$200 salary increase. They were put off then, and again in the summer of 1918, with promises that the Mayor would not be able to address it until the next budget. However, the budget published on December 7, 1918 did not address all of their wage concerns and the officers again used the social club to address the Commissioner and Mayor.¹⁹

Although the police formed the Boston Social Club in 1906 to represent their interests to the police commissioner, the social club had no official standing and was ignored by Commissioner Curtis during the first part of his term. Their salaries had not risen with the inflated cost of living after World War I. In 1919 their salaries were at 1854 levels.²⁰ Policemen were not making enough to make ends meet. Their situation was comparatively worse than other workers in the city. Station houses were infested with bedbugs and cockroaches. Policemen worked long hours and seven days a week with a day off only after fifteen on. They were making less and working more than unskilled workers in the city. The policemen, through the Boston Social Club, initially held the police commissioner responsible for their working conditions, but in the fall of 1918 they shifted the blame to the mayor, who controlled the budget.

While these conditions were atrocious, they were supported by the division of political power in Boston. Mayor Peters set the 1919 budget for the police perpetuating the low wage scale. Police Commissioner Curtis maintained the same staffing levels, which meant that no money from the budget could be reallocated to address these issues. The Boston Social Club and eventually the union tried to bring attention to the injustices in the system so they could be fixed, but instead the situation worsened.

The policemen ultimately found the social club to be a logical springboard for a union and they sought affiliation with the American Federation of Labor in 1919. The police commissioner made it clear that he would be opposed to a union when he realized that the men were taking steps to be recognized by the AFL. In July, he distributed a general order reminding officers of their previous and beloved Commissioner O'Meara's anti-union stance and indicating that he would maintain that position. He concluded the message, "As Police Commissioner for the city of Boston I feel it my duty to say to the Police Force that I disapprove of the movement

on foot, that in my opinion it is not for the best interests of the men themselves and that beyond question it is not for the best interest of the general public which this Department is required to serve.”²¹ The police officers went ahead and formed the union anyway. They voted to affiliate with the AFL at a meeting on August 1 and received a charter by August 9, which they voted to approve on the 15th.²² Curtis distributed general order 110 on August 10, in which he explicitly ordered the police not to join the union when he amended Rule 35 Section 19 to read, “No member of the Force shall join or belong to any organization, club or body composed of present or present and past members of the Force which is affiliated with or a part of any organization, club or body outside the Department, except that a Post of the Grand Army of the Republic, the United Spanish War Veterans and the American Legion of World's War Veterans may be formed within the Department.”²³ Although he did not specifically name the American Federation of Labor in the order, its timing left nothing to the imagination.

The American Federation of Labor began granting charters for police unions following its annual Convention in June of 1919. The AFL passed two resolutions regarding policemen that provide insight into their reasoning. Resolution 76 argued that because police are often governed by Civil Service rules, and other civil servants were allowed to organize, that police also ought to be allowed to organize.²⁴ The second resolution, number 162, resolved that “That this convention go on record as favoring the organization of the policemen, and that the officers of the federation be instructed to issue charter to same when application is properly made.”²⁵ Two reasons were given for this resolution. First, that police were forming local organizations and second that police were showing an interest in being part of the labor movement. The AFL granted 37 charters to police unions by August.²⁶ It is not surprising that Boston sought affiliation especially considering that both conditions were present in that city.

Although the police sought affiliation with the American Federation of Labor as a way to leverage higher wages and improved working conditions, the Commissioner's rule prohibiting unionization shifted the point of contention away from the original issues to the single issue of the right of the police to unionize. The police responded to the Commissioner by defying his order and joining the newly formed union. The police threatened a strike if any of the men were discharged. Curtis tried 19 men for violating rule 35, section 19 but delayed announcing the sentence until after the citizen's committee could make recommendations for how to compromise with the organized police.

Mayor Peters opposed the harsh line that Curtis was taking on the issue of AFL affiliation, but because his only power regarding the police was through the annual budget, he could not act directly. Although Peters did not endorse affiliation, he realized that Curtis's position was too inflexible. He appointed a citizens' committee comprised of 34 businessmen to come up with recommendations. Peters' roots in the elite of Boston make it no surprise that his citizens committee was made up of similar individuals and not members of the working class. The committee was lead by James J. Storrow, a prominent Bostonian banker. The citizen's committee proposed that the workers be allowed to organize so long as they did not affiliate with an outside organization and that the city government address the other police concerns. They recognized the need for a police union that did not have interference from headquarters, but they were wary of the AFL providing undue influence over the men's demands and actions. Curtis rejected their proposals and on September 8 announced the suspension of the 19 policemen. That night the Boston Police Union voted to strike.

At 5:45 P.M. September 9, 1919, 1117 of Boston's 1544 policemen went on strike. That night people were gambling on street corners and looting stores. Mobs gathered and roamed the

streets. On September 10, 1919, Mayor Peters went over Curtis's head and asked Governor Calvin Coolidge for support. The Massachusetts state guard mobilized and convened in Boston. Among the guard was a machine gun unit. Within twenty-four hours the machine gunners opened fire and killed five civilians and injured twenty more. By September 11, seven thousand state troops patrolled Boston. On September 13, Governor Coolidge reinstated Curtis's power and Curtis dismissed all policemen who walked off the job. Although the police officers did lose their jobs, all was not for naught. The new hires received higher pay and improved working conditions.

Power and Class

One of the central questions that arose when the police were trying to unionize was whether they should be considered workers with the normal rights of citizens or officers of the state with special responsibilities and constraints. Those who argued that the police should not be able to unionize because they were rightly characterized as officers of the state constructed their answers as a function of divisions of socioeconomic class and power within the city. Union advocates who believed that the police should be treated as ordinary citizens attempted to shift the discussion from issues of class to issues of power. However, the ubiquitous antisocialist rhetoric during the strike deepened class divisions along economic lines and increased fears that workers would gain too much power if they were allowed to unionize and strike.

The events in Boston were shaped by social structures within the city. Boston's government was structured in such a way as to balance and maintain class power dynamics within the city. The mayor was in charge of budgetary decisions, but the police commissioner was appointed by the governor and made policy decisions regarding the police force. Boston Brahmins and Irish controlled different elements of the city. The Brahmin made up most of the

city counsel and mayor's office while the Irish made up most of the police force and a growing part of the population. The division of governmental power was not simply a way to reign in spending or another manifestation of the principle of checks and balances. Rather, this division helped to prevent the Irish from gaining too much power; it allowed the Brahmin to keep a measure of control over the police. Although the police strike cannot be directly attributed to ethnic conflict, the city government was designed to check the power of both groups. For example, the police commissioner was traditionally Irish and controlled the mostly Irish police force. However, financial decisions and the police budget were made by the mayor, who traditionally came from the moneyed Brahmin.

The political distinction between the Brahmin and Irish was paralleled in the socio-economic division within the city. The Brahmin comprised the Capitalist upper class. The Lodge, Lowell, and Sears families were representative of Boston's upper crust. They ran companies that employed hundreds of workers. Within Boston, the Irish made up the bulk of the working class. Although some political positions were held by Irish, in 1919 that was a relatively new development. The poor sections were dominated by Irish, while Beacon Hill was the bastion of the Brahmin.

The office of the Police Commissioner was important because the commissioner acted as a liaison between the Irish and Yankees. Commissioner Stephen O'Meara, who held the post from 1906 to 1918, was particularly adept with this role. He was the first single commissioner; previously the police department had three commissioners. The consolidation of commissioner responsibilities into the office of one man was part of the bureaucratization of the police force, a phenomenon sweeping through cities. O'Meara was born in an Irish enclave, worked his way up the ranks from reporter to editor and finally to part-owner of the *Boston Herald*, and made

friends with Yankees along the way. He counted Theodore Roosevelt, Henry Cabot Lodge, and Joseph Pulitzer as friends. His roots in the working class made him respectable to the mainly Irish police force and his status as former part-owner of one of the major newspapers let him fit in with Boston's elite. Jonathan White explained O'Meara's success as liaison: "O'Meara was able to control the rough politics of Boston by maintaining a tough Yankee puritanical position, while the composition of his department gave him an Irish power base."²⁷ This worked because his power base liked and supported him.

O'Meara died on December, 14, 1918 and the governor appointed Edwin Curtis as the new Commissioner. Curtis attempted to hold the same hard lines as O'Meara, but he did not have the support of the police officers. Additionally, he was a Yankee Protestant who had served as mayor, so there were no elements of his biography with which the Irish police could identify.²⁸ Without the support of the police, Curtis sought to gain their respect by holding hard lines on policies. This, however, alienated the police even further.

The preamble that Curtis included with general order 110 that was issued on August 10, situated the issues surrounding the Boston strike within class discourse. This statement was reprinted in the *Boston Herald* on August 12. Curtis explained of the rule, "It does, however, forbid him and the department for coming under the direction and dictation of any organization which represents but one element or class of the community. If troubles and disturbances arise where interests of this organization and interests of other elements and classes in the community conflict, the situation immediately arises that always arises when a man attempts to serve two masters. He must fail either in his duty as a policeman or in his obligation to the organization that controls him." Given that Curtis said this while banning their association with the AFL, it seems that he feared that they would side with their union instead of upholding the law. This

statement associated the police with the working class and set them in opposition with the elite class within the city. Frank H McCarthy, the New England organizer for the AFL, argued against Curtis's claim in a statement published in the *Boston Herald* the next day. He responded:

If this statement is of the commissioner is referring to membership in the American Federation of Labor (of which there cannot be much doubt), I will say he is creating in his mind a condition that is impossible because no member of the American federation of labor is under any obligation that will or can in any manner interfere with with the full and complete performance of the service his position requires that he render. And if troubles and disturbances should arise, the members of the American Federation of Labor whose duty it would be to maintain law and order, would be found faithfully and energetically performing their duties in accordance with the rules of their department, irrespective of whom would be concerned in such troubles and disturbances. And there would be and could be no division or conflict of authority as the department, and the department alone, would be in control.²⁹

By granting power to the department, at the expense of the union, McCarthy shifted the discussion away from class allegiances to a discussion of power and control.

The anti-Socialist rhetoric used during the strike served to deepen class divisions along economic lines. Senator Myers argued in newspapers that police unionism would lead to Sovietism. He painted a picture of a slippery slope of unionizing police, the army and eventually the navy.³⁰ This fear was coupled with the possibility that control would shift from government to unions.³¹ The result was a crackdown to maintain the distribution of power in favor of the ruling elite. The strike did not resolve any of the existing class issues. If anything, by firing all of the strikers Curtis deepened the division between Boston's Irish and Yankees. The classes were kept apart by the resolution of the strike and Curtis made it clear that no other class would infringe on his power.

Exposing Power Relations: Justifying Violence in the Boston Police Strike

Over the course of the strike the Boston Policemen's Union, the American Federation of Labor, the Massachusetts governor, the police commissioner and Boston's mayor offered

different justifications and explanations for the violence. Newspapers across the United States reported the events in Boston and provided commentary on who was ultimately to blame for the violence. Over the course of the strike blame moved from the mob to the mayor to the police commissioner and eventually settled on the striking police officers despite no reports of any of them engaging in any acts of physical violence. Those who pulled the triggers, the state guard, emerged from the melee without blame or question. The variations and shifts in representations of the violence reported in the newspapers make visible the power dynamics within Boston.

These rhetorical constructions or justifications of violence reify power relations and provide a framework for judging not only what is violent but also when future acts can be considered legitimately violent. Étienne Balibar writes: “If, at a fundamental institutional level, violence can be justified only as preventive counter-violence, then something called violence, or violent behavior - be it public or private, individual or collective will exist only inasmuch as its violent suppression is already anticipated. In other words what we call 'violence' and the lines of demarcation we draw between what is supposed to be violent behavior and what is not, will exist only retrospectively, in the anticipated recurrence of counter-violence.”³² This means that the justifications of violence given for one incident shape what is considered violence in the future and how subsequent violent acts are judged. At the same time, he argues from the position that in some sense violence is all pervasive; wherever power is at play, so too is violence. Violence serves to maintain and legitimate power and violence is simultaneously the means of challenging and undermining that power. He further suggests that “if the so-called 'foundational violence' of state power is to exist (or appear as foundational), it must not only be idealized or sacralized - that goes without saying - but also *actually exercised* and implemented at *some points* and times, in some visible 'zones' of the system”³³ The actual violence and the discourse of blame for that

violence then establishes the power of government officials as legitimate and that of citizen workers as trivial.

While the strike lasted only three days, the events leading up to and following the strike clearly illustrate the power struggles between the various interested parties as they relate to the violence in the city. Tracing what constitutes violence and who is blamed for it in the representations of the events as reported in U.S. newspapers reveals the struggle for power between the interested groups. I first consider the historical relationship between violence, strikes, and police violence to provide context for understanding the events in Boston. Second, I examine news paper accounts of the events and histories by tracing how interested parties place and shift blame. This illuminates how power and violence are represented. Finally, I offer some observations about the consequences of these representations for understanding power in terms of citizenship.

Strikes and Violence

Organized labor has long been connected with violence. The *Encyclopedia of Strikes* highlights some of the more legendary violent events:

More than 100 killed, most by police, the National Guard, and U.S. army troops, during the Great Strike of 1877; three Pinkerton security guards and seven workers dead in a shootout at the Carnegie steel works in Homestead, Pennsylvania in 1892; forty-eight men, women, and children killed, most by National Guard troops, during the United Mine Workers strike at Ludlow, Colorado, in 1914; ten demonstrators shot in the back and sixty wounded by Chicago police at Republic Steel in 1937; the forced deportation of 185 Industrial Workers of the World strikers and their sympathizers in Bisbee, Arizona in 1917; or four unionists killed by a sheriff's posse in Bogalusa, Louisiana, in 1919.³⁴

With so much violence used to suppress and break strikes and as retaliation, one might think that violence would play an important factor in the outcome of strikes. Aaron Brenner, however found that “there was no definitive relationship between violence and victory.”³⁵

Strikes are not always considered a violent tactic within the repertoire of social movement tactics. Indeed, it was one of the commonly employed tactics in the Civil Rights movement in the 1960's and is frequently mentioned as one of the nonviolent tools used in unarmed insurrections.³⁶ Although the Civil Rights movement popularized strikes as a nonviolent tactic, it had been in use for quite some time, originating in the colonies in the 1700's. According to Brenner, the earliest strikes were by ship workers who would strike the sail (put it down) to prevent the ships from going into port before they received adequate pay for their services. The strike, though considered violent against the existing order, was a way for workers to exert power – a measure of control – over those in positions of authority. Subjective violence,³⁷ in both of these contexts, typically comes from those trying to break the strikes rather than from physical acts of violence perpetrated by the strikers. The view that strikes are a nonviolent tactic can only be understood by defining violence as the infliction of physical injury by the strikers on others.

Beyond the physical violence that often accompanies strikes, strikes can be understood as being violent toward the state. When subjective violence erupts in the wake of strikes, the strikers create a situation where the state's ability to control society is challenged. More importantly, it breaks the state's monopoly on the use of force to bring about desired actions. Walter Benjamin explains, "The right to strike constitutes in the view of labor, which is opposed to that of the state, the right to use force in attaining certain ends."³⁸ Since the state is supposed to have a monopoly on the use of force, strikes draw attention to—and thereby undermine—the accuracy of the state's claim and by extension authority.

The violence of strikes is complicated by the multitude of perspectives from which to judge violence. Benjamin acknowledges that strikes are in a sense non-action, insofar as workers

are decidedly not working. He argues that the violence in that non-action is at times an escape from the violence perpetrated by employers, but also is an act of violence when seen as a measure of force to bring about change. He suggests that the general strike, or a strike when workers leave their jobs in sympathy with a particular group of workers, is the epitome of violence because it is an inappropriate use of force. Strikes are considered violent because they disrupt law and order. Not only were strikes illegal for public workers until the 1960's, but they disrupted normal patterns of behavior for those trying to go about their daily routines.

Police and Violence

The violence associated with strikes is further complicated by the historical relationship between police and violence. Although the police are expected to maintain order and enforce the law, the police have long been associated with violence. I will survey the common relationships between police and violence and then situate the violence of Boston within this context.

In addition to being authorized to use violence to subdue violent criminals, police have a history of using extralegal force. Beyond using excessive force in apprehending criminals or beating them past the point of submission, Alexa Freeman found that the third degree, or the use of violence during police interrogations was widespread in the 1930's. She explained: "they believe that ordinary legal processes are inadequate to maintain order and that they are justified in using extralegal measures as social custodians."³⁹ Police, though meant to enforce the legal system, are in a position to regulate social behavior. Police brutality is one way to shape the perception of law and discipline public behavior.

In addition to acts of physical violence exerted on those who are suspected of having violated the law, police have a history of violent vigilante justice. Jerome Skolnick and James Fyfe argue that merging from the practice of lynching and persisting into the present with the

Rodney King beating, “such brutality is employed to control a population thought to be undesirable, undeserving, and underpunished by established law. Such beatings do not merely violate the law. They go beyond and above the law to achieve a fantasized social order.”⁴⁰

Although it cannot be said that the Boston police viewed the mayor and police commissioner in precisely that way, the rest holds. This same logic would construct the strike as inherently violent. Strikes can be considered a tool of vigilante justice insofar as they are used to bring about an ideal social order—undo perceived injustices in the status quo.

Scholars explain police violence as both a product of police culture and more general social factors. Freeman offers several reasons for police brutality: “Police are concerned with actual guilt rather than legal guilt, and consequently find the ‘technicalities’ of the legal system irrelevant at best, and more often obstacles. Police culture encourages a ‘siege mentality’ of ‘us against them,’ in which ‘they’ are not only criminals but also anyone who seeks to criticize or control the police. Police culture also impresses a vision that police are the ‘thin blue line’ between civilization and chaos.”⁴¹ The first two of these cultural explanations clarify why the police would choose to unionize despite the effort of the police commissioner to prohibit that action. The response to the strike can be understood as contributing the third of these cultural factors, making the strike a powerful weapon. Most of the research on social causes of police violence points to racial and economic inequality within cities.⁴² We saw the extent to which this was the case in the section on power and class.

By September of 1919, Americans firmly associated strikes with rampant disorder and the likelihood of accompanying violence in the form of physical injury or destruction of property. Boston’s police strike forces us to reconsider the relationship between the labor movement and strikes. While private sector unions could consider the strike a tool to leverage

economic force, it worked differently for public sector employees. Boston's police, in their role as public workers, were not just exercising collective force to pressure an employer economically as would be the case for private employees going on strike. Their role as citizens with the obligation to follow the laws governing their employment conditions and behavior would have eliminated the strike from the legal toolbox of tactics for dealing with their economic condition. These two roles, of employee and citizen, are unique for public workers, thus making the police strike the perfect place to look for the nexus of power relations constraining behavior. John Myer Jr. adds, "Unlike strikes in the private sector, or in other segments of the public sector (Cole, 1969), police strikes harbor the potential for mass lawlessness and political involvement in the administration of criminal justice."⁴³ In the case of Boston, the lawlessness of the strike was compounded by the criminal activity that took place. Additionally, the governor, mayor and police commissioner's actions mobilized the political apparatus to provide enforcement for criminal justice by bringing the militia to provide a sense of military rule. While the police are the hand of the law, the state guard might be called the 'heavy' hand of the law.

It is important to take stock at this time of the representations of violence in newspapers circulated in August of 1919. These representations acknowledge the fear of potential violence that might arise from the policemen organizing. On August 13, the *Pawtucket Times* announced that "Order of Commissioner Curtis {was} defied by members of department." Although this would suggest that the police officers were being unruly, the article goes on to describe the union leaders as honorable and that the meeting was "not full of troublesome young men." The August 16 edition of the *Boston Globe* had a similar headline, "Boston Policemen Organize Union in Defiance of Chief," and also observed "Reports that the entire membership of the new union comprised troublemaking young men was proven untrue by the number of men with 4, 5, or 6

service stripes on their arms who entered the hall at both meetings.” These experienced men gave the cause legitimacy. These descriptions suggest tentative support for the policemen’s union and indicate that the men may have valid complaints against the system setting their wages. Furthermore, it suggests that unionizing is not violent insofar as it does not immediately produce disorder even if it does break the law. However, by August 19, the *Baltimore American* introduced a threat to that order when it published that “eighty thousand workers threaten strike if Curtis fires one man.” The eighty thousand would be made up of workers in all trades and would stop industry in the city. This threat placed the potential violence associated with such a general strike on the police commissioner’s actions without escaping the fact that such a strike would itself be violent for both the reason Benjamin noted earlier and because of inevitable physical violence that would accompany such disorder.

Mayer Peters returned from vacation at the end of August and immediately entered the picture by convening a committee to devise a plan to avert a strike and compromise with the policemen. The *Boston Herald* and the *Boston Globe* circulated on August 30 suggest that no one on the committee supported the policemen affiliating with the American Federation of Labor; they wanted to avert a strike. The reason given for disapproving of the union in the *Boston Globe* was that it imposed an illegitimate authority over the police that could get them to act contrary to the public interest. Note that the police were not judged negatively for defying Curtis’s order not to organize, but rather that the potential violence to law and order if the police sided with other affiliated unions was cited. The formation of the committee and the resulting plan was a tacit admission that the police were experiencing objective violence manifest in their wages and living conditions. While the committee was working on a way to avert a strike, the mayor asked the governor to intervene and settle the matter, but Coolidge refused because it wasn’t his

responsibility. The governor's only responsibility in matters of Boston's police was to appoint the commissioner in the first place.

By September 8, the Storrow Committee produced a plan that would deal with the issues of objective violence so long as the police severed their ties with the AFL. This plan attempted to address the past abuses that the police experienced. It had several shortcomings that were unable to overcome some of the obstacles. First, it relied upon the commissioner delaying a decision about the union leaders until after the union had time to vote on the plan. Second, it could not wholly overcome the long-term problems caused by having control of the police split between the mayor and police commissioner. Newspapers claimed that it had the potential to settle the controversy. The main headline in the *Boston Herald* read "Mayor's Committee Offers Solution to Police Problem, Granting Men Everything Except AF of L Affiliation; Favors a Union and Provides Way to Settle All Demands; Crisis On Today if Curtis Punishes Men; Central Labor Union Speakers Assert Patrolmen Will Go Out If Any Are Ousted by Commissioner." This placed Curtis in a position to avert the strike by adopting the Storrow plan.

On September 9, the day when the strike began, following the trajectory of the preceding days, the commissioner was blamed for not delaying a decision to suspend the union leaders. The *Boston Herald* published both Curtis's order suspending the union leaders and a statement by John McInnes, president of the policemen's union. McInnes's statement blamed Curtis for leaving the police no option to address their needs but affiliating with the AFL. The statement directed all of the blame for the upcoming strike on Curtis by indicating that both his actions and willful decisions not to intervene to solve problems within the department, pushed the men to unionize. The statement placed the blame for the policemen's actions on Curtis by first describing the existing conditions, then explaining Curtis's role in the problem, and finally

offering the remedy sought by the policemen. For each issue, the statement began by explaining the unfair condition. For example, regarding promotion and the civil service examination, McInnes said, “The patrolman may be a man of unusual experience, tactful, skillful, and faithful in the performance of his duty. He may finish anywhere in the first ten in his examination, yet Mr. Curtis, in a general order recently issued, reserves to himself the right to entirely disregard this man’s commendable showing in a competitive examination, and select for promotion one who’s name might be at the bottom of the eligible list. The man who is marked 95, 96, or 97% on his examination paper thus stands no better than he who has marks of 66, 67, or 68.”⁴⁴ In this case, a specific action by Curtis, namely his reservation of the right to promote anyone regardless of score, was part of the problem. This unfair scene is then shown to be something that the police unsuccessfully solicited Curtis to remedy. “We look to Commissioner Curtis to right this. But as a matter of fact, he offers no relief, simply maintaining an autocratic stand that contributed much to disturb the members of the department.” Characterizing Curtis as autocratic helped to undermine the legitimacy of his actions not just on the issue at hand, but also the issue of forbidding the policemen to unionize and his actions against the union officers. The remedy McInness proposed that would help solve this, and all of the issues described including issues of wages, working conditions, leave, station sanitation and station infestation, was continued affiliation with the AFL. He explained, “As a matter of fact, the policemen’s union was formed for the sole purpose of breaking these shackles and chains of bondage now coupled so strongly about the hands and feet of the police officer. That only could be brought about by affiliation with the American Federation of Labor.” By portraying the AFL as a liberating organization and by positioning Curtis at the crux of all of the policemen’s problems, McInnes successfully blamed Curtis for that day’s walkout.

Although he acted in accordance with the law, Curtis's decision against the union officers allowed for disorder. Even evening papers on the 9th, were not yet concerned with disorder. Rather, both the *Boston Globe* and *Boston Herald* described the men volunteering to help patrol the city. There seemed still to be hope that the emergency force that the city had called would be sufficient for maintaining order.

It was not. Papers distributed on September 10 announced that Boston was "in the Clutch of Lawless Mobs," and that the situation approached "anarchy." This state of disorder and violence was blamed on two things: inadequate preparations by the commissioner for the strike and inaction on the part of the commissioner to do anything about it. After describing craps games taking place in the middle of the street, vandalism, and looting, the *Boston Daily Globe* warned, "The newly organized volunteer policemen were not called out and will not go on duty until 8:00 this morning."⁴⁵ Although there were volunteers available to handle the rampant mob action and crime, the commissioner chose inaction by opting not to call the volunteers to duty immediately when the policemen walked out. Interestingly, the news coverage on the 10th does not at all criticize the police for striking, though it does mention that the violence of the mob is taking place in the context of the city with striking police. In fact, the striking police are described positively. The *Boston Daily Globe* wrote, "When the patrolmen began to walk out, cheers were raised and these continued, the good natured face of a favorite patrolman provoking exceptionally loud and prolonged applause. The men were all good natured. They invariably bowed, smiled, and waved cordially."⁴⁶ All of the subjective violence—attacks on women, fights and the like—is attributed to "the mob" and not actually connected in the news coverage to the police. The *Boston Evening Globe*, for example, said "During the night, while Boston was without police protection, except a few inspectors, police captains, lieutenant sergeants, and a

small number of volunteers, the city witnessed a night of hoodlumism and general terror such as has never been before witnessed in these parts.”⁴⁷ Though this situates the crime in the context of an inadequate police force, the article does not once mention the strike. Rather, it chronicles all of the looting and vandalism that took place the previous night, which serves to primarily blame the criminals and only secondarily the inadequacy of police protection.

In the lull of violence on the morning of the 10th, the Mayor, Governor, and Commissioner vied for power. Mayor Peters published a press release that afternoon that summed up the morning’s contentiousness, reiterated that Curtis was partially to blame for the state of the city, and implicated the governor as deserving some of the blame for the prolonged disorder in the city:

Until riot, tumult or disturbance actually takes place, the only person who has authority to police the city is the Police Commissioner and he is appointed by the Governor. The Committee of thirty-four appointed by me and myself have made every human effort to avoid the strike of the policemen, but received no cooperation from the Police Commissioner and no help or practical suggestions from the Governor. Furthermore in a recent communication from the Governor, he states so plainly that no one has any authority to interfere with the Police Commissioner, that I should have hesitated to take control of a situation which the Commissioner assured me was under control, even had I had the power. I had no alternative but to give the Police Commissioner a chance to demonstrate that he had adequately provided for the situation. The disorders of last night have demonstrated that he misjudged it....⁴⁸

Peters explains his own inaction by blaming both the commissioner and governor for his powerlessness. The question of who had the legitimate power to call out the troops necessary to police the city pitted the three men against one another. Although Coolidge suggested that Peters had the power to call for his assistance as soon as the men went on strike, by delaying the call Peters exposed the sheer powerlessness of the commissioner in the face of the strike.

The question of subjective and objective violence both get complicated in the reports covering the events of the 10th that are published on the 11th. Articles on September 11 catalog

the acts of subjective violence committed by the state guard and begin to suggest that the striking police are at fault. The *Boston Daily Globe* described the state guard's cavalry and infantry killing two men in the process of patrolling the city with bayonets out. The article observed, "Recklessness had brought out force. And for the first time in the memory of any living man, troops controlled the city as the consequence of a strike."⁴⁹ By identifying the strike as the cause of violence, blame began to shift to the police. The mayor took control of the city's safety by calling on the governor to send the state guard. Cavalry rode through crowds with their bayonets out and sprayed gunfire. These forms of state legitimated subjective violence brought military rule overnight. Papers report that the governor had the troops ready two days before, but that Curtis didn't call for them. This suggests that the subjective violence of the mob as well as the disorder and subjective violence used to restore order were preventable. Although there was plenty of blame thrown toward Curtis, some began to land on the striking policemen. Papers also were more direct, claiming the disorder was a "result of strike of police."

The restoration of order also allowed for reflection upon the strike itself as a violent event. By September 13, the governor and police commissioner effectively settled the blame for all of the strike violence back upon the police. An AP wire story circulated nationally that made it clear that law and order were restored and that the objective violence of the police would be dealt with according to its status as unlawful. It quoted Governor Coolidge saying, "The primary objection {to allowing the return of the unionized police} is that the control of the government and of the maintenance of law and order remain in the hands of the properly constituted authorities."⁵⁰ Coolidge thereby reinstated Curtis's authority to resume his role as police commissioner and blamed all of the violence committed by the state guard on the police for violating the initial law prohibiting them from organizing.

Also On September 13, the process of reinstating violence in the city's structures began. Commissioner Curtis officially fired all of the striking police officers and began hiring newly returned soldiers to replace them. This was a slow process, however, because the tailors refused to make them uniforms and recruits were told by discharged officers that the positions would be temporary. Eventually, the city increased officer wages by \$300, provided the first uniform, and gave each man a pension plan—all changes that the original police formed a union to help them achieve. These eventual changes dealt with the manifestations of the objective violence in Boston's governance of police, but did nothing to address the disempowered position of the police in dealing with the dual authority of the mayor and commissioner. It also did not allow for legal unionizing as a nonviolent way for the police to prevent and address abuses.

Power and Citizenship

The situation in Boston in August and September of 1919 can be considered from five perspectives rooted in the power of each group. First, the police force is the arm of preventive counter-violence that upholds the law and prevents mobs from forming and acting. Its power became violent insofar as they stopped exercising it. Second, the police commissioner, Edwin Curtis, appointed by the Governor, and responsible for directing the police, represents the bureaucracy of institutionalized violence that was responsible for the wages and living conditions of the policemen. He can be said to represent the objective violence intrinsic to the institution of the police force; setting either humane or inhumane living conditions is an exercise of power. His power became violent in the inattention to the daily needs of the policemen. Third, Governor Calvin Coolidge and the State Guard are another manifestation of the institution of law and in control of the subjective violent means of maintaining it. Because they legitimately hold the power to use gunfire to keep citizens in line, their actions did not violate the principle of

established order and were therefore not considered violent. Fourth, the mob of citizens represents both the potential for democracy and the anticipated violence which justifies the existence and use of preventative counter-violence by the three other groups. Although citizens hold power through numbers when they vote, citizens become violent when they act collectively as a mob against those officials and laws. Finally, Mayor Peters' role in the system was not free from violence. His power was to set the budget for the police, so his decisions contributed to the number of police that could be hired as well as their wages. His decisions, of course, were constrained by the other elements of Boston's budget and his own ambitions to be reelected. Furthermore, Peters was not in charge of the police and did not initially have the authority to either reinstate the disciplined officers or compel Curtis to adopt the Storrow plan. When violence broke out in the streets, however, he did exercise the authority to call upon Coolidge to mobilize the State Guard. His power over police was removed when order was restored. The Commissioner, Mayor and Governor all were newly aware of the latent violence and counter-violence present in the institutions of power. Their own position of power based on justified violence had to anticipate violence by forces of counter-power, as Balibar supposed.

The police officers, although not acting as a mob, sided with the mob by creating the necessary condition for its formation when they walked out. Citizens have a stake in their government and can act collectively to pressure government officials to create laws and policies that construct the society and working conditions that they demand. This vision of citizenship was consonant with that of the AFL that Gompers articulated in 1912. He said, "But the state is not some impersonal thing. It has no existence outside the people that compose it. Its policies and movements can be directed only by those who are organized and therefore able to exercise power and exert influence."⁵¹ Once the mob was formed, striking policemen were said to instigate the

mob, thereby acting as leaders of the masses.⁵² Though the police did not act through official channels, they exerted the power of citizens to get things changed.

This vision of citizenship contrasted sharply with that implicit in the actions of the police commissioner and governor. By arguing that the police were state officials and not employees with the right to unionize, it became clear that citizens were supposed to vote into office those who would create for them the laws and policies that would match some vision of society. In this vision the state and citizens are separate entities with distinct powers. The role of the citizen was to vote and sit back.

Inclusion

Given that the issue at stake in the Boston strike was whether or not police ought to have the right to unionize, the question becomes: what rights do citizens have and do those rights extend to government officials? The answer to this question determines who is included in government and how they might participate. I will first explore these questions and then identify the consequences of those answers.

One right guaranteed by the Constitution is freedom of peaceable assembly. Workers in the private sector exercised this right by organizing trade unions. Samuel Gompers stated, “The American Federation of Labor is working out its destiny within the law, and will contest the assumption by Government officials of the right to dictate to the employees of the Government to which organizations they shall or shall not belong. The American people are not yet ready to take the position that because an individual accepts employment from the Government he thereby forfeits the rights guaranteed to him by the Constitution of the United States. . . .”⁵³

Those words were pertinent seven years later for the policemen. By their actions, they argued that organizing was a right guaranteed to citizens and public employees alike. When Curtis tried

to characterize the policemen as state officials instead of employees, Frank McCarthy responded, “The police officer is an employee, but what is of more importance in this case is that the police officer is an American citizen and a human being with his rights to citizenship unimpaired and his duties and responsibilities to himself and his dependents as a human being, devolving upon him. Hence, it is not only his right, but his duty to pursue such a course as he believes will best promote his interests, enabling him to obtain for his dependents and himself such a return for labor performed as will guarantee himself, his wife, and his children a standard of living that will be in harmony with American ideals and the dignity of the honorable position he occupies.”⁵⁴ Citizenship is then the guarantee that one will be able to provide for oneself and dependents. McCarthy’s argument relies upon the idea that union membership is a support for citizenship because it facilitates fair compensation.

Boston’s police commissioner offered a contrasting view that excluded police from justly joining unions. A year before the strike O’Meara argued that public workers could only be included in unions if they were inessential to the entire operation of the city. He distributed his reasoning to the police force and Curtis reiterated it in a general order in the summer of 1919. O’Meara wrote, “Though a union of public employees, as distinct from those composed of employee of private concerns, is in itself a matter of doubtful propriety, such union in any case and at the worst could effect the operations only of a particular branch of the city service. The Police Department on the other hand exists for the impartial enforcement of the laws and the protection of persons and property under all conditions. Should its members incur obligations to an outside organization, they would be justly suspected of abandoning the impartial attitude which heretofore has vindicated their good faith as against the complaints almost invariably made by both sides in many controversies.”⁵⁵ He thus excluded the police from eligibility for

unionizing on the grounds that they would no longer be able to impartially mediate disputes, presumably between workers and business owners, if they had any ties to those workers.

O'Meara's characterizations of the police and the police commissioner to potential affiliation with the AFL laid the tracks for the course of events during the strike. He claimed that "The policemen are their own best advocates and to suppose that an official would yield on points of pay or regulation to the arguments or threats of an outside organization if the policemen themselves had failed to establish their case, would be to mark him as cowardly and unfit for his position."⁵⁶ Curtis, taking up this banner, was able to justify his hard line as a demonstration that he was not a coward and that he was worthy of holding his office. O'Meara goes on to characterize the police who would refuse to join a union as "hav[ing] an intelligent regard for their own self respect, the credit of the Department and the obligations to the whole public which they undertook with their oath of office."⁵⁷ The implication is that those who joined the union would have no self respect or regard for their positions or the public. They would in essence, have no integrity. The fact that the police commissioner and his supporters viewed the police in this light makes it clear why the police emerged from the strike as disreputable characters able to be excluded from the police force and future police excluded from being allowed to be included in unions.

The story in Boston is one of inclusion's opposite – exclusion. By repeatedly denouncing the union the commissioner and mayor excluded the police from decisions that affected them. The fact that no police sat on the citizen's committee proposing plans for preventing the strike meant that they were excluded from any bargaining with their city government and excluded from the category "citizen" insofar as the committee failed to represent them. Curtis justified the exclusion in the distinction he drew between government employee and state official. When he

included the police in the category of government official they were logically excluded from the unionizing privilege of employees.

Although the purpose of unionizing and the strike was to get the policemen's concerns included on the city's agenda, they ended up being excluded. Samuel Gompers asked the commissioner to permit the strikers to return to work, but they were not allowed. Governor Coolidge was quoted saying, "We cannot think of arbitrating the government or the form of law. There can be no opportunity for any compromise in respect to either."⁵⁸ Compromising with labor by reinstating the police who had challenged the stability of that very law and order was thereby out of the question. Furthermore, this position eliminated the potential for negotiating government policy.

In the aftermath of the strike, President Wilson and Governor Coolidge categorized the police in ways that excluded them from the community and the strike from the toolkit of public workers. President Wilson referred to the Boston strike in a speech he gave promoting the League of Nations, "In my judgment the obligation of a policeman is as sacred and direct as the obligation of a soldier. He is a public servant, not a private employee, and the whole honor of the community is in his hands. He has no right to prefer any private advantage to the public safety."⁵⁹ First, by equating police with soldiers, Wilson suggests that police must unquestioningly follow orders. Second, by defining the police as public servants and defining what such servitude entails, Wilson suggests that the police did not have legitimate concerns. Indeed, any concern aside from public safety ought not to be entertained by police. This definition provides the justification for Wilson's most famous line of that speech that graced headlines in newspapers across America: "a strike of the policemen of a great city, leaving that

city at the mercy of an army of thugs, is a crime against civilization.”⁶⁰ The logical extension of that claim is that those who act against civilization may rightfully be excluded from it.

Governor Coolidge’s rhetorical response to the strike further excluded public workers from unions by eliminating the strike as a legitimate tool. He announced in a telegram to Gompers that was published in newspapers across the country, “There is no right to strike against the public safety by anybody, anywhere, any time.”⁶¹ This widely quoted statement shifted the aim of the strike away from the mayor and commissioner and to the public. It made it appear that the police’s sole aim was to destroy the city, an argument that fueled the fear that the chaos in Boston was a precursor to full scale rebellion and Socialist revolution.

The governor suggested that there was only one way to be included in decisions facing the strikers: through the courts. He told Gompers, “You ask that the public safety again be placed in the hands of these same policemen while they continue in disobedience to the laws of Massachusetts and in their refusal to obey the orders of the Police Department. Nineteen men have been tried and removed. Others having abandoned their duty, their places have, under the law, been declared vacant in the opinion of the Attorney General. I can suggest no authority outside the Courts to take further action.”⁶² By defaulting to procedure, Coolidge eliminates the possibility of including special circumstances or the context in his decision-making. The power of the union was thus excluded from the resolution of the strike.

Participation

Participation in Boston’s government, as we have seen, was largely along class lines. However, the strike brought into conversation various possible forms of civic participation. The workers, volunteer police, and government officials all argued for a particular type of participation.

The police, like private sector workers before them, argued through their actions that a strike was a valid form of civic participation. The fear generated by the chaos that reigned during the strike prompted the police commissioner and mayor to change the working conditions of the police. The fact that the police were first engaged in dialogue with the commissioner prior to going on strike indicates that they first attempted to participate in their government through institutionalized – legal – means. They moved to the strike as an escalation of that participation into a form that could gain more timely results and could not be ignored.

The issue of participation in civic life was also evident in the response to the call for volunteer policemen to restore order to Boston after the first night of rioting. An advertisement run in all of the Boston newspapers read, "In the absence of its appointed and sworn defenders, means must be adopted for the protection of life and property. . . . We are convinced that the real issue now is whether organized, properly constituted democratic government representing all the people, shall be sustained and perpetuated, or whether any element, no matter what, shall assume control of the destinies not merely of our city, but inevitably, of the republic itself."⁶³ In the context of the riots, this call offered two visions of civic participation: that of the mob actively destroying the city and the order of democratic institutions, and the implicit vision possible if the rest of Boston volunteered to restore order in which civic responsibility is for every able-bodied man to protect life and property within the city. Those who responded to the summons for volunteers were described as Yankees and adventure seekers. The elite included veterans of the Spanish American war, businessmen and bankers who were not fit for duty in the Great War, Harvard students, and assorted individuals from all walks of life who wanted adventure. No mention of Irish or workers was made to describe the volunteers. Considering that one of the

epithets hurled at volunteers was “Scabs!” it stands to reason that workers stood in strong opposition to that particular form of participation.

The conclusion of the strike and formation of the new police force allowed for only one way of participating in public life for police. They were expected to do their duty without complaint and to use only institutionalized channels of communication. By providing the police with what they needed to live relatively comfortably and work relatively safely, Boston’s government hoped to take away any incentive to seek other means of forcing decisions.

Conclusion

The events in Boston had far reaching consequences. Governor Calvin Coolidge’s eminently quotable claim that “There is no right to strike against the public safety by anybody, anywhere, any time,”⁶⁴ launched him to national attention, which he leveraged to get himself to the presidency. The police in the District of Columbia, New York, and other metropolitan cities found that affiliating with the American Federation of Labor was no longer a plausible option in the face of widespread public fear of unionized police. This fear spread to concerns over the consequences of other public workers organizing. After all, what would happen if the fire fighters, sanitation workers, or other public servants went on strike?

The police strike heightened the Red Scare gripping the country. The newspaper associations made between the riots in Boston and rebellion leading to a Bolshevik revolution, though in hindsight seem overblown, were real in the minds of Americans. The perceived patriotism of the AFL was undermined by its acceptance of public worker unions. The next few months saw heightened persecution of suspected Socialists.

Although the red scare made radical unions like the Industrial Workers of the World disintegrate, the vision of citizenship imagined by the police was carried on by the American

Federation of Labor and its affiliate unions. This vision was preserved in the private sector and unfortunately did not come to fruition for public workers for many years to come. It was a vision where employees had power in their numbers and could participate socially and politically they could also strike or boycott to forcibly entice those in positions of power to act in ways that would be consonant with their idea of a better workplace and society. They could be included in the decision and policy-making processes through collective bargaining and arbitration.

Although the police were banned from leveraging the power of other workers through collective participation in a national union, the public and other government officials became more aware of their responsibilities to public servants. Boston's police force received all of the things that compelled the force that struck to affiliate with the AFL. The commissioner and Mayor, in their desire to prevent a repeat strike, made sure their police had what they needed to make ends meet. Since most of the new recruits were returning World War I soldiers, the ethnic divide between the Irish police force and Brahmin politicians began to deteriorate. One of the major issues during the strike was whether or not the police were favoring only part of the public when they affiliated with the union. The police felt that the city was only including part of the public in their decision making process when they failed to include them on the citizens committee. The city government's behavior after the strike seems to suggest that they were taking more of the public into consideration when they made the budget and set the new police policies.

The vision of citizenship for public workers that emerged as dominant from the strike is that which was institutionalized. Public workers were vested with the power to act within boundaries strictly prescribed by the law. Their duty was to fulfill their obligations to their role without too much self-indulgent whimpering about their own livelihood. Their participation in

organizations was to be severely limited and their private lives were to be subordinate to their public obligations. Their participation in politics and public more generally was to be through their work. Although public workers continued to be working class, they were prevented from tapping into the power in numbers of their socio-economic class. Not until the late 1950's would these public workers be included in the decisions that effected their working conditions and pay.

¹ Samuel Gompers, *Labor Movements and Labor Problems in America: Labor and the Employer*, ed. Hayes Robins, (New York: E.P. Dutton and Co., 1920), 195-196.

² The Knights of Labor began calling for these reforms in the late 1800's. As the first national union not based on trade or craft but rather on status as wage earners, the Knights of Labor laid the foundation for unionism in the 20th century. See Joseph G. Rayback, *A History of American Labor* (New York: The Free Press, 1966), 144.

³ Samuel Gompers, *Labor and the Common Welfare*, ed. Hayes Robins (New York: E.P. Dutton and Co., 1919).

⁴ Rayback, *A History of American Labor*, 212, 273, 278.

⁵ Rayback, *A History of American Labor*, 239. Although the Socialist party separated from the IWW, the IWW was organized by several factions of socialists that later split. The Socialist party was the most active during this period and responsible for bringing much of the progressive agenda to national notice and legislative success.

⁶ Woodrow Wilson, "War Message," in *Words of a Century: The Top 100 American Speeches, 1900-1999*, ed. Stephen Lucas and Martin Medhurst. (New York: Oxford University Press, 2009), 78.

⁷ Woodrow Wilson, "The Second Inaugural Address of Woodrow Wilson," March 5, 1917, in The Avalon Project, http://avalon.law.yale.edu/20th_century/wilson2.asp

⁸ Wilson, "Second Inaugural."

⁹ Wilson, "War Message," 75.

¹⁰ Wilson, "War Message," 77.

¹¹ Transcribed from an audio clip of a speech by Samuel Gompers found at

<http://www.firstworldwar.com/bio/gompers.htm>

¹² Samuel Gompers, *American Labor and the War*. New York: G. H. Doran, 1919, 56.

¹³ Gompers, *War*, 57.

¹⁴ Gompers, *War*, 66.

¹⁵ Eugene Debs, "Canton Ohio Speech," June 16, 1918 in *The Call*, E. V. Debs Internet Archive, 2001

<http://www.marxists.org/archive/debs/works/1918/canton.htm>

¹⁶ Rayback, *A History of American Labor*, 279-280.

¹⁷ Eugene V Debs, "Statement to the Court," in *Words of a Century: The Top 100 American Speeches, 1900-1999*, ed. Stephen Lucas and Martin Medhurst. (New York: Oxford University Press, 2009), 130.

¹⁸ While some AFL strikes did include skirmishes between workers, police, guards and military, the intentional violence of the mail bombs contributed to the fear that all strikes would necessarily be violent. However, many walk-offs were peaceful.

¹⁹ Francis Russell, *A City in Terror: 1919, the Boston Police Strike* (New York: The Viking Press, 1975), 48-49.

²⁰ Russell, *A City in Terror*, 49.

²¹ *Police Records vol. 56, Jan 1, 1919-Dec. 31, 1919*, (Boston: Office of the police Commissioner, July 29, 1919), 1035)

²² Russell, *A City in Terror*, 74-76.

²³ *Police Records*, (August 11, 1919), 1085.

²⁴ American Federation of Labor, "Resolution 76," in *Proceedings of the 39th Annual Convention of the American Federation of Labor*, (Washington D.C.: Law Reporter Printing, 1919).

²⁵ American Federation of Labor, *Proceedings*, 162.

²⁶ Russell, *A City in Terror*, 25.

²⁷ Jonathan Randall White, "A Triumph of Bureaucracy: The Boston Police Strike and the Ideological Orgins of the American Police Structure" (PhD diss., Michigan State University, 1982), 129.

²⁸ White, "A Triumph," 132.

²⁹ "Labor Leader Calls Curtis's Statement Unfair," *Boston Herald*, August 13, 1919

³⁰ Senator Myers remarks were distributed widely. See for example *The Anaconda Standard*, September 12, 1919 "Myers Predicts Sovietism from Unionism of Police."

³¹ "Sovietism in Boston," *Times Piceune*, September 13, 1919.

³² Étienne Balibar, "Violence, Ideality and Cruelty," in *Politics and the Other Scene*, (London: Verso, 2002), 139.

³³ Balibar, "Violence, Ideality and Cruelty," 139.

³⁴ Aaron Brenner et al, *The Encyclopedia of Strikes in American History*, (M.E. Sharpe, 2009), 31.

³⁵ Brenner, *Encyclopedia of Strikes*, 31.

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- ³⁶ See Kurt Schock, *Unarmed Insurrections: People Power Movements in Nondemocracies* (Minneapolis: University of Minnesota Press, 2005).
- ³⁷ I use the term “subjective violence” to mean outbreaks of violence or cruelty as opposed to “objective violence,” or embedded institutionalized forms of violence. These terms are used with the same meanings that Slavij Zizek defines them.
- ³⁸ Walter Benjamin, “Critique of Violence,” In *On Violence: A Reader* ed. Lawrence, Bruce V. and Aisha Karim. (Durham: Duke University Press, 2007), 238.
- ³⁹ Alexa P. Freeman, “Unscheduled Departures: The Circumvention of Just Sentencing for Police Brutality,” *Hastings Law Journal* 47 (1996): 693.
- ⁴⁰ Jerome H. Skolnick and James J. Fyfe. *Above the Law: Police and the Excessive Use of Force*, (New York: Free Press, 1993), 23.
- ⁴¹ Freeman, “Unscheduled Departures,” 698-699.
- ⁴² See David Jacobs and Robert M. O’Brien. “The Determinants of Deadly Force: A Structural Analysis of Police Violence,” *American Journal of Sociology* 103, 4 (Jan. 1998): 837-862.
- ⁴³ John C. Myer Jr., “Discontinuity in the Delivery of Public Service: Analyzing the Police Strike.” *Human Relations* 29, 6 (June 1976): 545.
- ⁴⁴ “Police Vote to Strike Today, To Quit at 5:45 PM Roll Call,” *Boston Herald*, September 9, 1919.
- ⁴⁵ “Boys Have Good Time,” *Boston Globe*, September 10, 1919.
- ⁴⁶ “Announce Strike at Station 1,” *Boston Globe*, September 10, 1919.
- ⁴⁷ “Stores Looted by Lawless Gangs,” *Boston Evening Globe*, September 10, 1919.
- ⁴⁸ QTD in Russell, *A City in Terror*, 149-150)
- ⁴⁹ Frank P. Sibley, “State Guard’s Rifle Fire Kills Two; Lively Squirmish in South Boston,” *Boston Daily Globe*, September 11, 1919.
- ⁵⁰ “Gompers,” *Baltimore American*, September 13, 1919.
- ⁵¹ Gompers. Annual Report to the A. F. of L. Convention, 1912 in Gompers, *Labor and the Common Welfare*, 44
- ⁵² Russell, *A City in Terror*, 158.
- ⁵³ Gompers. Annual Report to the A. F. of L. Convention, 1912 in Gompers, *Labor and the Common Welfare*, 45.
- ⁵⁴ “Labor Leader Calls Curtis’s Statement Unfair,” *Boston Herald*, August 13, 1919.
- ⁵⁵ *Police Records*, (July 29, 1919), 1033-34.
- ⁵⁶ *Police Records*, (July 29, 1919), 1034.
- ⁵⁷ *Police Records*, (July 29, 1919), 1034.

⁵⁸ “Gompers,” *Baltimore American*, September 13, 1919.

⁵⁹ QTD. In Russell, *A City in Terror*, 170.

⁶⁰ QTD in Russell, *A City in Terror*, 170.

⁶¹ QTD Russell, *A City in Terror*, 191.

⁶² QTD in Russell, *A City in Terror*, 191-192.

⁶³ QTD in Russell, *A City in Terror*, 144.

⁶⁴ QTD Russell, *A City in Terror*, 191.

Chapter 3

Democracy at Work: Envisioning First-Class Citizenship for Public Employees

Forty years after the Boston police strike, the prevailing vision of the rights of public workers – and citizens more generally – showed signs of significant change. The change was gradual and became visible when public workers began to organize in earnest. The changing tide was apparent in 1935, when the National Labor Relations Act, known as the Wagner Act guaranteed the right for private workers to collectively bargain. Despite only applying to private sector workers, the Wagner Act indicated that the government viewed organized workers in a more positive light. The change in the private sector provided hope for public workers who were beginning to organize in cities and states across the country. The next year, 1936, the American Federation of State, County and Municipal Employees (AFSCME) gathered these small unions together when it formed to bring similar protections from the private sector to public workers. This union became the primary voice of public sector workers. Over the course of the following decades, AFSCME focused on organizing public sector workers and by 1959 the union had the strength to begin bringing comparable rights that private sector workers enjoyed to their public sector counterparts.

Although it was not until 1959 that the first state, Wisconsin, passed a law guaranteeing the positive right for municipal employees to organize and bargain collectively, the intervening period was a time when AFSCME built the momentum that ultimately resulted in a new dominant idea of what it meant to be a public employee and citizen-worker more generally. The rhetorical construction of this new vision of citizenship was entwined with the rhetoric used to

expand AFSCME. This vision of citizenship contrasted with that which was dominant following the Boston strike and had to argue against suppositions integral to that vision of citizenship.

Labor rhetoric in the late 1950's and early 1960's participated in democratic discourse more generally. I will set the scene by first showing how labor was invoked in democratic discourse by analyzing how Eisenhower situated labor within discussions of democracy in the late 1950's. Second, I will examine the arguments used in the development of AFSCME to show how their arguments built toward the passage of the Wisconsin law. I will then turn to an analysis of the arguments advanced in the debates over Wisconsin's laws granting collective bargaining rights for public workers. I argue that the vision of democratic citizenship that is promoted by AFSCME and ultimately adopted by the passage of Wisconsin's 1959 Municipal Employee Collective Bargaining Law inverts the concept of industrial-democracy into a democracy that is ultimately run like an industry. This argument will be clarified when I disassemble the vision of democracy constructed by AFSCME into the component concepts of power, inclusion, participation and class.

State of the Union at the End of the 1950's

The world, and the United States' place in it, changed significantly after World War II. Televisions, microwave ovens, and other home electronics changed how households spent their time. Consumer spending increased significantly over the previous decade, rock and roll became popular, and the polio vaccine eradicated a deadly childhood disease. Segregation in schools was declared unconstitutional and protests for Civil Rights began. Suburbs sprung up around cities and bomb shelters became part of the landscape. Despite general prosperity during the decade, a recession began in 1957 marked by high unemployment and rising costs. The government produced Hydrogen bombs, fought the Korean War, and successfully launched the space

program. During the 1950's the United States and the Soviet Union vied for the upper hand, in not only armaments and defense systems, but also in efforts to prove that their economic, political, and social models were the best. The Cold War was the ever-present backdrop to everything else happening in the country.

During the Cold War, democracy was rhetorically tied tighter to capitalism than ever before and the terms were often used interchangeably. The relationship between these terms can most easily be seen in President Eisenhower's rhetoric, since his use of the terms helped shape policies meant to strengthen democracy and the economy in the country. He articulated a framework for understanding democracy that placed democracy in contrast with communism. This contrast shaped political discourse. The rhetorical distinction between democracy and communism situated labor as part of the Cold War landscape.

President Dwight D. Eisenhower's 1959 and 1960 State of the Union addresses illuminate the link seen by non-union advocates between democracy and labor. Both of these speeches began with serious talk of military strength and defense initiatives before a brief discussion of domestic concerns, which placed the domestic concerns against the backdrop of the Cold War. Domestic policy was a means to strengthening America's international position and status. Part of the strategy Eisenhower used in his speeches was to contrast the freedom of America with the tyranny of Communist countries. Early in the 1959 State of the Union Address Eisenhower posed the question "Can Government based upon liberty and the God-given rights of man, permanently endure when ceaselessly challenged by a dictatorship, hostile to our mode of life, and controlling an economic and military power of great and growing strength?"¹ He answered in the affirmative by proposing military spending policies and policies that would help the economy to strengthen and grow. The economic policies were designed to strengthen private

business and to protect the rights of workers. He proposed legislation that he claimed would increase democratic principles for workers in their places of work.

By 1959 it was clear that Eisenhower sought to bring democratic principles to labor unions. The results from the 1957 McClellan Committee had unveiled racketeering and corruption within prominent labor unions, most notably the Teamsters. Although the AFL-CIO restructured and reenergized its ethical standards and enforcement, including expelling the Teamsters, Eisenhower publicly called for the unions to hold themselves to a higher standard because their integrity was essential for the nation's economic integrity. He equated union leaders with politicians when he said, "Inflation can be prevented. But this demands statesmanship on the part of business and labor leaders and of government at all levels."² Embedded in this call is the suggestion that government officials also need to be more statesmanlike. By equating union leaders, government leaders, and businesses, Eisenhower ties the economic and political interests of the country with the mediation of unions. All must play by the rules for the good of the public.

Eisenhower's concern is for the economic integrity of the American system. He explained, "The McClellan Committee disclosures of corruption, racketeering, and abuse of trust and power in labor-management affairs have aroused America and amazed other peoples."³ His emphasis on scrutiny by others is a reminder that Communists are watching and judging America negatively for this corruption. Eisenhower continues by pointing out the general things that need to be addressed: security and individual freedom. "They emphasize the need for improved local law enforcement and the enactment of effective Federal legislation to protect the public interest and to insure the rights and economic freedoms of millions of American workers."⁴ These are not the typical rights and freedoms associated with the American democratic principles of

representation, life, liberty, and the pursuit of happiness. Though Eisenhower does not elaborate on what economic freedoms are specifically, the term is tied to the image of the citizen as worker. In this model citizens are imagined as producer/consumers.

The protections of freedom that Eisenhower imagines do attempt to bring democratic principles to unions. He urges the passage of legislation designed: "To safeguard workers' funds in union treasuries against misuse of any kind whatsoever. To protect the rights and freedoms of individual union members, including the basic right to free and secret elections of officers. To advance true and responsible collective bargaining. To protect the public and innocent third parties from unfair and coercive practices such as boycotting and blackmail picketing."⁵

Noteworthy on this list is the importance of having elections that uphold the same standards as political elections. This proposal attempts to bring union practices into line with the democratic principles of the government. Notice that both the government and unions are plagued by undue influences, must strive for honest use of funds and to act responsibly to protect the public. This attitude sharply contrasts with that promulgated by Coolidge following the Boston Police Strike, where he made it clear that unions were an inherent threat to government and the safety of the public. It must be acknowledged that Eisenhower is speaking primarily about private sector unions and not specifically considering the potential impact of a strike by public workers. Eisenhower's vision of unions as potentially more democratic institutions that support the democracy as a whole by both reflecting the same values and by contributing to economic stability places government and unions potentially on the same side, and thus can be understood as contributing to a warmer climate for union activity in general.

Eisenhower's call was met with Congress's consideration of several labor related bills. One, the Kennedy-Ervin Bill, would have effected democratic structures within unions and

required them to report finances and activities. Although some unions and labor councils initially supported this bill, including the Madison Federation of Labor, they opposed it once business interests amended it to include a Management Bill of Rights. Congress was successful in passing the Labor-Management Reporting and Disclosures Act, known as the Landrum-Griffin Act. This act required unions to operate internally according to democratic principles of free speech and free elections as well as report financial expenditure to the government. It also contained provisions effecting boycotting and picketing practices. Supporters of the act claimed that it promoted union integrity and democracy and also gave the government oversight of union activities. Although unions argued that this act was anti-union insofar as it hampered their self-governance, its passage demonstrates the salience of arguments that invoke democracy in the context of work.

Eisenhower built upon the connection between democracy and work in his 1960 State of the Union address. He begins by positioning economic prosperity as a factor in America's overall strength internationally. "A year ago, when I met with you, the nation was emerging from an economic downturn, even though the signs of resurgent prosperity were not then sufficiently convincing to the doubtful. Today our surging strength is apparent to everyone."⁶ Initially, it appears that prosperity and strength are equal, but this statement is situated after a discussion of military strength on the international front. This ordering serves to subordinate prosperity to strength, making it one of the factors of overall strength.

Economic prosperity, in this speech, contributes to freedom – the hallmark of Eisenhower's democracy. Specifically, he refers to labor-management peace as a "freedom support." That support of freedom, however, can be weakened by labor disputes. One of the four domestic issues he remarks upon in this speech is that of dealing with prolonged stalemates in

labor negotiations. He says, “It is my intention to encourage regular discussions between management and labor outside the bargaining table, to consider the interest of the public as well as their mutual interest in the maintenance of industrial peace, price stability and economic growth.” Although he calls for discussion and collective bargaining, he cautions against impasses in the name of the public good. Notice that the interest of the public suggests that labor and management are not part of that public. He is referring to the private sector, but the interest of the public and the nation are inextricably linked to the economy.⁷ Public sector workers were not always thought of in terms of their economic value. This association came about because of the work of public-sector labor unions in the preceding decades.

Unionizing Public Workers and the Formation of AFSCME

The oldest and strongest union of public employees at the state and local level has its roots in Wisconsin. In 1932 the president of the Wisconsin State Federation of Labor broached the subject of unionizing state workers with Wisconsin’s Governor, Phillip LaFollette and found that the government was not opposed to the idea of public workers unionizing in his state. That year the Wisconsin State Administrative Employees Association (which became the Wisconsin State Employees Association) received an AFL charter.

LaFollette viewed public workers as playing an important role in shaping how the public viewed government. He penned “A Message to Wisconsin State Employees,” in the October 1932 edition of *The Badger Employee*, the nascent organization’s publication. He explained, “Instead of seeing the government as evil, we are being taught to see it as a fundamental instrument for positive advance.”⁸ He supported public workers because he believed that they played a crucial role in developing a positive image of government for the public. He argued that public workers were in a powerful position to shape public perception. He situated the civil

servant between government and the public saying “The civil servant, conversant with these facts and with the range and variety and importance of the tasks of government, must indeed in self-defense devise professional standards and measurements to protect his career on the one hand and to educate the public in its understanding of what government has become on the other.”⁹

Unions could help with these tasks.

In the early years of public unionizing, public workers were neither treated like citizens who worked in the private sector nor as government officials. They were often at the mercy of the political party in power and thus had limited political power. Without legally protected rights to organize or collectively bargain, unionized workers in the public sector largely depended on the legislature for salary increases and for setting standards for working conditions.

After announcing support for public workers to organize, in late 1932 LaFollette was voted out of office. The new governor was not a progressive and *The Badger Employee* called the new state government’s attitude toward public workers “as vindictive as it formerly was neglectful.”¹⁰ The change in governors constrained union activities in Wisconsin.

Despite the new governor in Wisconsin, the new union managed to survive and grow in the face of anti-civil service attitudes.¹¹ The Wisconsin State Employee Association had a member, Arnold Zander, who worked to extend the union. By 1934 he had connected with organizations in other states and began considering the potential for organizing municipal employees across the country. In December of 1935, Zander convened the first AFSCME convention. Although the AFL originally made AFSCME subordinate to the American Federation of Government Employees, it was only a short affiliation. AFSCME organized similar industrial unions that had split into the Congress of Industrial Organizations, which made it more suited to standing apart from the AFGE. In order to avoid losing AFSCME entirely to the

CIO, and to resolve jurisdictional disputes with AFGE, the AFL granted AFSCME its own charter in 1936.

1936 found public-sector workers striving to change the perception of their place in the economy. In response to LaFollette's earlier call for workers to educate the public of their worth, the new union claimed that the action of organizing provided a strong argument for the worth of public employees. "The concept in the public mind that public employment and "tax eating" are synonymous must be corrected and the initial step in this great task has been taken by state and municipal employees in presenting a united front for the first time in the history of the United States."¹² Later on, the union would make verbal claims of the worth of public workers, but this early argument based on the fact of organization began the process. It worked by making public employment look more like private employment where workers were organized and derived their power and worth from organization.

Public sector organizing increased as differences grew between the public and private sector. Public-sector workers fell further behind their private-sector counterparts in terms of legal protections and rights in 1935. One of the landmark policies of FDR's New Deal was the 1935 passage of the National Labor Relations Act (NLRA) also known as the Wagner Act. This act created the National Labor Relations Board to arbitrate in labor disputes when collective bargaining between management and workers in industry reached an impasse. By protecting private sector workers' right to organize, collectively bargain, and settle disputes, the NLRA significantly increased the level of democracy within industry. It also reduced the use of strikes as a measure to pressure employers into complying with union demands. This legislative acceptance of private sector unions allowed private-sector workers to negotiate for wages,

working conditions, and fringe benefits while public-sector workers remained at the mercy of their legislatures.

This widening gap between rights granted to different workers created an exigence for increased public-sector organizing. The newly formed American Federation of State, County, and Municipal Employees explained, “As a group, public employees have always been deprived of a voice in determining their destiny and in many localities have worked for low wages and under such conditions that, when found in private employment, legislatures have sought to regulate and improve them. Public employees are due to derive a larger measure of economic security by their new associated effort and united determination.”¹³ This claim portrayed the new union as a necessary response to that exigence because economic security would come from officially having a voice big enough to bring attention to the needs of public workers. Unions thus argued that they were worth joining because they could ensure public workers receive equal consideration from the legislature as their private sector counterparts.

Although the NLRA implicitly excluded public workers by simply not mentioning them, the courts justified withholding union rights from public workers by appealing to what were considered to be values intrinsic to American government. Even after private sector labor law allowed for greater union activity, the courts continued to use earlier cases from the private sector to justify rulings against public sector unions. These cases invoked two arguments based on two values—nondelegation and sovereignty—to justify their decisions. Nondelegation preserved power within elected positions and sovereignty ensured that power was not infringed on by nongovernmental entities. In the 1946 case *CIO v. Dallas*, the court ruled that public workers did not have the right to unionize. “*CIO v. Dallas* stressed that ‘the status of governmental employees, National, State and Municipal, is radically different from that of

employees in private business or industry.’¹⁴ That sentiment lingered from the days of Boston’s police strike. Joseph Slater explains the courts gave several reasons for the differences based on the idea of delegated power and a general deference to the legislature in matters of public sector unions.

First, courts held that legislatures had delegated power over employment to local public officials and that judges should therefore defer to the decisions of these officials regarding unions. Second, courts held that public employers could not delegate any power to a private body such as a union. Delegating to labor the power to bargain or to arbitrators the power to bind governments would violate constitutional nondelegation doctrines and, ostensibly, threaten democracy. Judges therefore promoted a state structure in which they uniformly deferred to the restrictive rules of local public officials—the direct employers of labor—because such power had been delegated to them. At the same time, judges refused to allow bargaining or arbitration, on the grounds that doing so would constitute an improper delegation of power from such officials.¹⁵

Courts continued invariably to deny public workers the right to bargain with their government employers on the grounds that it threatened the sovereignty of government and undermined citizens’ governing power through their representatives.

The vision of citizenship for public employees that the courts extolled was structured and inflexible. Voting and lobbying elected officials were the only ways for even unionized public workers to change their working conditions, wages, and hours--the same as for anyone wanting to change government policy. This vision of citizenship was left over from the days of the Boston police strike.

Public sector unions were not deterred by these constraints. Instead, AFSCME locals took advantage of the channels open to them and made progress in protecting public workers rights. The locals had legislative agendas that sought to pass salary and wage increases. For example, in New Jersey in late 1935 public employees came together at county meetings to discuss ways to protect their salaries. “At the county meetings, resolutions are passed requesting that the present law allowing municipalities and counties to reduce the salaries of their employees, which expires

in January, be not re-enacted, and requesting further that no legislation of any kind be passed at the next session of the legislature which would adversely affect the salaries of state, county and municipal employees.”¹⁶ Other locals also sought passage of benefits packages, retirement pensions, improved working conditions, and limits to hours. One of AFSCME’s major goals was the expansion of the Civil Service to protect workers through the merit system and elimination of the spoils system.¹⁷ Additionally, many locals came to unwritten or written agreements with many government employers.¹⁸ Unions referred to the procedure as collective begging instead of bargaining because there was no legal protection for such agreements. The union also concentrated on gaining union membership and on activating the membership at the polls to vote in legislators who would be more open to the concerns of workers.

The 1950’s were an important time for public workers. In 1955 The American Federation of Labor merged with the Congress of Industrial Organizations to form the AFL-CIO. AFSCME benefited from the merger because the CIO’s affiliate of Government and Civic Employees Organizing Committee (GCOC) became part of the union, which increased AFSCME membership and reduced inter-union conflict. The *Public Employee*, AFSCME’s monthly magazine, called the merger “perhaps the greatest forward step” the union had recently taken.¹⁹ This increased AFSCME’s membership and solved disputes in several locations over which union would represent workers.²⁰ Government employers could no longer pit rival public employee unions against one another. Beyond these tactical benefits, President Zander called the merger “an epic meeting of minds.”²¹

During this decade, AFSCME represented public workers and finally built enough momentum to bring about the first laws protecting their rights to unionize and collectively bargain. The first of these laws was passed in Wisconsin in 1959. The calls for legislative action,

convention proceedings, and the *Public Employee*, AFSCME's monthly publication, reveal and construct a vision of democratic citizenship that views government in more industrial-bureaucratic terms. It emphasizes the economic nature of citizenship, which evolved over time and culminated in the passage of Wisconsin's 1959 law and 1962 revisions. While the Wisconsin law guaranteeing municipal employees collective bargaining rights is a union victory, it also changed power dynamics, class relations, the extent of who was included, and the type of participation deemed appropriate for citizens.

Class

The history of private sector unionizing in the United States suggests that one's place in the economic system is fundamental to class. Skilled and unskilled laborers generally organized in separate unions. At the beginning of the twentieth century The American Federation of Labor typically determined union jurisdiction by craft or trade whereas unskilled workers were unionized by the Industrial Workers of the World. Those in management positions were excluded from unions. Public sector labor unions unite workers not as a class defined by their role in production, since public workers are not engaged in industry, but rather as a class defined by their political and social practices.

Early on, AFSCME tried to distinguish itself by noting why public workers are so different than private workers. This helped to justify why state, county, and municipal employees needed their own union as opposed to joining federal workers or a trade based union. What set public workers apart was the nature of their employment in government. However, by the 1950's, this distinction had morphed into an economic class distinction based on the differences in consumption abilities.

AFSCME defined class for public workers in comparison to private sector workers. Private sector workers earned more money, were required to work fewer hours, and received benefits that public workers did not. These differences translated into a higher standard of living for private sector workers than public sector workers doing comparable jobs. Private sector workers could afford to buy more because of their higher wages, had more leisure time because of shorter work hours, and had better benefits increasing the value of their work even more. Politically, private sector workers had rights that were at best privileges for public workers.²² Such rights included access to management's decision-making process through collective bargaining. These differences translated into a better working condition for unionized private sector workers than public sector workers. AFSCME's arguments in its literature distributed to its membership focuses on the differences between the different classes of unionized workers rather than comparing public sector workers with non-unionized workers.

AFSCME carefully groomed members to identify their class with a positive sense of hope and optimism. The Wisconsin State Employees Association's first issue of the *Badger Employee* told public union members that they should shift from the pessimistic attitude that "things could be worse" to the attitude that "things might be better."²³ This assured public workers that holding that positive attitude "behooves us who organize and plan content in the assurance that many good things are possible with group unity in aim and method."²⁴ *The Public Employee*, AFSCME's main publication, continued to foster optimism within its ranks even in the face of legislative defeats, by noting all successes regardless of their size. Those successes could be adding more members to a local, coming up with legislative plans, participation of members in union activities, or the actual achievement of legislative goals set by the union.

AFSCME's class based arguments for passage of the 1959 collective bargaining law rested on the concept of equality between classes. The union pointed to economic inequality: "it costs state and local government employees anywhere from \$50 to more than \$100 a month to be public employees as measured against the wages of workers in manufacturing industries."²⁵ The hard economic facts are made into human terms when the union asks, "The question is: Are these salaries what public employees are worth? Who determines the worth of a human being? Should the children of public employees suffer from inequality with other children because their father is a public employee?"²⁶ The answer to these rhetorical questions from the sympathetic union audience is that of course the inequality is wrong and they should not suffer. This series of rhetorical questions creates an emotional appeal that underscores the unequal treatment of organized workers within the working class. The same article concluded "By the studies of the relationship of the wages of public employees as measured against those in manufacturing industry, it is evident that inequality of public employees is universal in all 48 states. He is not 'worth' as much as the worker in manufacturing industry."²⁷ By articulating quantifiable economic inequality as a sign of human worth, AFSCME laid the foundation for the later claim that the workers are being treated as second-class citizens.

The most important yardstick for public workers was their buying power. AFSCME urged members to measure themselves against private workers: "The public employee should think of himself as a producer-consumer whose family has certain needs which can be met only when and if he establishes a standard of living at least equal to the standard in manufacturing industry."²⁸ Public workers are able to determine the status of their class by measuring the extent of economic inequality rather than by any functional differences or individual characteristics. Indeed, rather than simply asking for wage increases generally, the laws introduced in the late

1950's demanded wages comparable to those in the private sector. Once the argument for equal wages was made, AFSCME stepped up the call for equality to that of equal protections under the law.

The equality argument was particularly salient toward the end of the decade because it was being used by increasingly organized and powerful groups within the country. The Civil Rights movement had garnered attention with the 1954 court case *Brown v. Board of Education* that disallowed segregation of students in "separate but equal" schools. The bus boycott and lunch counter sit-ins brought the concept of racial inequality to national attention. AFSCME was consistent with the commitment to equality; it prohibited discrimination based on race or gender within its own organization. Although AFSCME did not speak of class in terms of race, it did argue for class equality between the private and public sectors.

Inequality between Wisconsin's public and private employees was understood by Gaylord Nelson, who was elected governor of Wisconsin in 1958. He included in his campaign and legislative agenda calls for "Upgrading of state employee salaries across the board to meet current standards of private industry, including a system of longevity increments."²⁹ Although he did not directly call for recognition and collective bargaining systems equal to those in private industry, he did call for considering eliminating the gaps between the two groups. He warned, "If we cannot match the standards of private industry, we cannot attract or hold the type of people we want, and the idea of a career in civil service is lost."³⁰ Class division could thus disappear by exodus of employees from the public sector, or by bringing equal economic compensation to workers. The first was an untenable idea. The fact that the governor, and by extension his governmental supporters, accepted AFSCME's terms for understanding class division suggests

that the union was successful at getting people to focus on the economic dimensions of being a first class citizen.

In order to be thought of as equal, however, AFSCME needed to shift how people talked about public workers. Before the late 1950's, public employees were typically referred to as "public servants." While this term is still occasionally used, it does not carry the same connotations. Originally, the term suggested servitude not just to the public, but also to the politicians and the party in power. Remember, that characterization was used when the spoils system was common. The dynamics changed as the unions were successful at passing civil service reforms to replace the spoils system with the merit system, and language needed to change as well. AFSCME passed several resolutions at its 11th Convention that shifted how workers in the public sector would be talked about. Use of the term "civil servant" and its variants were changed to "public employee." Although only a switch in two terms, it positioned public sector workers not as subservient to the public "other" and politicians, but rather, in a management/worker relationship like those experienced by all other employees. This shift in language encouraged rethinking public workers in terms used in the private sector. Furthermore, it chipped away at the rigid line between the concept of citizenship and the freedoms of employees.

Participation

AFSCME's vision of citizenship required a higher level of participation by rank-and-file members. Originally, union members were asked to participate in their union's cause by spreading the word about the contribution to society that public workers make. This public information campaign helped ease the union's way as it worked to partner with government agencies and legislators to improve the civil service system. Participation by union members

evolved to mean active participation in the union through financial contributions and agreeing to increases in dues, in addition to voting and participation in the legislative process – traditional acts of citizenship. These forms of participation helped ease the way for the passage of Wisconsin’s employee relations laws. While participation in the union was equated with civic participation, government responded by taking on a role analogous to that occupied by management in the private sector.

Several changes to public service, spearheaded by the efforts of public sector unions, contributed to the eventual acceptance of public sector collective bargaining. From the 1930’s through the 1950’s, unions worked to establish merit based civil service agencies for government workers. In 1934 Arnold Zander appeared before the Civil Service Convention to plead the case that the Civil Service and Unions shared many goals and could work together to help the public. He argued that the first goal should be “To cooperate in giving efficient service to the state.”³¹ Zander aligned the union with the civil service agency by claiming to have common aims. This was crucial in eliminating the spoils system and bringing about material changes to government employment.

In the 1930’s AFSCME Unions worked to eliminate promotion and employment within the public sector based on the spoils system. This means that public employment shifted from being based on being affiliated with the political party in favor, to being based on one’s qualifications for the type of work being done. This change increased job security because workers could expect to keep their job when elected officials changed. Jobs thus lasted beyond the length of a political term. In this way, working for the public service began to appear more like employment in the private sector. The civil service laws also increased the professionalism of public employment. Promotions were based on merit. This helped to improve efficiency and

give dignity to work in the public service. Indeed, AFSCME passed several resolutions aiming to encourage the possibility for careers in the public service. These included support for laws creating retirement pensions for public workers and vacation and sick leave allowances. Additionally, the unions encouraged formation of adult education courses designed to help public workers advance and improve the functioning of government. All of these efforts were designed to make participating in employment in the public sector look like employment in careers in the private sector.

Rank-and-file union members did not directly participate in organizing or collective bargaining negotiations. These responsibilities were delegated to union staff. Since organizing campaigns generally took place in regions where there was no, or at most a low union presence, AFSCME relied upon paid organizers to start up new locals. Once organized, members no longer had to individually negotiate their work contract; that was delegated to the union representative who bargained with the employer. AFSCME, however, relied upon members to participate actively at the voting booth. The union encouraged voter registration campaigns and urged members to get out and vote. They were also expected to contact lawmakers and make the case for the union agenda. Members of union locals wrote letters to legislators. Although AFSCME's president, Arnold Zander, repeatedly called for the rank-and-file to participate in the union through larger financial contributions, they did so only at a minimal basis. This led Zander to publish in the July 1959 *Public Employee* that "We know where we want to go and how to get there, but we lack the financial resources to do the jobs that need doing in all too many instances. We now have union recognition and the necessary equipment for collective bargaining in 298 separate subdivisions of government. That isn't many, considering the number of jurisdictions in which we operate. But it is great progress during the last two years. We have beaten off attempts

to hamstring us legislatively in all but one instance this year. But we should have been able to win that one, too. If we had the manpower to throw into all of the breaches that were opened we would have. It was the old story of too little and too late.”³² While one might think that unions had plenty of manpower as their membership rolls swelled, Zander was referring to trained individuals paid by the union through its dues. The executive board’s message was that participation is good, but financial participation is better. Despite this call from union leadership, they did value member contributions to changing how people talked about public workers.

The unions had to establish a more favorable public attitude toward their union and to public work more generally. Zander argued that one way members could participate in achieving this goal was to change public attitudes toward civil service by informing their acquaintances of what they do for the community. Over the first twenty-five years of the union’s existence, AFSCME improved the image of public employees through its legislative campaigns and public education campaigns. At the 1958 national convention, the Cincinnati Personnel Director, W.D. Heisel, reiterated Zander’s calls from two decades before when he called on AFSCME to work with management to shape public attitude. He said, “The public is a widespread and diversified group to reach. It is skeptical. It must be sold on the quality of services it receives. It must be convinced these services are necessary. . . . There is no doubt about it; it is a job for everyone.”³³ He suggested that public workers could be good ambassadors of the public service by being able to explain the value of their work to their friends. As a representative of management himself, Heisel recognized that unions had already done a lot to promote the public service by bringing salaries on a par with private employment so that government could competitively recruit workers in a tight labor market.³⁴

In addition to convincing the public of the worth of unions, unions also had to convince government managers that unions could be useful. Heisel argued that management could see the value of unions improving agency efficiency when unions act as communication conduits between management and workers. He argued, “This is a serious problem in the public service, where our employees are scattered over an entire city, or even over a whole state. The union can tell management what the workers think. Likewise, they can tell the workers what management is doing and why, particularly when something goes wrong.”³⁵ By helping to improve government efficiency and communicating those contributions to the public, Heisel claimed that the public would be more likely to allocate money for public services. This in turn would allow government to keep salaries in line with those in private industry. By participating in efforts to improve both efficiency and public attitude, unions could make the public service have wages that look like those in industry.³⁶ Heisel articulated this vision of union participation in the improvement of agency efficiency and shaping public attitude so well that the convention voted to distribute a copy of his address to the rank-in-file in *The Public Employee*.

Changes in attitudes towards public employment also shifted government’s view of itself. Simply participating in collective bargaining negotiations indicated a change in government’s vision of its role. In line with the principle of sovereignty, government officials previously held that delegating decisions, or allowing unions to participate in the decision-making process for its workers, undermined government’s authority and contradicted its responsibility to represent the people. “Collective bargaining and arbitration therefore were considered inconsistent with the democratic process and with the idea that officials were responsible to the voters and not to trade unionists.”³⁷ However, if government was envisioned in terms of efficiency--more like business--then perhaps it could participate in a relationship with its employees that more closely

resembled the relationship between management and workers in the private sector. First, informal negotiations followed by spoken agreements moved the practice into being without leaving a trail to indicate that government officials had participated in such negotiations. The passage of the 1959 law, in recognizing unions and legalizing collective bargaining, institutionalized participation with employees on terms found in the private sector. Government managers, officials and politicians, by interacting with public workers as employees like those in the private sector, were one step closer to having a democracy resemble industry.

These changes also reflect a shift in the meaning of participation for citizens more generally. Gerard Hauser and Chantal Benoit-Barne argue that we would do well to shift from an interest-based understanding of politics to a deliberation based understanding of politics.³⁸ The arguments that AFSCME makes and the resolutions it supports for improving the efficiency of the government help to make this shift. Although the arguments for power and class seem to be interest-based, AFSCME's work for the improvement of efficiency within government can be understood as participation in the deliberative sense. Public sector unions suggested that they had at least some of the same goals as the public more generally. Furthermore, by constructing arguments that appealed to the public-mindedness of politicians, and by encouraging management to use unions as a means of communicating with workers, deliberation was strengthened across the board.

Power

The growth of unions in the public sector forced governments into dealing with their potential power. Wisconsin was the first to do so in 1959.³⁹ The law laid out procedures for recognizing labor unions as representatives of employees, protecting the right to collectively bargain, and allowed for the option of arbitration. Later, the law was amended in 1961 to provide

for mediation and fact finding in the case of impasses.⁴⁰ The arguments advanced by both the government and AFSCME leading up to the passage of these laws, aimed both at the general public and union members, called for safeguards to provide a just distribution of power and a balance of power.

Perceptions of the power of workers had shifted from the beginning to the middle of the 20th century. While early on the power of workers was seen in massive strikes and mobilizations of workers, after passage of the Wagner Act in 1935, their power was most often seen at the bargaining table where wages and benefits were negotiated. The number of strikes by organized workers had decreased by the 1950's; in 1958 public workers were only involved in fifteen work stoppages.⁴¹ At the same time, the number of public workers had skyrocketed. Thanks to organizing efforts by AFSCME, the number of public employees who were unionized also grew rapidly. Although strike action by public workers was minimal, several long-lasting high-profile strikes took place in industry. Notably, the Kohler steel strike of the late 1950's that lasted for years, reminded government officials of the power of organized workers to disrupt economic practices.

AFSCME argued that a balance of power could be reached by extending the rights of organizing, collective bargaining, and striking to public workers. On the last day of the 1958 AFSCME Convention, the delegates passed resolution 18 regarding the "Rights of Public Employees" that set the legislative aims that were realized in passage of Wisconsin's law. This resolution also situated the legislative goals as matters of powers granted to citizen workers. The resolution read:

Whereas, public employees nationwide have suffered from lack of specific legislation specifying their rights as American citizens to organize, bargain collectively, and to be represented by unions of their own choosing, and

Whereas, legislation guaranteeing these rights has *stabilized* employer-employee relations in private industry and public employment where it is in effect; now, therefore, be it RESOLVED: that this convention direct the international union and all affiliated locals and councils to press vigorously for the adoption of national, state, and local legislation guaranteeing to public employees the democratic rights as American citizens to organize, bargain collectively, and to be represented by unions of their own choosing.⁴²

The rights to organize, bargain collectively, and strike are clearly listed as elements of citizenship. The grounds for such a claim lie in the existence of laws protecting those rights for workers in private sector industry. Furthermore, by claiming that these rights stabilize relations, they can be understood as contributing to balancing the power differences between workers and employers, essentially preserving the principle of equality between citizens.

Arguments opposed to such legislation hinged on the idea that power structures needed to remain imbalanced because of the unique relationship between public employers/government agents, and workers. The primary argument against allowing for unionizing and collective bargaining dealt with the principle of sovereignty, or that the people hold ultimate authority instead of a CEO. Recall one of the conclusions from Boston that there is no right to strike against the people-as-sovereign. Arvid Anderson, executive secretary of the Wisconsin Employee Relations Board summed up the logic used by those opposing public unions in 1959:

- (1) Having unions means collective bargaining.
- (2) Collective bargaining means strikes.
- (3) The right to strike in public employment does not exist.
- (4) Therefore, there is no need for public- employee unions or collective bargaining in public employment.⁴³

Ultimately, the argument fell back on the assumption that public workers ought not to be allowed to strike because it undermined the very governmental structures the workers-as-citizens were obligated to uphold. Since strikes threaten the sovereignty of government, and since unions have power in collective bargaining based on the potential for strikes, they should not be allowed to unionize and bargain.⁴⁴

Opponents of unionizing and collective bargaining also feared that it would be disruptive insofar as it required restructuring government. In many regions, as we saw in Boston, some aspects of employment were handled by one department and others by another. Not only would collective bargaining potentially require the consolidation of powers within government agencies, but it also offered a new avenue for gaining power. Previously, citizens only influence over expenditures was through their vote for individuals or lobbying. Collective bargaining allowed citizens to also exert influence through union representatives. The question became whether or not this meant the government had ceded its representative power.

The fear that public workers could be too powerful and hurt the general public and society lingered from 40 years before. Proponents of allowing public employees to unionize pointed out that many public workers perform the same tasks as unionized private sector workers who contract with cities. They also emphasized that areas of public employment vary in the potential impact they could have if the workers were to strike. Anderson provided such a comparison saying “A strike by a county road maintenance crew might not have as serious an impact upon the public as a strike by the employees of a private contractor engaged in building a public road or a strike by the employees of a private contractor furnishing construction materials to the government road crew.”⁴⁵ These comparisons began chipping away at the fear that any public worker strikes would be detrimental to the sovereignty of the people. Although AFSCME would have liked the right to strike, that provision of the legislative agenda was dropped so that the rest might stand a chance of being passed.

Opposition to collective bargaining hinged on the detrimental consequences of striking for both the public well-being and the integrity of government. Indeed, the fact that the 1959 law did not mandate binding arbitration in the case of impasses meant that public sector unions had

no legal means equivalent to those used in the private sector of compelling their bosses to act in their favor. This was partially balanced by the power of workers to vote, and mount voting campaigns, to promote the election of officials who would side with them. Anderson explained, “In public-employee disputes, lobbying and political pressures are brought upon those in authority—the legislature and the executive. Political persuasion is substituted for economic pressure.”⁴⁶ However, it must not be forgotten that the political process was also used by workers in the private sector who sought to change working conditions or business practices, so ‘substitute’ seems inaccurate. Nonetheless, their public sector political power was initially thought to make up for the prohibited tactical power granted by the strike.⁴⁷ The 1962 amendment served to reduce the unequal bargaining positions of government employers and employees by providing steps to be taken when bargaining reached an impasse.

Fears also abounded over unions gaining undo power over decisions affecting the public. William Form found “Prior to 1937, when organized labor lacked strong bargaining in its relations with management, unions had virtually no power in community-wide agencies. Since that time labor has attained a position in collective bargaining of near equality with management. Labor's gains in community representation, though small, have been so significant that one must conclude that an equality of bargaining strength was the necessary condition for increasing community involvement.”⁴⁸ Given that increased organization and collective bargaining in the private sector correlates with an increased presence of labor representatives in community groups responsible for making decisions, it makes sense that allowing public sector collective bargaining would likewise increase the community power of labor even more. Decisions about academic curricula, discharge procedures for police and firefighters, and other decisions that directly relate to the work of public employees affect public life in significant ways.⁴⁹ The 1959

law limited the topics allowed for collective bargaining to restrict the power of unions to issues with smaller spillover effects for the general public. They could only bargain on wages, hours, and conditions of employment. All these restrictions did not address the potential correlated increase in community power more generally, they did serve to minimize the extent of power possible through collective bargaining.

Opponents of collective bargaining were justified in their fear of the potential power of public sector unions. Since public sector workers were organizing at far higher rates than in the private sector, and since more jobs were being created in the public sector, these unionized workers were growing into a formidable constituency of which elected politicians were sensitive. It was prudent for politicians to listen to their public sector constituents because they could influence election outcomes. Furthermore, although strikes were prohibited, public workers wielded the fear that if organized, they might just walk off the job regardless of threatened consequences. Some argued that this level of influence was disproportionate and that public sector workers should be prohibited from making legislative end-runs to gain benefits not reached through collective bargaining. This prohibition did not come to pass, but it does illustrate the legitimate fear of the power of organized public workers.

Inclusion

The Wisconsin laws changed who was included in the decision making process for policies effecting public workers and how people were included. Several levels of inclusion were created and avenues were opened for more people to be involved. On one level, workers continued to be included at the level they had always been, through their participation in the normal avenues for political participation with elections. A new level of inclusion was added nearer to the workplace by allowing for unions to act as a conduit for communication between

government managers and the workers. This allowed decision-makers to include the perspective of their workers in their decisions. Additionally, by requiring governmental bodies to bargain with union representatives, unions and their organizational interests were included in decisions effecting public workers. These changes also increased the number of public sector workers who sought inclusion in a union.

The Wisconsin laws required that public employees be included in the decisions effecting their wages, hours, and conditions of employment. Although this inclusion was in the form of a union representative at the bargaining table, it was a level of inclusion less removed than simple inclusion through the election process. This new form of inclusion challenged the sovereignty argument advanced by public officials that held that the voice of employees was already heard through their vote. The AFSCME Executive Board responded, “we say that only the people are sovereign, and no official can speak in the name of a power never granted him.”⁵⁰ Although officials claimed that power was granted them through the election process, AFSCME maintained that sovereignty of the people was better preserved by including union representatives at the bargaining table.

This vision of democracy seems to mean including everyone’s voice who has a direct stake in a decision. It invokes the principle of equality insofar as the state is not held above those who comprise it. Following passage of the Wisconsin laws and similar measures in other states, David Stanley wrote, “No longer is a government considered a sovereign, granting employment as a privilege on its own terms. It is only a party to a transaction with an individual citizen or a group of citizens who have something to say about the terms and conditions of their employment. . . . The nation has moved, in short, from an age of unilateralism into one of bilateralism, in which consultation, negotiation, and bargaining are part of everyday

management.”⁵¹ While those elements may have been present in the private sector before, legalizing unionizing and collective bargaining for public workers brought those principles to local government management relations.

One of the challenges of inclusion was determining bargaining units. Unlike in business, where there was a clear division between management and employees, divisions were not so clear in the public sector. While it was easy to exclude elected and appointed officials from unions, it was harder to determine which management positions needed different bargaining units. Supervisors were often promoted from lower level positions and were given the power to make decisions affecting bargaining units in which they held membership. The unions and governing bodies both had an interest at limiting conflicts of interest.

The inclusion of workers at the bargaining table had spillover effects for organizing in the public sector. AFSCME always stressed the voluntary nature of membership and early on cautioned organizers against overstating the benefits to unionizing. In 1936, the executive board was careful to note that organizers should not promise too much. It cautioned against promising potential members job security, but said it was ok to promise that the union would work to pass legislation that could bring job security.⁵² Later, Zander emphasized that membership in the unions was voluntary, especially because public sector unions weren’t protected by law. The voluntary nature of membership meant that, at least in theory, the union was held more accountable to its members and had a vested interest in accurately and adequately representing them. However, passage of Wisconsin’s collective bargaining law made inclusion in unions even more advantageous. Since government employers bargained with the union that a majority of employees chose, workers were only represented at the bargaining table if they were members of that union.

Conclusion

The primary opposition to allowing, protecting, and collectively bargaining with public sector unions rested on the argument that strikes by public workers were not acceptable. This argument obscured viewing public workers as citizens with the same rights as citizens working in private industry. The increasing inequality between private and public sector workers following the passage of the Wagner act shifted attention away from the negative consequences of strikes and onto the need for equality between workers. The arguments mobilized by AFSCME and AFSCME's comprehensive legislative agenda, reminded people that public workers were people with the same economic and professional goals as those not working for the government. By painting a more vivid picture of the lives of public sector workers, AFSCME constructed a vision of citizenship that tied the economic to the political and demanded inclusion of worker representatives in the deliberative processes where working conditions, wages and benefits were determined.

Wisconsin's decision to allow public employees to organize and collectively bargain changed how we view government. We no longer argued that citizens had temporarily handed over their authority to whoever was elected, but rather recognized that citizens could continue to be included in decisions directly affecting their work life. At least when it came to collective bargaining, government was viewed as any manager would be viewed in the private sector. Government's relationship with citizen-workers looked much more like management's relationship with workers in the private sector.

The vision of citizenship manifest in the Wisconsin laws saw equality of earning potential and consumption ability between all workers regardless of public or private employment as key to an efficient and strong government. Even though the public sector workers

argued in terms comparing their goals to those of workers in the private sector, this vision of citizenship imagined a deeper level of participation in civic life than even experienced by private employees. Not only were workers now expected to participate as they had before in the legislative process, but they also needed to contribute financially to their union and spread the word to others of the beneficial things the public service does for the community. All of this would contribute to both a strong economy and strong democracy essential for advancing the national agenda of proving the superiority of the United States to the Soviet Union.

Wisconsin's precedent setting 1959 law was only the first step in public sector unionizing. The trend toward allowing public workers to unionize was given a huge boost when John F. Kennedy signed Executive Order 10988 on January 17, 1962. This executive order permitted most federal employees to join and form unions that could represent workers on personnel issues and working conditions. Throughout the 1960's states passed collective bargaining laws and amended those laws to provide for better handling of impasses. Over the next decade, states and counties grappled with the unique situation of collective bargaining with public sector unions. As more and more states passed laws, the laws attempted to prevent or handle problems that arose under previous legislation. This resulted in the addition of fact finding and mediation, as in Wisconsin, as well as binding arbitration procedures where a mediator would help select the final best offer. States and municipalities also passed more stringent regulation of what could be negotiated at the bargaining table as well as who could make up a given bargaining unit. Some form of union protection and collective bargaining rights were extended to approximately 15 states by the end of the decade.

These laws shifted the position of unions with relation to previous policies that they supported. Most significantly, AFSCME found that locals bargained for job protections that

sometimes challenged the procedures of the Civil Service merit system that it, only a decade before, helped to bring into being. Most notably, unions favored promotion and discharge policies that favored their members. Longevity became an important factor in promotions, though merit did not totally disappear.

Although public workers won the right to unionize and collectively bargain in many cities, counties, and states, these successes were shadowed by prohibitions of unionizing and bargaining in other states that passed so-called “right-to-Work” laws. This new vision of citizenship did not wipe out or even change the old vision of citizenship, but both persisted in challenging one another in theoretical debates and legislative struggles. The issue of the right to strike, although avoided by unions securing the rights to unionize and collectively bargain, became the next locus of clash between these two visions of citizenship.

¹ Dwight D. Eisenhower, “1959 State of the Union Address,” <http://www.vlib.us/amdocs/texts/dde1959.htm>

² Dwight D. Eisenhower, “1959 State of the Union Address.”

³ This refers to corruption and racketeering in the Teamsters Union and 2 other affiliates of the AFL-CIO.

⁴ Eisenhower, “1959 State of the Union Address.”

⁵ Eisenhower, “1959 State of the Union Address.”

⁶ Dwight D. Eisenhower, “1960 State of the Union Address,” <http://www.vlib.us/amdocs/texts/dde21960.htm>

⁷ Eisenhower, “1960 State of the Union Address.”

⁸ Phillip LaFollette, “A Message to Wisconsin State Employees,” *Badger Employee*, October 1932, 1.

⁹ LaFollette, “A Message to Wisconsin State Employees,” 1.

¹⁰ “Interest in Public Service,” *The Badger Employee*, October 1932, 6.

¹¹ Leo Kramer, *Labor’s Paradox: The American Federation of State, County and Municipal Employees*, AFL-CIO (New York: John Wiley and Sons, 1962).

¹² “National Union,” *Wisconsin State Employee* 5, 1 (Jan. 30, 1936): 4.

¹³ “National Union,” 4.

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- ¹⁴ Slater, *Public Employees*, 75.
- ¹⁵ Slater, *Public Employees*, 75-76.
- ¹⁶ “Public Employees Uniting to Block 1936 Salary Cuts,” *Wisconsin Public Employee* 5, 1 (Jan. 30, 1936): 14.
- ¹⁷ “National Union,” 4.
- ¹⁸ Hugh O’Neill, “The Growth of Municipal Employee Unions,” in *Unionization of Municipal Employees: Proceedings of the Academy of Political Science XXX no. 2*, ed. Robert H. Connery and William V. Farr. (New York: Columbia University, 1970), 7.
- ¹⁹ Arnold Zander, “A Look at the Past Year,” *The Public Employee* 22, 1 (Jan. 1957): 3.
- ²⁰ Kramer, *Labor’s Paradox*, 26-27.
- ²¹ Zander, “A Look,” 3.
- ²² I take “right” as something protected by law and “privilege” to be something sometimes allowed by public employers on their terms.
- ²³ The Wisconsin State Employees Association was the founding union of AFSCME.
- ²⁴ “Interest in Public Service,” 7.
- ²⁵ John P Caldwell, “General Officers and Staff are Developing New Methods of Evaluating our Union and Where We’re Going,” *The Public Employee* 22, 1 (Jan. 1957): 16.
- ²⁶ Caldwell, “General Officers and Staff,” 16.
- ²⁷ Caldwell, “General Officers and Staff,” 16.
- ²⁸ Caldwell, “General Officers and Staff,” 16.
- ²⁹ “New Wisconsin Governor,” *The Public Employee* 23, 10 (Dec. 1958): 5.
- ³⁰ “New Wisconsin Governor,” 5.
- ³¹ Arnold Zander, “Effective Public Administration through Employee Organizations,” in *Proceedings of the 26th Annual Civil Service Assembly* University of Chicago, Oct. 4-6 1934, 134.
- ³² Arnold S. Zander, “Where Our Union Stands on its Collective Bargaining Program,” *The Public Employee* 24, 7 (July 1959): 3.
- ³³ W.D. Heisel, “Address,” presented at the Proceedings of the 11th Annual International Convention of the American Federation of State, County, and Municipal Employees, (Long Beach, California, Monday, April 28, 1958), 32.

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- ³⁴ Heisel, "Address," 35.
- ³⁵ Heisel, "Address," 33.
- ³⁶ Heisel, "Address," 33.
- ³⁷ William B. Gould, *A Primer on American Labor Law 4th ed.*, (Cambridge: The MIT Press, 2004), 187.
- ³⁸ Gerard A Hauser and Chantal Benoit-Barne, "Reflections on Rhetoric, Democracy, Civil Society, and Trust," *Rhetoric and Public Affairs* 5, 2 (Summer 2002): 261-275.
- ³⁹ The law was codified as chap. 509 of the laws of 1959, subchap. IV of chap. 111 of the Wisconsin statutes; its effective date was Oct. 3, 1959.
- ⁴⁰ The law was codified as chap. 663 of the laws of 1961, amending subchap. IV of chapter 111; the effective date was Jan 31 1962. Later on, final offer arbitration was instituted to provide for binding solutions to impasses.
- ⁴¹ Hugh O'Neill, "The Growth of Municipal Employee Unions," 9.
- ⁴² *Proceedings of the 11th Annual Convention of the American Federation of State, County, And Municipal Employees* (Long Beach: April 28-May 2, 1958), 236.
- ⁴³ Arvid Anderson, "Disputes Affecting Government Employees," *Labor Law Journal* 10, 10 (Oct. 1959): 707.
- ⁴⁴ Arvid Anderson, "Labor Relations in the Public Sector," *Wisconsin Law Review* (1961): 601-635.
- ⁴⁵ Anderson, "Disputes Affecting Government Employees," 709.
- ⁴⁶ Anderson, "Disputes Affecting Government Employees," 709.
- ⁴⁷ Illegal strikes were still available, but public workers had no protection against being fired.
- ⁴⁸ William H. Form, "Organized Labor's Place in the Community Power Structure," *Industrial Labor Relations Review* 12, 4 (Jul. 1959): 539.
- ⁴⁹ Gould, *A Primer*, 191.
- ⁵⁰ "Executive Board Meeting," *The Public Employee* 24, 5 (May 1959): 5.
- ⁵¹ David T. Stanley, "The Effect of Unions on Local Governments," in *Unionization of Municipal Employees: Proceedings of the Academy of Political Science XXX 2* ed. Robert H Connery and William V. Farr. (New York: The Academy of Political Science 1970), 43.
- ⁵² "Proceedings of the First Annual Convention of AFSCME," (Detroit, Michigan, Nov. 17-19, 1936), 49.

Chapter 4

Right to Strike: The Keystone for Collective Bargaining

By the second half of the 1960's public workers realized that collective bargaining, as it was practiced under the new laws, was limited in its ability to solve all major concerns. Despite strict prohibitions against the practice, public employees went on strike in cities all across the country to leverage public opinion and pressure government to negotiate desired elements into their contracts. Governors and mayors, facing strikes despite laws prohibiting such behavior, established commissions to devise ways to limit strike activity. New York City tried to reduce strikes by increasing penalties on union leaders and unions when their members went on strike. Despite optimism, this legislation failed to prevent strikes in the same year it was passed. Hawaii passed a law allowing public workers the right to strike, but other states were still wary.¹ It was not until 1970 when Pennsylvania's governor signed Act 195 into law, that the country had a model piece of legislation that seemed in tune with the realities of the increased militancy of public employee unions.

What changes took place that brought Act 195 into being? Although most of the arguments used by proponents and opponents of strikes by public workers remained the same, the context of civic unrest made them seem more salient. The alignment of citizens interest groups had shifted, the context of embodied militant activism started by the Civil Rights movement, and changes in the rights of federal employees all contributed to creating a context in which prohibiting strikes was seen to undermine government more than allowing some strikes would undermine it. Pennsylvania's Governor Raymond P. Shafer and opponents of the strike

resigned themselves to the passage of Act 195 as a prudent response to their contemporary situation. I argue that the rhetorical strategies used to pass Act 195 mobilized arguments in favor of the right to strike as an essential element for true and effective collective bargaining and as a way to limit actual strikes by portraying the government as fair and reasonable. However, the rhetorical strategies used to pass Act 195 created a vision of citizenship that anticipated changing public opinion. We can understand the rhetorical techniques used in this episode by first situating the debates over the law in the context of labor and strikes in the 1960's and exploring the goals and membership of interested parties. Then we will turn to an analysis of the techniques used in the popular and theoretical debates over strikes taking place in newspapers and between legal scholars at the time, as well as the legislative path that lead to passage of Act 195. Finally, I will explore the consequences of passage of this act for how we imagine citizenship by delving into considerations of power, class, participation and inclusion.

The State of Labor in the 1960's

Public sector unions continued to grow in the 1960's. Just as in the previous decade, the trend continued toward greater public employee unionism while private sector unions continued to decline. This was due in part to the increasing number of government jobs, the increased organizing efforts of unions, and more states following Wisconsin's lead passing laws allowing for organizing and collective bargaining for municipal and state workers. Great Society programs expanded the scope of public employment and two executive orders opened the door for federal workers to unionize. Kennedy's signing of Executive order 10988 in 1962 authorizing collective bargaining for federal workers gave the go-ahead for extensive unionizing by federal employees. Nixon's subsequent passage of Executive Order 11491 in 1969 refined the policy for collective bargaining by stipulating that agreements be written down between the exclusive

bargaining unit and the government employer, and further defining the range of topics that could be discussed. Federal executive branch union workers in exclusive bargaining units rose from 258,543 in 1964 to 916,381 in 1970.² This substantial increase can be attributed to the efforts of union organizers building their strength by including new members from federal employment.

From the 1930's to the 1960's, unions strengthened the civil service systems, but the increase in collective bargaining changed the bureaucratic dynamics. Rather than relying on civil service merit tests, collective bargaining agreements tended to protect and advance union members. The budgeting issues and spread of responsibilities between agencies covered by bargaining agreements increased the tangle of bureaucratic red tape. The 1960's saw states trying to improve collective bargaining laws to streamline processes and untangle the bureaucratic messes by consolidating or redefining agency responsibilities.

What was true of the country was also true in Pennsylvania. In Pennsylvania, Gerald McEntee organized thousands of public workers for AFSCME. The Business Service Employees International Union (BSEIU) and the teamsters had affiliates among government employees. Both the Pennsylvania Federation of Teachers -- an affiliate of the American Federation of Teachers (AFL-CIO) -- and the Pennsylvania State Education Association (PSEA of the National Education Association), continued to unionize school teachers. All of these unions eventually came together to support passage of ACT 195 while they simultaneously competed for membership and later for exclusive recognition at the bargaining table.

Philadelphia had a history of unionized public workers that stretched back to 1938. That year, Bill McEntee, a trash collector, led sanitation workers on a strike. The sanitation workers affiliated with the American Federation of State, County, and Municipal Employees who helped them obtain a contract with the city.³ McEntee continued to organize the city's municipal

workers for AFSCME. AFSCME unionized poor blue collar workers across racial and ethnic lines to promote their common interests through collective bargaining. McEntee also led efforts to reform the city's patronage system that made municipal jobs dependent upon the political party in charge. Workers were expected to support their ward leaders and were often restricted in where they could get jobs based on where they lived. McEntee and AFSCME spearheaded the replacement of the patronage system with the civil service.

Although Philadelphia had a history of negotiating with unions, the lack of a specific bargaining law left plenty of room for discord. When other cities also began bargaining with their employees in the 1960's, the same problems plagued them. Not only were there no set rules for union recognition or requirements for government employers to meet with any union representatives, unions also competed among themselves for members. Even when workers did manage to organize, the lack of collective bargaining legislation left them at loose ends if they ran into an impasse bargaining with their employers. Despite the illegality, workers would call in "sick" or walk out. Strikes were prohibited by Act 492, a 1947 law that stipulated that workers who went out on strike would have their employment terminated, and if they were reappointed, could not receive higher wages for three years than they were receiving prior to the strike. Such workers would remain on probation for five years.⁴ This law, however, was not enforced. Government employers realized that it was not in their best interest to penalize workers who were willing to go back to work, so they included waivers of the penalties stipulated by the 1947 law in their negotiated agreements.

Strikes in the 1960's by public workers often included different motives than previously seen; the strikes were not just aimed at gaining increased economic compensation but also sought exclusive recognition and other measures that would protect union interests. At least two of the

major teacher strikes in 1968, one in Pittsburgh and the other in Philadelphia, were to pressure the school boards into recognizing the teacher's unions.⁵ Strike activity in the state increased from 13 walkouts in 1968 to 26 in 1969. Most of these were by teacher unions.

Some of the groundwork for Act 195 was laid by the passage of Act 111 in 1968. The citizens passed a Constitutional amendment that delegated authority for binding arbitration in cases of stalemates to panels and commissions.⁶ This amendment dealt with the issue of nondelegation that we saw in Wisconsin by expressly allowing the government to delegate some of its power to specified third parties. By June of that year the legislature had passed Act 111, allowing police and fire fighters to use binding arbitration to resolve impasses in collective bargaining. Although it was a two-step process, this bypassed issues of nondelegation by amending the state Constitution to allow for panels to help resolve impasses and provided an alternative to the strike for employees whom the public thought could do the most damage striking. The amendment and Act 111 are significant because they dealt with the theoretical problems with collective bargaining and dispute resolution that earlier laws like Wisconsin's had to avoid. There was relatively little public argument surrounding Act 111. Basically, its passage came down to the necessity of coming up with a solution to intolerable strikes that were happening despite their prohibition. Act 111 is important because it shaped the debate over Act 195 by elevating the idea of expedience above principles of nondelegation and concerns about sovereignty.

Pennsylvania's Act 195 was not formed in a vacuum. Although it is considered a model piece of legislation, it was formed based on the experiences under Wisconsin's collective bargaining law and New York City's Taylor Act, which renewed that city's stance opposing the strike. Wisconsin, which had modified its law to improve how it handled impasses, demonstrated

that collective bargaining could only go so far; sometimes both sides could not agree on a contract. Mediation, fact finding, and arbitration could help, but would not necessarily eliminate the strike. New York's experience also demonstrated that crackdowns on strikers or their unions could not fully eliminate strikes. New York had replaced the Condon-Wadlin law with the Taylor Act in 1968 as a way to reduce strikes by shifting punishment for striking from the workers to the union leaders. However, strike activity continued to increase in New York City.

In 1968, Pennsylvania's Governor Shafer established the Hickman Commission to consider revising the state's public employment law. When establishing the commission, Shafer wrote "The responsibility of such Commission shall be to review the whole area of the relations of public employees and public employers and to make recommendations to the Governor for the establishment of orderly, fair, and workable procedures governing those relations, including legislation if the Commission deems it appropriate."⁷ The emphasis on the terms "orderly" and "workable" is important because strikes were seen as disorderly and an interruption to the work of government. The commission had to directly address Shafer's terms and confront the perceived incongruity of allowing some strikes.

The Commission included labor leaders from the private sector, members of Pennsylvania's government, and consultations with members of other parties with a vested interest in stabilizing labor relations. In June, the commission produced a document that recommended establishing collective bargaining procedures, mediation, fact-finding, and arbitration as impasse resolution mechanisms, and most significantly, recommended the limited right to strike for public workers. Regarding strikes, the report recommended:

4. Except for policemen and firemen, a limited right to strike should be recognized subject to these safeguards:
 - a. No strike should be permitted for any reason whatsoever until all of the collective bargaining procedures outlined above have been fully complied with.

- b. No strike should be permitted to begin or continue where the health, safety or welfare of the general public is in danger.
- c. Unlawful strikes should be subject to injunctions, and violations thereof enforced by penalties that - will be effective against the bargaining agent or individual employees or both.⁸

The governor's commission that proposed the law met with representatives from unions, school boards, and leaders from other states including Wisconsin and New York in their decision making process. The Governor's report and recommendations addressed concerns, issues, and arguments made from all quarters.

The report supported the right to strike, something considered risky and irrational, by using reasonable language and circumscribing that right with strict limitations. Indeed, the inclusion of the term "strict" to describe the limits suggests that the commission thought it could be tough without completely banning the strike. In the report's justifications, each of the circumstances in which a strike is not allowed is explained prior to descriptions of the allowable instances. The report states, "No one should have a right to strike until all collective bargaining procedures have been exhausted. If there is a strike before all collective bargaining procedures are exhausted, no other showing should be needed to cause the appropriate court to enjoin the strike."⁹ The last sentence explains the enforcement mechanism for the anti-strike situations in the proposal. These "if ... then" statements underscore the appearance of reasonableness by adhering to familiar structures for logical arguments. Furthermore, the report acknowledges the premises of the public's fear of the strike when it says, "The rights of both public employer and public employee must necessarily be subordinated to the welfare, health and safety of the general public."¹⁰ By sharing this premise, the report assures that allowable strikes won't hurt the public. The term "necessarily" reassures readers that the government is putting the safety of the public first.

The report operates by rhetorically turning the strike into an impotent tool and then granting it to unions as a matter of principle. It explains, “Consequently, the legislation we recommend will provide that if a strike is threatened or occurs after collective bargaining has been exhausted, it can begin or continue only so long as public health, safety or welfare are not in danger. The appropriate courts should be empowered to enjoin any strike of public employees once that danger point has been reached. The court should be armed with authority to impose such penalties upon striking employees and the employee organization as will make most unlikely the beginning or the continuation of the strike once a court has determined that the public health, safety or welfare is jeopardized.”¹¹ The reiteration of “public health, welfare or safety” reinforces the idea that this is an inviolable boundary. Also, by giving courts the enforcement power and by telling the public that the penalties will be too much for unions to consider strikes worthwhile, the report makes the strike look like an undesirable and blunt tool for unions. It further trivializes permissible strikes: “A strike of gardeners in a public park could be tolerated longer than a strike of garbage collectors. And a garbage strike might be permissible for a few days but not indefinitely, and for longer in one community than another, or in one season than another.”¹² Not only does this suggest that a strike by gardeners is insignificant and could not possibly affect anyone, it also takes away the power of “essential” sanitation services from using the strike tactic in ways that could actually provide those workers with any leverage. Strikes as last resorts are acceptable so long as they don’t threaten the public: “But where collective bargaining procedures have been exhausted and public health, safety or welfare is not endangered it is inequitable, and unwise to prohibit strikes.”¹³ So by allowing strikes, the commission paints the public employer as equitable and wise.

The commission argued that the limited right to strike was both fair and workable by supposing that it would sway public opinion to the side of government and actually reduce the number of strikes. The commission report argues, “We also believe that the limitations on the right to strike which we propose, namely, that collective bargaining must first have been exhausted and that a strike cannot be permitted to endanger public health, safety or welfare, will appeal to the general public as so much fairer than a general ban on strikes that the public will be less likely to tolerate strikes beyond these boundaries.”¹⁴ While the latter restriction as a justification makes sense insofar as it is unlikely that the public would support an illegal strike determined to endanger the public, the former justification is less clear. Presumably, the requirement that strikers have exhausted collective bargaining procedures would suggest to the public that legal strikes were fair because they were not started without cause. Regardless, this statement assumes that the public will trust the government’s evaluation of the permissibility of a strike and stop supporting illegal strikes. The report continues, “In short, we look upon the limited and carefully defined right to strike as a safety valve that will in fact prevent strikes.”¹⁵ If public employees could not count on public support, this logic suggests that they would opt out of risky strike action.

Allowing even a limited right to strike was opposed with a familiar slate of arguments. The sovereignty and nondelegation arguments that emerged out of the 1919 Boston police strike remained central to the opposition, as did the fear that strikes would endanger public safety. Anti-strike arguments also included the claim that strikes would upset the equity of power in favor of the workers; they should address their concerns through the normal political avenues open to all citizens. Economically, opponents of the strike argued, strikes were unfair to citizens who paid taxes expecting services to be performed. The public could not get back their tax

dollars for days public workers were on strike. One argument that appeared during this time, though it certainly had its roots in 1919, considered the essentiality of public workers. The argument claimed that public workers should not have the right to strike because their service was in some way essential for the public good.

The changing nature of public employment in the 1960's made these arguments vulnerable to counter-arguments in ways that had not been experienced before. First, public employment had expanded drastically to include not only teachers, firefighters, police, and hospital workers, but also groundskeepers, more clerical workers, and countless other jobs running government programs. Many jobs such as sanitation and transportation were sometimes held by public employees and sometimes contracted out to private workers who had the right to strike. Public workers argued that some workers could go on strike without hurting the public. They argued that even essential services, such as sanitation, should be able to strike because that right was enjoyed by their private counterparts. They also argued that the strike brought about greater equality of power between workers and employers because it would give them the ability to bargain in good faith. Furthermore, private sector workers used both political channels and the strike to pressure their employers into quality collective negotiations. The economic arguments fell to counter-arguments that elevated the rights of workers over monetary concerns.

The sovereignty and nondelegation arguments were also refuted in new ways. Proponents of the strike argued that the nonenforcement of anti-strike laws and the increasing number of strikes demonstrated that the laws were incapable of controlling public workers. Indeed, people began to question the soundness of assuming the government to be sovereign without consideration of the needs and concerns of its workers. The Civil Rights movement helped to become ascendant the idea that individuals ought to have a say in their own future. Roger

Hartley explained, “Sovereignty of property rights has yielded considerably to civil rights and individual rights. That the public sector should enjoy some of the rights of economic self-determination now enjoyed by the private sector, therefore, is but another step in the current ‘assault on the citadel of sovereignty’.”¹⁶ Furthermore, the greater acceptance of the idea that the government could do wrong eroded the sovereignty principle. William Haemmel observed, “Today the government allows itself to be sued in tort, signs binding contracts, and agrees to compulsory arbitration. In 1970, the federal government engaged in collective bargaining and then secured legislative approval of the contract.”¹⁷ All of this established the precedent of the government behaving in such a way that precluded tacit acceptance that government policy is intrinsically good or right. Public opinion of government had also fallen off with the escalation of Vietnam. Citizens did not trust government. Government at all levels also established the practice of delegating decisions and judgments of the government to nongovernmental members such as labor arbitrators.

These counter-arguments were able to be made because public attitudes had shifted. Roger Hartley notes that “Clearly, if one believes that militant tactics have absolutely no place in the functions of any organization of government employees, or if one believes that the process of collective bargaining, even limited collective bargaining over designated subjects, cannot be transplanted into the public service, then one cannot begin to accept the Hickman Commission's conclusions.”¹⁸ These premises, though prevalent prior to the passage of Wisconsin’s 1959 law, had eroded. In the 1960’s, many government unions eliminated anti-strike clauses from their constitutions. Wisconsin’s law and Kennedy’s Executive Order 10988 also established that collective bargaining could be transplanted from the private to the public sector. With those points fairly well excepted, the question became how to best facilitate collective bargaining.

Although militant tactics were not widely liked, it had become a more acceptable tactic in the eyes of public employee unions. With their increased membership, their arguments had greater volume.

The results of the Hickman Commission were welcomed by labor unions and considered by labor scholars. Hartley considered them promising but cautioned that a law based on them would not do enough to stabilize labor relations. He wrote, “The Commission report has not resolved the issues of (1) enforcement machinery to insure good faith bargaining, (2) sanctions against public employers who do not bargain in good faith, (3) the special expertise needed in the area of public employment, or (4) machinery for the ultimate resolution of disputes.”¹⁹ While some of these complaints can legitimately be leveled against Act 195, the time between the report of recommendations and passage of Act 195 allowed both lawmakers and the public to consider what legislation could do to overcome these shortcomings.

Much of this deliberation was spurred on by traditional protest actions. On March 4, 1968, 20 thousand teachers marched in Harrisburg to bring attention to the need for a collective bargaining election and higher salaries. Later that year, in September, the Pittsburgh Federation of Teachers called off a threatened strike as a way to show approval of the governor’s willingness to sign a bill legalizing strikes. Although they did not walk out, they used the power of the strike, in this case the feared power, to show support for a political position.

Public Argument

Both supporters of the strike and those opposed to increased union rights contributed editorials and articles to newspapers and magazines. The most strongly anti-strike articles took an anti-union position. In November of 1967, *Nation’s Business* published just such an article. Unions were characterized as angry, militant, jealous and deceptive organizations out to get fair-

minded taxpayers. The article creates this impression by quoting sound bites from union leaders out of context and participating in the paranoid style with extensive use of conspiracy rhetoric. This conspiracy rhetoric, as Goodnight and Poulakos define it, is grounded in fantasy where “discourse constitutes a hint of people's hidden agendas,” and “rhetoric becomes an ‘exploratory system of events’ which ‘helps people transcend the everyday.’”²⁰ This foundation in fantasy allows for a reinterpretation of the everyday rhetoric from union leaders and supporters to reveal their hidden agenda of taking over American society. Indeed, the fantasy based conspiracy rhetoric works by arousing suspicion of all union actions and positions.

The article arouses suspicion of union leaders by linking events in causal relationships and pointing to use of deceptive tactics by unions. The article begins with a description of AFL-CIO organizing Chief William L. Kircher wearing a strike button standing before public employee unions urging, “The scope of collective bargaining is only limited by the bonds you refuse to break!”²¹ The article implies that such inflammatory rhetoric contributed to the wave of teacher strikes that followed Kircher’s address to the American Federation of Teachers annual convention. The article increases the sense of anger at unions by highlighting the wiliness of unions to evade anti-strike rules by calling strikes by other names. “Police in Youngstown Ohio claimed they were attending ‘continuous professional meetings,’ around the pool tables at the policemen’s lodge. Nurses across the land catch a strange undetectable disease that keeps nurses away from duty. Teachers carry picket signs past students and claim they are merely staging ‘professional protests,’ after refusing to sign their employment contracts. Firemen in Nashua New Hampshire and Topeka Kansas pulled ‘slow-downs,’ doing nothing but answering fire calls. Garbage and trash collectors go on ‘sick-call,’ while filth piles up in the streets.”²² This list of grievances against whole professions of public workers both eliminates the nuances of the

individual circumstances and paints all teachers, nurses, police, and firefighters with the brush of derision. It implies that because public workers cannot be trusted to call a strike a strike, they cannot be trusted to be honest at all.

The image of unions as overly powerful and sleazy organizations is enhanced by using the paranoid style that creates a sense of impending doom for union takeovers of the public sector. The paranoid style is marked with “heated exaggerations, suspiciousness, and conspiratorial fantasy.”²³ The article quotes AFL-CIO Director of Organization James E Mundy: “Where there have not been Laws, we’ve molded them. Where there are laws, we’ve changed them.”²⁴ In its original context, this is a cry to union members to stick with their unions because members’ interests have been protected through legislation supported by the union. From the paranoid perspective in this article, however, this comes across as a conspiracy of unions to change the laws to elevate union interests at the expense of everyone else. The expense to taxpayers is both in unfulfilled services during strikes and in the failure of the government to protect their rights to uninterrupted services. Suspiciousness is increased by noting the trend of increasing unionization and union militancy. “Government unions, just like unions in private industry, are demanding that they be allowed to take over more and more of the decision making traditionally reserved for management. Teachers unions, for example, insist in a voice in controlling not just salaries but also sizes of classes, types of buildings, and even the subject matter to be taught.”²⁵ The word “demanding” exaggerates the emphasis and force of union calls. Implicit is the idea that that would not be so bad, but the teachers are using this decision making power to strengthen unions rather than to improve education. “They want history rewritten to show that trade unionism made America strong. The unions have commissioned favorite professors and writers to prepare such texts and have already formed lists of union approved

books. They are twisting arms on school boards to get the books adopted in classes.”²⁶ The phrase “twisting arms” suggests that the union agenda is being violently advanced and shoved down the throats of students. The article clearly imagines the educational agenda of teachers and unions as a conspiracy to take over the country. Not only would education essentially be union indoctrination, but proposals to require students to seek teacher permission before getting jobs while they were still students was seen as “another way in which unions can control who gets jobs in America.”²⁷ The conspiracy is legitimized by implicating Vice President Hubert Humphrey as complicit -- after all, he does hold a union card. This relies upon an exaggeration of union power and political influence by specific leaders.

The anti-strike arguments within the article are situated within the conspiracy of unions. Strikes cannot be tolerated because they are a powerful weapon of unions in their fight to take over. The terms of war seen here are intentional and situate the taxpayer and non-union member as victims of attacks by unions. The article uses the example of a teacher strike in Richmond, California to show that the union was out of line. The article states, “A speaker for the American Federation of State, County and Municipal Employees union in a public meeting said ‘A strike is war. No blood has been shed yet.’ There was emphasis on the word ‘yet.’”²⁸ The unstated premise is that citizens do not have the right to declare war on each other in our country, so strikes should not be allowed. Not only that, they are a violent act that is harmful regardless if it is bloodless.

The article vilifies the strike with a dual depiction of unions. On the one hand, union leaders are conspirators out to get the American people. On the other hand, unions and their members are thoughtless rabble. Earl C. Funderburk, superintendent in Fairfax Virginia, is quoted saying “I don’t think I’d be proud to teach if I went on a picket line. What would I say to

my students? How could I look them in the eye if I became part of a group ruled by a mob with slogans”²⁹ This characterization of union members as inconsiderate is reinforced with the explanation of the predicament unions supposedly created. The article argues that pay for public workers is low because taxpayers are stretched to the limit with most of their money going to the federal government for social programs. “Such drains on public funds have been vigorously espoused by the very trade unions that now bemoan the fact that governments are too broke to bend to all their demands.”³⁰ So despite the conspiracy of unions to take over, the unions are depicted as shortsighted in their demands and worthy of scorn for their thoughtlessness. Unions and their members are considered despicable for going on strike because the strike is the ultimate symbol of the union conspiracy to manipulate government and society. They erase the distinctions between the public and private sector and overstep the authority of government.

Many of the concerns raised by the article in the *Nation's Business* are valid and repeated elsewhere without the trappings of paranoia and conspiracy; however, the rhetoric opposing the most vehement anti-union anti-strike discourse was successful because it ignored the charges of conspiracy and grounded itself in pragmatism. Goodnight and Poulakos describe the pragmatic frame as based on certain assumptions: “‘True ideas are those that we can assimilate, validate, corroborate and verify. False ideas are those that we cannot.’ Consequently, ‘situations’ can be isolated and defined in such a way so as to assess what is ‘going on,’ the consequences of these actions, and the wisdom of future alternatives.”³¹ Thus, pro-union pro-strike legalization articles relied heavily on public opinion polls and statistical accounting of strike and union activity to establish what was going on in the country. Legalizing the limited right to strike was then proposed as a reasonable solution to the problems caused by increasing strike activity by public workers.

Articles reporting the increasing number of strikes despite the presence of anti-strike legislation, established the exigency for action. In July, 1966, papers reported that “In the first six months of this year, unions hit the nation’s city halls – labor’s newest target – with at least 30 strikes....”³² This despite “16 states prohibit public employees striking – Connecticut, Delaware, Florida, Massachusetts, Michigan, Minnesota, Oregon, Wisconsin, Georgia, Hawaii, Nebraska, New York, Ohio, Pennsylvania, Texas, and Virginia. Alabama, North Carolina, and Georgia laws forbid employees from joining unions. And Virginia, in a legislative resolution, has declared it against public policy to recognize a union for public employees.”³³ Interestingly, all of the strikes by public workers described in the article take place in these states with prohibitions. The article goes on to speculate that the trend will continue because more public workers are unionizing. It uses the example of New York’s strikes to show that even the state with the strongest penalties is unable to prevent strikes. However, 1966 did not see calls for legalizing strikes.

By 1970 newspapers were willing to suggest that strikes could be legalized as a way out of the dilemma facing local governments because public opinion polls placed the public on the side of the workers most of the time. A May article supported this claim by using polling evidence that asked 1,470 households across the country whether they favored or opposed the right of certain groups of workers to strike. “When postal Workers first went on strike a few weeks ago, for example, the public sympathized with the workers over the federal government by a margin of 61 to 25%. Similarly, during the recent slow downs and “sick outs” of airport flight controllers, public sympathy rested with the employees rather than the government by 46 to 31%. By a slim 47 to 48% margin, people also back the right of school teachers to go out on strike.”³⁴ The article explains this polling result: “Underlying this essentially pro-union point of

view in the country is the belief that workers go out on strike these days in order to obtain wage increases necessary in an inflationary period.” The rest of the polling data shows that the public perceived that federal spending on the Vietnam War, government spending more generally, high interest rates, and taxes contributed more to inflation than union demands. Although the polling data shows that the public opposes the right of hospital workers to strike, this is discounted in the generalization of the rest of the data. With the qualifier “most”, it is possible to say that the public supports the right of public workers to strike. Within the “true” context shown to exist, legalizing the qualified right to strike can reasonably be advocated. In this pragmatic mode of discourse, calls for legalizing the strike are able to be accepted as a means of adapting laws to meet the times in a way acceptable to the general public.

Scholarly Consideration of the Right to Strike

The consideration of use of the strike by public workers was taken up not only in public by labor leaders and politicians, but also by legal scholars with experience in labor arbitration. Indeed, much of the nuanced debate about legalizing the strike took place among experts. An entire issue of the *Michigan Law Review* was devoted to a symposium on the subject in 1969. This issue provides insight into the prominent arguments circulating as well as the theoretical issues that Pennsylvania was grappling with as it developed its new public employment legislation. It also provides analysis of the legal backdrop against which Pennsylvania was making its decisions. The journal took up three main issues in public employment relations: the right to strike, particular issues unique to public sector collective bargaining, and the relationship of public employment law to public education, which makes sense because public school teachers were a highly organized group in the public sector. Contributors included labor relations experts with experience as arbitrators, mediators, and as labor lawyers.

The symposium begins with professor of labor law and arbitrator Russell Smith's article comparing the governors' commission reports from the states that were considering revising their public employee laws. Although his article discounts Pennsylvania's Hickman Commission report because, at that time, the state seemed divided on what legislative road to take, his article is valuable because it highlights trends in the reports. These trends entered their way into the public conversation and comprise a summary of opinion related to public sector unionism. Connecticut and Minnesota's reports were published in 1965, Rhode Island and New York in 1966, Michigan and Illinois in 1967, and New Jersey, Pennsylvania and Los Angeles in 1968.³⁵ He notes that all of the reports sought to stabilize public employment relations and recommended legalizing the right for public workers to unionize. The reports tended to also recommend establishing procedures for collective bargaining, though only Connecticut, Illinois, Minnesota, New Jersey and Pennsylvania recommended establishing exclusive bargaining units. All of the reports recommended creating fact finding procedures for publicizing recommendations as a way to help disputes move beyond impasses. Few of the reports recommended mediation or arbitration, and Pennsylvania was the only one that recommended the limited right to strike. However, Smith recognizes that the reports range from weak support for anti-strike provisions, to strong commitments to prohibiting strikes by public workers.³⁶ Smith concluded his survey with the advice that states create standing advisory commissions to keep legislators apprised of happenings in public employment relations so that laws could be evaluated and modified as needed. He explained, "Pressures on legislative bodies by 'management,' 'labor,' and other interested groups to adopt some particular policy in the area of public sector unionism will inevitably increase. As this occurs, the need for help in determining the appropriate policy will increase correspondingly because the problems are difficult, the issues are serious, and the public

interest is deeply involved.”³⁷ The take-away message was that state governments needed to take responsibility for stabilizing public sector labor relations in ways that would be acceptable to the public in that state.

The sense of urgency for improving employee relations policy extends into the article by Charles Rehmus. He cautions that unionized workers were becoming disproportionately powerful at the bargaining table. Rehmus warns “If public employee bargaining is to operate effectively, state legislatures must grant greater freedom to local governmental units to raise funds and to determine the elements of the employment relationship. Failing this, the unwavering demands of employees for a major voice in setting their wages and working conditions will mean more bargaining impasses, strikes, and disruptive work pressure with disastrous results for the public.”³⁸ He attends to the management side of things by focusing on the particular issues facing local governments in Michigan, but the principles extend to all states trying to establish statewide policy. He points out that collective bargaining laws need to consider the budgetary and financial issues that are unique to each municipality. Government employers need to be able to access or create enough revenue to adequately fund salary changes mandated in bargaining agreements and coordinate collective bargaining with the budgetary process. Rehmus contends that the transparency of government finances means that government is often pressured to allocate reserved money to salary increases by unions, which puts local governments in a position with no reserve funds. Government is further disadvantaged, he suggests, by the ability of organized labor to get its members and sympathizers elected to positions involved in the decision making process of their employers. This means that the government’s bargaining strategy is often known by the union, thus giving the union the upper hand in negotiations.³⁹ Rehmus criticizes state governments for allowing collective bargaining at the same time as it

legislates working conditions and budgetary constraints. He argues that collective bargaining can be improved and impasses reduced if government employers do not have their hands tied at the bargaining table. Better collective bargaining would take place if both sides came to the table from positions of equal power and knowledge.

Eli Rock, who served as a labor relations advisor in Philadelphia in the 1950's, extends the analysis of collective bargaining in the public sector by considering the issue of bargaining unit determination. Most collective bargaining laws establish requirements for the amount of support a union receives before it is recognized as a bargaining unit. Most also stipulate that the union represent a "community of interest." However, Rock argues that these restrictions have led to fragmentation of agencies into multiple bargaining units. Rock cautions, "In the public sector, it seems clear that the scope and nature of the unit found to be appropriate will also affect the range of subjects which can be negotiated meaningfully, the role played in the process by the separate branches of government, the likelihood of peaceful resolution of disputes, order versus chaos in bargaining, and ultimately, perhaps, the success of the whole idea of collective bargaining."⁴⁰ He argues that fragmentation hurts collective bargaining because it limits the scope of negotiations. Basically, when too many units are bargaining with a government employer, the budgetary constraints and jurisdictional issues are magnified. He proposes that larger bargaining units be sought through merger and consolidation, though he acknowledges that this may be an impracticable solution. Alternatively, he suggests that bargaining units join together in coalitions when bargaining to insure that they receive the best workable comprehensive contracts and can still maintain their separate unit identities.⁴¹ These articles maintain faith in collective bargaining as an important part of labor relations and public

employment. This and the previous article both sought to change the rhetorical situation of those trying to improve collective bargaining by balancing the power of participants.

Two of the articles take up the issue of legalizing the strike. Labor arbitrator and mediator Theodore Kheel traces the history of anti-strike legislation in New York under the Condon-Waddlin law and the Taylor Act and shows the futility of banning the strike. He points out that even when strikes are illegal, the penalties on strikers, leaders, and unions may not deter the strike because they are often waived in the resolution of the bargaining impasse. Also, the threat of the strike can be, and is, used to pressure government employers into collective bargaining agreements. Kheel suggests that “compulsory arbitration in one form or another is the only logical, if not practical, alternative,” to collective bargaining for resolving labor disputes, despite the fact that some argue that it is an inappropriate delegation of government power and responsibility to a third party.⁴² He points out that compulsory arbitration is inappropriate in many instances, often illegal, and not ideal because neither party may be satisfied with the outcome or able to follow through with the arbitrator’s mandates. By eliminating existing collective bargaining practices and compulsory arbitration from the list of possible ideals for public employee dispute resolution, Kheel suggests improving collective bargaining procedures even if it means living with the possibility of strikes by public employees. True collective bargaining, for Kheel, requires skilled negotiators at the bargaining table. He contends that “With skillful and responsible negotiators, no machinery, no outsiders, and no fixed rules are needed to settle disputes.”⁴³ Limited arbitration could then be used as a last resort for dealing with specific narrowly defined matters. When workers did resort to strikes, court injunctions and cooling off periods could be used to promote collective bargaining before the public was affected by an actual strike.

Arvid Anderson, former secretary and commissioner of Wisconsin's Employment Relations Commission and later chairman of New York City's Office of Collective Bargaining, extends the analysis of public employee strikes and also concludes that much could be done to reduce the number of strikes. He began with the observation that for most labor disputes, strikes were not a factor. He concludes that "certain proven impasse resolution procedures: mediation, fact-finding, and in some cases, even arbitration can be substituted for the strike weapon in public employment without substantial loss in the effectiveness of collective bargaining as it is known in the private sector. If this is in fact the case, it will be unnecessary for state legislatures to resolve the difficult policy dispute over whether public employees should be given the right to strike."⁴⁴ Anderson attempted to avoid the issue of whether or not public employees should have the right to strike by advocating for alternative dispute resolution procedures, but like Kheel, did suggest that a limited right to strike was theoretically an acceptable idea, which the public was not quite ready to accept.⁴⁵ Both Kheel and Anderson sought to find practical solutions to labor relation disputes rather than overly concern themselves with upholding principles that created existing labor policies. The result was a focus on bargaining impasses that mitigated the importance of the strike as a powerful weapon in labor's arsenal.

The problems with labor relations facing American governments, according to H. W. Arthurs, did not have to exist. He provides a comparative study of Canada's public employment legislation that shows that the state did not collapse by allowing public workers the same rights as employees in the private sector. Although this article does not directly bear upon this discussion, it is useful to note that Canada's decision early on to keep consistent labor policies for both the public and private sector eliminated many of the issues plaguing the American system. Issues of sovereignty were avoided because of the different government structures in

Canada. Although their public workers had enjoyed the right to strike, a 1967 law placed restrictions on that right to protect public safety for essential public employees.⁴⁶ It was that law that forced Canada to consider alternative means of resolving labor disputes, just as the United States was trying to do.

The symposium's articles about labor relations in education are important because the late 1960's saw increasing numbers of elementary and secondary schoolteachers organizing and bargaining with school boards.⁴⁷ Donald Wollett pointed out the potential consequences of collective bargaining on the decision making process for schools. He predicted that collective bargaining would contribute to increased professionalism among teachers because they would be able to have a greater say in how and what they taught. He also considered that this would impact both the roles of school boards and superintendents.⁴⁸ Although some of the issues that arose in these negotiations are particular to the field of education, some provide insight into the bargaining relationship between government and employees more generally. Ida Klaus extends her analysis of New York City's evolving collective bargaining agreements with teachers to the government/employee relationship more generally and raises two concerns: "(1) whether government as an employer can protect its exclusive policy terrain against invasion by the collective bargaining process once that process has been set in motion by a powerful employee representative; and (2) whether the resolution of public- interest issues in serious collective bargaining clashes can in fact be guided by the just and proper needs of the public and the community."⁴⁹ She does not provide answers to these questions, but it seems that with the erosion of the sovereignty principle, the first question can be answered in the negative. That does not necessarily mean doom and gloom because it can be argued that the inclusion of more voices in the decision making process increases the level of democracy. The answer to the second

question is still up for debate, though Wollett suggests that, in the field of education, the interests of the public good can be met “through the development of strong local organizations which are capable of mobilizing and using power in appropriate ways. Such teacher organizations can give school boards caught between the needs of education and the pressures of public interest groups the courage and confidence to ‘opt’ for education.”⁵⁰

These articles emphasize the importance of improving the balance of power between public workers and their government employers as a way to create a speech situation in which collective bargaining could take place. When collective bargaining reached an impasse, these scholars advocated using techniques that would resolve the disputes in ways acceptable to the general public. The concerns raised in this symposium were part of the discussion taking place in Pennsylvania as the state tried to grapple with strikes by public employees. Governor Shafer was not the only one to propose legislation responding to the Hickman Commission. Unions and the Pennsylvania School Boards Association also introduced bills that were written to protect and advance their own interests. Each of these proposals emphasized the importance of collective bargaining and dealt with impasses differently.

The Legislative Road to Act 195

Three main interests can be seen in the public employee bills introduced before SB 1333 was ultimately passed as Act 195. The Hickman Commission proposal (SB 1021), the school boards’ proposal (SB 518) that resembled the Governor’s proposal (SB 355), and the joint AFL-CIO and PSEA proposal (HB 1443) each advocated slightly different variations of the laws that would advance each of their particular interests and preserve their power in labor negotiations.

The Pennsylvania School Boards Association’s proposed law and the proposal by the governor would have eliminated the strike as a tool by keeping it banned and by stipulating

penalties for both workers who strike and their unions. Under S.B. 518 workers would lose pay and benefits during a strike, face possible penalties from their employers, and could be fined \$500 and/or imprisoned up to thirty days. Unions would be fined \$5 per day and face decertification. S.B. 518 proposed a schedule for collective bargaining that included a timeline that made impasse procedures available to workers culminating in binding arbitration for firemen and police, but only advisory arbitration for most other workers. The governor's proposal was similar insofar as it also provided a schedule for fact finding, mediation, and arbitration while prohibiting the strike.

On the other extreme, SB 1443, put forward by the AFL-CIO and PSEA, allowed for strikes. It allowed courts to fine strikers up to \$200 a day and the union up to \$2000 per day as a deterrent. Strikes were less restricted than in any of the other proposals and even in the final law because only strikes that threatened immediate harm to public health and safety were disallowed. Even strikes by nurses and hospital workers could proceed if 20 to 35% of the workers were present on the job to eliminate immediate threats to health or safety. Strikes could occur anytime the bargaining was at an impasse so long as the union gave 15 days notice and was not in the midst of arbitration. If unions agreed to arbitration, it would be final and binding. This piece of legislation passed the house on July 29, and later died in committee in the Senate.

The principles of the Hickman Commission were present in SB 1021, introduced on July 29, 1969, the same day as HB 1443 made it through the House. This proposal was a middle road between the other bills. It had a shorter timeline for the impasse resolution procedures than SB 518, but that was designed to allow collective bargaining to be used as long as possible. Although the right to strike was present, the law was stricter than HB 1443 because it had

stronger standards of when a strike could be enjoined by the courts. Finally, compulsory arbitration would be used in the case of enjoined strikes.

SB 1333 was introduced in 1970 and most closely resembled SB 1021. It shifted the cost for mediation, fact finding and arbitration to the Commonwealth instead of an even split between the parties involved.⁵¹ Additionally, the timetable was extended for impasse procedures to better fit with the budgetary process and compulsory arbitration was eliminated as a step once a strike was enjoined. Employees would not be penalized for striking unless they violated an injunction. This bill was passed as Act 195 in July of 1970 as a compromise with the earlier pieces of legislation. Although it institutionalized the rise of the vision of citizenship in which public workers have the right to strike, the previous vision did not fade away completely. However, it did refigure the concepts of power, inclusion, participation, and class for public workers.

Power

The concept of power shaped the debate over allowing Pennsylvania's public employees the right to strike. In advocating the right to strike, proponents described strikes as fundamentally powerless when used in the public sector by the workers who would be permitted to strike under the act. Opponents of extending the right to strike emphasized the needs of three groups: the government, public employees, and citizens who presumably did not fall into any of the former two categories. Their arguments emphasized the importance of reigning in the power of public workers as a powerful interest group, protecting the power of government, and protecting the safety and well-being of the general public. These three themes were also echoed by supporters of the right to strike and were written into the law.

The perceived power of the strike had declined by the time of the passage of Act 195. The 1919 Boston strike ended with the understanding that the strike was too powerful a weapon

to leave in the hands of government workers. That position existed in a less vehement form in 1968. This is because strikes were used in more contexts and because of the many restrictions placed on the use of strikes by the law. The economic power of public workers was not viewed as being significantly boosted by the strike particularly when restrictions were present. Also, alternative means of resolving impasses in collective bargaining were believed to empower public workers in acceptable channels making strikes unnecessary in many cases. Despite the availability of alternative resolution techniques, illegal strikes emphasized the powerlessness of government. By legalizing the strike, Pennsylvania took away the power of the illegal strike and mitigated the power of the strike more generally. This was accomplished both in the interpretation of the law and structures imposed by the law itself.

One major issue leading up to the passage of Act 195 was whether or not allowing the strike would empower public workers at the expense of the public and the government. These arguments echoed those heard following the Boston strike. The Pennsylvania School Boards Association (PSBA) was vocal in its opposition to permitting the strike because it feared that it would tip the balance of power. The PSBA sent a message to the Hickman Commission outlining the principles that they thought should guide revision of the 1947 anti-strike law. “We remind the members of the commission that any changes must protect the public from the sheer economic and political power of individual and collective public employee groups while at the same time protecting public employee groups from possible arbitrary and unilateral actions of public employers.”⁵² These principles shifted the focus to the public as possible victims of union activity and public employees as possible victims of arbitrary government action. The statement argued that the best way to strike a balance of these interests was through revising the law to allow for collective bargaining. “Bearing in mind that we do not believe that public employees

have the right to strike, we do, however, believe that public employees have the right to be represented by people of their own choosing and may elect to bargain collectively on subjects relating to wages and hours and conditions of employment.”⁵³ It can be inferred from the PSBA’s statement that while collective bargaining could balance the power of teachers and school boards, the PSBA feared that legalizing strikes would upset the power balance in favor of teachers and at the expense of the public.

Both the unions and the government employers had a stake in convincing employees of their bureaucratic power, but government officials also needed to make sure that their workers were not perceived as more powerful than the government itself. Alan Bent and Zane Reeves explain, “It is also in the employer's self-interest to appear to his workers as enlightened and concerned about their welfare, to discourage the union movement in the public sector for whatever reason, and to attempt to minimize its power and achievements,” while the union tries to convince employees that all economic gains are due to the union’s efforts.⁵⁴ The ascendancy in union membership suggests that the union’s message was accepted more readily by public workers. The increased membership boosted the power of unions and created the perception among employers that they had lost bargaining power. The occurrence of illegal strikes also suggested that the government was powerless to control workers.

Unlike in the private sector, the power of public sector strikes is in shaping public opinion rather than exerting economic pressure. Bent and Reeves describe “The difference between the sectors is that in the public service the employer does not normally lose money during a strike. In fact, there is 'a savings as revenues continue to come in while wages are not being paid out-However, there is a cost to the public employer; the cost is the political and social pressure put on the employer because a strike holds back essential services from the public.”⁵⁵

This assumes that all public work is somehow essential for the strike to have power. Act 195, in drawing a line between essential and nonessential services, devalued the work of those still permitted to strike. Not only were these workers seen not to wield economic power, but they were also viewed as too insignificant to influence public opinion. The vague terms used to determine whether or not strikes were legal created flexibility for the courts to rule most strikes as unacceptable and then to impose an injunction. Furthermore, by calling some government services nonessential, the law trivialized strikes that were allowed to continue. Essential workers performing essential services still faced punishment for going on strike, so truly powerful workers were theoretically deterred from striking.

Inclusion and Participation

Previously, labor strove for the inclusion of worker concerns at the bargaining table and in the decision making process. While that concern was still present, Act 195 shifted the focus to the relevance of the involvement of third parties in the bargaining process, particularly when it began to break down. The vision of citizenship in which strikes were legal imagined both groups weakened at the bargaining table by including a third party and changed the perception of participation in strikes. Act 195 created a system in which third party arbitrators and mediators participated in determining policies governing public employees. The courts also were given a role in determining when workers could strike. Finally, the act sought to redefine participation in strikes as normal rather than subversive.

In 1967 in Pennsylvania, the principle of non-delegation was circumvented by a constitutional amendment that allowed municipalities to delegate decisions to boards and commissions for arbitration in disputes with firefighters and police officers. This change to the state constitution opened the door for delegation of labor-management issues to third parties and

expanded the possibilities for mediation and arbitration. Third parties were thus welcomed to the bargaining table even if they were not government boards. This allowed the state to consider mediation and arbitration as viable tools for resolving impasses.

One of the key components of ACT 195 was the inclusion of the Pennsylvania Labor Relations board and neutral third parties in the process of settling impasses. Their role was to determine bargaining units, help mediate, and balance the interests of the employers and employees. Some labor leaders were concerned that the PLRB and other “neutrals” would lack the requisite knowledge of public policy and have the potential for producing poor quality contracts. However, the increasing government bureaucracy required the inclusion of more experts to facilitate better collective bargaining.

In addition to allowing for employee participation through collective bargaining, third party arbitrators and mediators to advise, and civic participation in mobilizing public opinion through strikes, Act 195 mandated that the courts participate in determining when strikes could not take place. The ambiguity in the language allowing workers to strike meant that court intervention would be necessary. Act 195 allowed only for a circumscribed right to strike. The act states, “The General Assembly of the Commonwealth of Pennsylvania declares that it is the public policy of this Commonwealth and the purpose of this act to promote orderly and constructive relationships between all public employers and their employees subject, however, to the paramount right of the citizens of this Commonwealth to keep inviolate the guarantees for their health, safety and welfare.” This qualification cast in ambiguous language meant that the government employer could ask the courts to evaluate whether any public employee strike was a threat to the public health, safety or welfare. Additionally, the act left determination of penalties

for threatening the public in these ways up to the courts. The result was to allow the courts to participate by defining these terms for public workers and to call for strike injunctions.

Even the limited right to strike shifted the view of participation for citizenship more generally. It institutionalized and normalized the strike act. Such social participation was acknowledged by the act as a valid form of employee participation to publicize their struggles with employers. Because they are public employees, the strike is also a form of political participation because it pressures public opinion and can shape opinions and behaviors of voting constituencies. Legalizing the strike legitimated participation in social democracy for public workers and brought that sort of democratic participation into line with political participation.

Class

Legalizing the militant tactic of the strike for public workers tore down one more barrier between the public and private sector. Because labor had long argued for rights similar to those enjoyed in the private sector, Act 195 eliminated another difference between the two sectors. However, the unions did not focus their arguments on this distinction as they did in Wisconsin earlier in the decade. Rather, the nation's experience with strikes and visible protests in the Civil Rights movement transformed the strike into a strong symbol of the struggle for racial and economic equality. The issue of equality between socioeconomic classes central to the labor movement was closely tied to the struggle for racial equality this decade because prominent leaders from the Civil Rights movement lent their support and strength to the labor movement. The right to strike became synonymous with the right to full citizenship.

The labor movement in the late 1960's was both materially and rhetorically closely tied to the Civil Rights movement. Leaders within both movements urged others within their respective movements to work for economic equality. A. Philip Randolph, an African-American

and vice president of the AFL-CIO repeatedly urged president Meaney to require integration of member unions. While The AFL-CIO was exceedingly slow to do so, it did encourage integration of its unions. Civil Rights leaders spoke up on behalf of laborers. At the 1961 AFL-CIO constitutional convention, Martin Luther King Jr. criticized the union for not taking Randolph seriously enough and called it to live up to its potential for bringing about economic equality. King claimed that the civil rights struggle had the same goals as labor and learned its techniques from labor's own struggles. He said, "Negroes are almost entirely a working people. There are pitifully few Negro millionaires and few Negro employers. Our needs are identical with labor's needs: decent wages, fair working conditions, livable housing, old-age security, health and welfare measures, conditions in which families can grow, have education for their children, and respect in the community. That is why Negroes support labor's demands and fight laws which curb labor."⁵⁶ King further explained that by giving monetary support to the civil rights movement, unions would be supporting their own goals.

Although the AFL-CIO did not come through with the financial support for King, it eventually helped the movement when it came out in support of the Civil Rights and Voting Rights acts several years later. By the later part of the 1960's, the civil rights movement was helping labor. In fact, Martin Luther King JR. was in Memphis in 1968 to support the city's sanitation workers strike that was taking place when he was assassinated. On March 18, 1968, King addressed a mass meeting of American Federation of State, County, and Municipal Employees regarding the sanitation strike. He explained, "With Selma and the voting rights bill one era of our struggle came to a close and a new era came into being. Now our struggle is for genuine equality, which means economic equality. For we know now that it isn't enough to integrate lunch counters. What does it profit a man to be able to eat at an integrated lunch

counter if he doesn't earn enough money to buy a hamburger and a cup of coffee?"⁵⁷ King saw the solidarity and power of unions as a means for attaining economic equality. Similar to other strikes of the period, more than wages were at stake. King advised the strikers, "Let it be known everywhere that along with wages and all of the other securities that you are struggling for, you are also struggling for the right to organize and be recognized."⁵⁸ The sanitation workers, with the support of AFSCME, went on strike because of the poor working conditions and wages. Memphis's mayor refused to recognize the unionized sanitation workers, so these were all issues that strikers demanded that the city address.

AFSCME organized across racial and ethnic lines and, through the 1950's, held to the belief that strong civil service commissions would eliminate workplace discrimination over time. By the 1960's, following increasing urbanization and white flight to suburbs, the racial geography of northern cities like Philadelphia was segregated more than ever. These divisions persisted in municipal employment and in union representation. The case of Philadelphia highlights that the union's class interests were not colorblind. Until the late 1950's most of the union's positions of power were held by white leaders. "Inspired by black activism in the community realm, African American municipal unionists launched a struggle for formal control over the union and its resources, claiming a measure of power through a demonstration of their control over vital city services."⁵⁹ They were largely successful in gaining control and exercising power, however according to Francis Ryan, "Reflecting a proportionate ratio of the city's overall population, the terms black workers faced in gaining access to these jobs had changed little since the early twentieth century, as civil service reforms failed to break the long-standing codes that relegated black workers to the least prestigious and lowest-paid job classifications. Ninety-nine percent of city aides who made more than \$7,000 annually were white, concentrated in

supervisory and professional posts, while over half of African Americans remained in labor divisions making less than \$4,000 a year.”⁶⁰ The issues of class and race were complicated by the racial division of workers by types of work. While the sanitation department was racially diverse in the 1930’s, it was mostly African-American by the 1960’s. Until Kennedy mandated hiring of black workers for federal projects in 1963, the building trades in Philadelphia were reserved for white workers. These racial divisions complicated the issue of class because they tended to fall upon economic lines with white workers holding more lucrative positions.

AFSCE took a step toward recognizing these divisions when Jerry Wurf replaced Arnold Zander as the union’s president in 1964. Wurf expanded organizing campaigns for AFSCME in the 1960’s and registered women and minorities. This new membership helped the union to unite its interests with the civil rights movement. “By fusing economic struggles with the most significant social movements of the day, the labor movement would fight for full citizenship, and by doing so lift up the entire working-class majority and complete the social promises begun in the 1930s.”⁶¹

During the years leading up to the passage of Act 195, both black and white workers went on strike. However, strikes by black workers tended to gain recognition when Civil Rights groups joined in with support. By contrast, teacher strikes, led by primarily white workers, typically gained immediate attention. These divisions were technically ignored in the debates over passage of Act 195. Instead, the class focus remained on economic improvement for public workers regardless of race or color. The opposition to the right to strike argued that the strike economically hurt private citizens because it deprived them of services for which they had paid.

The passage of Act 195 legalized one of the historically most controversial techniques used by those trying to gain power. Despite the fact that debates over Act 195 did not take up the

connection between racial and class equality, the efforts of Civil Rights leaders to bring economic and racial equality to unions contributed to the strength of AFSCME's class-based arguments used to pass this act.

Conclusion

The vision of citizenship that emerged through the passage of Act 195 reflected the civil rights and labor struggles of the decade. Just as civil rights activists used public protests to bring attention to their cause for social and political equality, government workers turned to the strike as a way to publicize their disputes with government employers and mobilize public opinion to politically pressure politicians to settle labor contracts in favor of the workers. Full rights of citizenship, the decade taught all citizens, could be achieved through public protests including strikes regardless of one's race or employment in the private or public sector.

Government, if not to be thought antiquated and out of touch, needed to acknowledge that protest had become an acceptable mode of public participation. Passage of Act 195 legitimated Pennsylvania's public employee policy by channeling employee behaviors into acceptable processes with appropriate checks. These impasse procedures shaped a vision of citizenship that allowed for the possibility of temporary intractable differences between workers and their government employers so long as the rest of the public was not threatened. Of course, that protection of the "public" limited the rights of public employees, thus differentiating them from the rest of the public.

By deferring the difficult decision of drawing lines between acceptable and unacceptable strikes, threatening and nonthreatening strikes, and other such nuances to the courts, the legislature expressed awareness that each employee-management negotiation was unique. The

act acknowledged the importance of context in each new situation and identified a bureaucratic apparatus to manage these situations.

Passage of Act 195 strengthened the claim that government had the power to keep the public safe even if public employees went on strike. By limiting the right to strike to what were termed nonessential employees, establishing mechanisms for stopping strikes, and by providing more procedures for dealing with labor impasses, the act showed the government to be responsive to the reality of workers going on strike. Acknowledging the right of public workers to strike restored power to the government as it simultaneously acknowledged and restricted the power of the workers. Despite the appearance of increased rights, the formal inclusion of workers in collective bargaining and dispute resolution and the simultaneous increased participation of the labor board and courts in employee relations, meant that a balance of power was struck.

Act 195, in allowing and restricting strikes, created a place for the right to strike in the order of community life. Allowing the right to strike was a workable solution to problems of impasses in government employee relations because the terms used to limit that right carefully channeled public opinion away from supporting ungovernable strikes. The expansion of worker rights with arguments that appeared reasonable and fair successfully overcame conspiratorial opposition that unions were out to take over government and control public life.

The rhetoric used in passing and justifying this act did not set a vision of citizenship in stone. Rather, public workers could be seen as citizens fully participating and exercising the same rights as citizens employed in the private sector, or as citizens out to get the general public from their perch in public employment. Regardless, public workers—and citizens more generally—were seen as potentially threatening and in need of the government to keep them in

line. That tension preserved in this law the opportunity for anti-strike and anti-union views to shape the treatment of public workers as times changed.

¹ Hawaii was a relatively new state and the rest of the country was skeptical about possible essential dissimilarities in that state's dynamics and their own.

² Excluding postal workers and members of the CIA, FBI, NSA and foreign nationals working outside the U.S. From U.S. Civil Service Commission, *Union Recognition in the Federal Government*, Nov. 1974), 26. QTD in Alan Edward Bent and T. Zane Reeves, *Collective Bargaining in the Public Sector: Labor-Management Relations and Public Policy* (Menlo Park: The Benjamin/Cummings Publishing Co., 1978), 9.

³ Francis Ryan, *AFSCME's Philadelphia Story: Municipal Workers and Urban Power in the Twentieth Century* (Philadelphia: Temple University Press, 2011), 2.

⁴ "Public Employe Anti-Strike Law," Pennsylvania Act of June 30, 1947, p.l. 1183, no. 492 Cl 43.

⁵ "Pittsburgh Teachers Halt Strike Threat: Pleased with Bargaining Pace," *Indiana Evening Gazette*, Tuesday, September 3, 1968, 1.

⁶ Carmen Brutto, *The History of Council 13 AFSCME* (Council 13, AFSCME, 1998), 22

⁷ Raymond P. Shafer, "Appendix A," in *Report and Recommendations of the Governor's Commission to Revise the Public Employe Law of Pennsylvania*, (Harrisburg: Department of Labor and Industry, 1968), II.

⁸ *Report and Recommendations of the Governor's Commission to Revise the Public Employe Law of Pennsylvania*, (Harrisburg, Department of Labor and Industry, 1968), 5.

⁹ *Report and Recommendations*, 12.

¹⁰ *Report and Recommendations*, 12.

¹¹ *Report and Recommendations*, 12-13.

¹² *Report and Recommendations*, 13.

¹³ *Report and Recommendations*, 13.

¹⁴ *Report and recommendations*, 14.

¹⁵ *Report and Recommendations*, 14.

¹⁶ Roger Hartley, "Recommendations of the Governor's Commission to Revise the Public Employment Law of Pennsylvania: A Preliminary Assessment," *Pittsburgh Law Review* 30 (1968): 169.

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- ³⁸ Charles M. Rehmus, "Constraints on Local Governments in Public Employee Bargaining," *Michigan Law Review* 67, 5 (1969): 921.

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- ⁴⁰ Eli Rock, “The Appropriate Unit Question in the Public Service: the Problem of Proliferation,” *Michigan Law Review* 67, 5 (March 1969): 1001.
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- ⁴³ Kheel, “Strikes in Public Employment,” 941.
- ⁴⁴ Arvid Anderson, “Strikes and Impasse Resolution in Public Employment,” *Michigan Law Review* 67, 5 (1967): 947-948.
- ⁴⁵ Anderson, “Strikes and Impasse Resolution,” 970.
- ⁴⁶ H. W. Arthurs, “Collective Bargaining in the Public Service: Bold Experiment or Act of Folly,” *Michigan Law Review* 67, 5 (March 1967): 971-1000.
- ⁴⁷ See Ralph S. Brown Jr., “Collective Bargaining in Higher Education,” *Michigan Law Review* 67, 5 (March 1969): 1067-1082 for his take on the pitfalls of collective bargaining for university professors. This article does not contribute to the particular analysis of this chapter.
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- ⁴⁹ Ida Klaus, “The Evolution of a Collective Bargaining Relationship in Public Education: New York City’s Changing Seven Year History,” *Michigan Law Review* 67, 5 (March 1969): 1066.
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⁵⁵ Bent and Reeves, “Collective Bargaining,” 125.

⁵⁶ Martin Luther King Jr., “If the Negro Wins, Labor Wins,” speech at the AFL-CIO 4th Constitutional Convention, Dec. 11, 1961 in *All Labor Has Dignity*, ed. Michael K. Honey (Boston: Beacon Press, 2011).

⁵⁷ Martin Luther King Jr., “All Labor has Dignity.”

⁵⁸ Martin Luther King Jr., “All Labor has Dignity.”

⁵⁹ Ryan, *AFSCME’s Philadelphia Story*, 6.

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Chapter 5

This is What Democracy Looks Like? Balancing Budgets, Busting Unions

Forty years after public workers successfully argued for the rights to organize, collectively bargain, and strike, the place of public worker unions was once again brought into question. In the fall of 2010 many states elected Republican governors in the hopes that their fiscal policies would be able to bring those states out of budget deficits and to improve their economies. Many of their budget bills proposed in the spring of 2011 included provisions that changed the way the government would interact with public unions and that also changed the way government workers could participate in their unions. Wisconsin's newly elected governor, Scott Walker, included provisions in his Budget Repair Bill that not only required public workers to contribute more to their healthcare and pensions, but also severely limited labor unions' ability to collectively bargain and restricted the scope of collective bargaining. The bill also changed the way unions could collect dues and set stricter requirements for union certification as the bargaining representative for workers.

These elements of the Budget Repair Bill sparked outrage by public workers, unions, their allies, and elected Democrats in Wisconsin's legislature. Protesters rallied across Wisconsin and filled the state capitol in Madison. Solidarity protests took place across the country. The Democratic senators temporarily halted a vote on the bill by leaving Wisconsin. After passage of the bill, citizens provided enough signatures to hold recall elections for not only the governor and top elected officials, but also six Republican and three Democratic lawmakers. These spectacular

actions drew attention to the issue and imagined greater participation in the legislative process by the public.

Wisconsin provides the most striking place to see the conflict between a new Republican governor and labor. Not only was this state the first to confront issues of public worker rights back in the 1930's, but it was also the first state in 2011 to roll back long established worker rights. The spectacle of mass rallies and protests, the dramatic walkout of democrats in the legislature, and the solidarity protests across the country brought the state's conflict national attention. Wisconsin Governor Scott Walker's handling of the public unions served as a model for other conservative governors trying to assert control and balance budgets.

Consideration of Governor Walker's budget proposal contrasts greatly with that of Pennsylvania's Act 195. Pennsylvania's consideration of workers' right to strike was marked by thoughtful deliberation by a specially appointed committee, rigorous investigation by scholars, and active consideration by the public in newspaper articles and demonstrations. The conversation surrounding Walker's proposal was marked by vitriolic partisan arguments, stymied congressional deliberation, and political maneuvering. This episode in public sector labor history asks us to consider what relationship our elected officials and their decisions should have to their constituents, the public at large, and to the state. What responsibilities do public workers have regarding their actions as taxpayers, as citizens, as union members, and as government employees? Although we might be tempted to think that the very form of government presupposes those relationships, Wisconsin's experiences demonstrate that the answers to these questions are contested and shaped by the rhetoric used to justify actions by legislators and by that used to call attention to the interests of citizens with competing public interests. In order to better understand the vision of citizenship that emerge from Wisconsin's

experience, I will first consider the economic situation that Walker faced upon his election and his campaign promises to address the state's needs. Then, I will examine the arguments surrounding Walker's Budget Repair Bill and the responses to those arguments. Finally, I will consider how power, inclusion, participation and class interests came together to re-envision citizenship. A detailed timeline of the events from this episode can be found in Appendix B.

Economic Urgency

In 2010 Wisconsin was still reeling from the 2008 Great Recession and facing major budget deficits. It had a \$137 million deficit in its budget when Walker was elected and a projected 3.6 billion dollar deficit for the next two year budget. Public investments were hit hard by the volatile stock market in 2008. Those 2008 losses, per Wisconsin law, were "smoothed" over five years, which meant that the pain was drawn out despite slight growth in the state's economy in 2009. One of the most publicized losses was the 26.2 percent (\$20 billion) hit to worker pension funds for the Wisconsin Retirement System.

The growing numbers of retirees and the decrease in available funds for pensions prompted the public and state and local governments to examine the pension benefits offered to public workers. One report published by the Wisconsin Policy Research Institute emphasized the disparity between employee contributions to retirement by public and private sector workers. Although the report does note that public sector retirement plans were defined benefit rather than defined contribution plans common to the private sector and acknowledged that it did not weigh overall benefit or salary packages between the sectors, these nuances were lost when the report was used as evidence that public workers needed to contribute more to their pensions to make the system more fair and to close budget deficits. This report, written by Joan Gucciardi, an actuarial

from Milwaukee, emphasized disparities between the public and private sector and argued that changing the system of public pensions would go a long way to closing budget deficits.

Newspaper articles circulated in Wisconsin published summaries and conclusions of this report to justify increasing the amount public workers contributed to their pensions. President of WPRI, George Lightbourn, explained that the report points the way for political action when he wrote:

The message from this report is clear. First, the next governor can go a long way toward resolving the looming state budget deficit by making one simple change in state law: eliminating the provision that allows public employers (taxpayers) to pay the employee share of the cost of their pension. Having employees pay one-half of the cost of their pensions would be fair, and it would save state and local taxpayers \$600 million per year. The second, and more important, message is that Wisconsin needs to reform its public pension system. It is a system that has simply overstayed its welcome. Not only is it expensive, it is far out of the mainstream when compared to what the vast majority of Wisconsin employers offer their employees. The next governor should make it a priority to bring radical reform to the Wisconsin pension system. The governor must make it a priority to eliminate the insularity that has defined the Wisconsin Retirement System. One more thing: the governor and the Legislature should remove themselves from the retirement system. Their participation in the system is an inherent conflict of interest and stands to dampen their taste for pension reform.¹

Lightbourn attached this statement to Gucciardi's report and also circulated its main ideas in newspaper editorials appearing in Wisconsin's most widely circulated newspapers including *The Wisconsin State Journal* and the *Milwaukee Journal Sentinel*.² Lightbourn's statement highlights several important themes. First, it argues for public workers paying their "fair share." This phrase is important because it assumes that public workers are not also taxpayers and at least partly responsible for funding their own work and holding the government accountable. Further, that "fair share" is determined by norms in the private sector where supply and demand function differently than in the public sector. Second, Lightbourn's statement emphasizes the importance

of the public sector having benefit systems structured like those in the private sector. This also suggests that the Wisconsin government needs to function more like a private sector employer with a greater concern for profit margins.

Reporters picked up this statement and Lightbourn's policy recommendations became common arguments used by Scott Walker for changing contributions to pension and healthcare plans made by public workers. Republican candidates as well as those who supported the governor's budget reforms repeated these themes. Indeed, by the middle of June, 2010, Walker announced his intention to pay the full portion of his governor's pension and his plan to increase contributions by public sector union workers.³

Opposition and critique of the WPRI conclusions emphasized the essential differences between the economic conditions shaping worker relations in the public and private sectors. An editorial by Michael S. Hoey responded to the report and captures the attitude of many unionized public workers: "*The Sentinel* at least acknowledged that public sector employees negotiated for the excellent benefit packages they receive at the expense of higher salaries. If then public employees accept (or are forced to accept) any cuts in benefits, will they get compensated with higher salaries? I don't think so. When the economy improves will they get those benefits back? I don't think so."⁴ Acknowledging that the pensions for public workers were agreed to for other concessions during the collective bargaining process suggests that despite the claimed unfairness in differences in how much individuals contribute to pensions, the compensation is fair because of the fairness of the process by which those contributions were determined. His argument also emphasizes the deep distrust of the government to pass along economic gains during profitable times.

Unions and Democrats challenged the supposed economic burden of public workers. AFSCME ran a campaign called “Stop the Lies,” to refute claims made against public workers and their supposedly burdensome pensions. AFSCME showed that compensation levels for public employees, on average, were modest. They proceeded to demonstrate that those compensation levels were not a significant burden for taxpayers by explaining, “Contrary to what they would like you to believe, states are not shouldering this cost. Employee contributions and investment returns fund the overwhelming majority of the cost of pensions. Taxpayers contributed only 14.3 percent of all pension funding in the 11-year period ending in 2007.”⁵ Perhaps in part because this data was for the time period before pension fund investments took a nose-dive in the recession, Democrats were hesitant to claim that public workers were not a burden but instead called for careful study of the issue. Democratic gubernatorial candidate Tom Barrett suggested, “We should compare state government and market total compensation levels for specific job categories, and then negotiate with employee unions to bring total compensation in line with the private sector.”⁶ Barrett thus asserts his faith in the fairness of the collective bargaining system to preserve both government and worker interests and to bring equity on a holistic level to compensation for public and private workers.

However, despite differences in opinions for solving Wisconsin’s economic problems, no one disputed that there were significant problems that needed to be addressed. Both gubernatorial candidates saw public workers as part of the solution. The Center on Wisconsin Strategy (COWS) published “The State of Working Wisconsin,” in 2010 and found the economic state of Wisconsin to be bleak. Their report stated:

We have been releasing this report biennially since 1996, and this, our eighth edition, is the most negative. The Great Recession adds stress, insecurity, and long-term unemployment on top of the longer-term challenges we’ve consistently documented. Most long-term challenges are familiar, daunting, and shared with the nation: relatively

stagnant wage growth and the proliferation of low-wage jobs; sliding health insurance coverage and plummeting pension benefits; and a stubbornly high poverty rate leaving too many in economic isolation. Racial disparity is not unique to Wisconsin, but it is extreme here; consistently the black/white differences in poverty, educational attainment, and incarceration rank us among the most unequal in the nation. These long-term challenges remain unaltered.⁷

Despite the state losing 155,000 jobs between 2007 and 2010, the report advised against changing the pension system as Walker suggested by urging policy makers to "reject calls to drastically cut public employee pension and health care benefits and replace them with less secure 401(k)-style plans that would inevitably leave many retirees in poverty."⁸ In the face of such a bleak situation, it is no wonder that the 2010 candidates for governor both proposed sweeping plans to reform the state.

The same logic said to argue for changing the pension system and defending the fairness of the process of collective bargaining was extended into disputes over employee contributions to their healthcare benefits. Although arguments about employee and employer responsibilities for healthcare were prominent on the national stage because of the controversial passage of ObamaCare, the healthcare benefits discussions were tied to the budget deficit in their iteration within Wisconsin. In fact, after the articulation of the arguments about retirement benefits, the words "healthcare benefits" were inserted alongside pensions in newspaper coverage of the gubernatorial candidates' campaign promises. Proponents of changing employee contributions made straight comparisons between the public and private sector for healthcare and pensions. Opponents of increasing employee contributions also factored in salary, education level, and the type of work being performed to try to get a more detailed picture of compensation for comparison. The Economic Policy Institute produced several studies that attempted to give a more detailed picture of the differences between compensation for public and private sector workers. "To summarize, our study shows that Wisconsin public employees earn 4.8% less in

total compensation per hour than comparable full-time employees in Wisconsin's private sector."⁹ This figure also controlled for education, race, type of work, and benefits including salary. Although some studies and news coverage quoted a higher percentage difference, this figure seems to be the most reliable.

Even given the comparisons between private and public sector employees, the feeling elicited by reports of the economy suggest that something unfair was going on with public workers. Not only did political candidates desperately need to make significant and visible cuts to future budgets, but those cuts would go over better if they seemed to be correcting an imbalance and restoring fairness to taxpayers. Compensation of public employees became that highly visible place to make cuts.

These workers made a handy scapegoat to carry blame for the economic state of the state and also as a site of redemption. Walker characterized public workers negatively and taxpayers positively when he asserted that "we can no longer live in a society where the public employees are the haves and taxpayers who foot the bills are the have-nots."¹⁰ The language of "haves" and "have-nots" resurrected social movement language from Saul Alinsky's social movement guidebook *Rules for Radicals* to motivate the middle class to take action to bring about social and economic fairness.¹¹ However, it inverted Alinsky's mission for social justice by focusing on middle class workers as the "haves" rather than corporate bosses. The image of the well-off public sector employee was bolstered by reports of earnings by city officials in Madison and accounts of multiple ways city employees could boost their salaries by earning compensation for overtime, longevity, and other possibilities not often available to private sector workers. The compensation was often referred to as the "gravy-train," emphasizing the decadence given by the government to public workers. One of the most talked about stories concerned John Nelson.

“Metro Transit bus driver John E. Nelson's extra earnings - \$78,571 in overtime alone and \$100,279 in total - made him the city's highest-paid employee at \$159,258 in 2009.”¹² No more explanation of Mr. Nelson’s earnings is given, but this becomes the representative anecdote proving that all public employees are overcompensated. In the story of change then, Walker becomes a sort of Robin Hood taking away from the cushy compensation of public workers and essentially restoring that money to the cash-strapped private sector workers and taxpayers. This narrative was constructed throughout Walker’s gubernatorial campaign.

Walker’s Campaign and the Public

Wisconsin is unique as a state because, along with its reputation of championing progressive ideals, fiscal conservatives are also prominent in its history. Tommy Thompson served as governor from 1986 to 2001 and instituted school choice programs, limited welfare, and also sought to improve the state’s economy in the 1980’s. Overall, the state is considered to be politically moderate and elections are hard fought. Democrat Jim Doyle served as governor from 2003 until Walker’s 2011 term began, but both houses of the state’s legislature remained Republican when Doyle was elected. The state was solidly for Obama in 2008, but was considered a battleground state in the 2012 presidential election. The volatility of elected positions suggests that citizens were continually juggling values championed by the competing parties.

Walker’s campaign is important because it established his relationships with business, unions, and citizens apart from the institutions with which they are associated. He campaigned when Wisconsin was suffering economically. Those suffering from the poor economy wanted someone or something to blame and needed to gain back a bit of control. Scott Walker portrayed government as partly to blame and painted himself as the leader with a plan to help make things

right. He promised to “Put the government back on the side of the people.” “The people,” according to Walker’s vision, were frugal, conscientious, and willing to sacrifice to afford more. They were also hard working and not frivolous. This was most clearly conveyed by Walker’s “Brown Bag Movement,” in which he urged workers who bring their lunch to work to support his campaign through the purchase of brown bags with his face and name on them. He hosted numerous lunches where supporters were given these bags with his three “brown bag common sense” principles printed on them: “don’t spend more than you have; smaller government is better government; and people create jobs, not government.”¹³ These principles were the justifications of his policy proposals. This campaign strategy was designed by SCM and Associates, a firm from Dublin, New Hampshire. Walker also had several televised campaign ads featuring him driving a 1998 Saturn and bringing his lunch to work – showing he was one of “the people,” and relating to average Wisconsinites. In these ads Walker comments, “I pack a brown back each day so I can spend money on more important things like sending my kids to college. Wouldn’t it be great if our government actually saved money like all the rest of us do?” What this ad does not tell us is how much money Walker makes. Given that we know he gave back \$370 thousand in salary and retirement benefits, we know he is quite well off and can afford to make sacrifices that the average Wisconsinite cannot afford.

Despite the fact that Walker’s Brown Bag Movement was exposed as a gimmick previously used by another candidate, it was effective at connecting Walker with his intended audience. On March 27, the *Wisconsin State Journal* and other Wisconsin papers circulated coverage of the finding of several Associated Press investigative reporters. They exposed that the Brown Bag campaign was recycled from Ohio Republican Senator George Voinovich’s 1998 campaign, but their outrage was not at the recycled campaign but rather at the hypocrisy in

asking supporters to bring their lunch while the candidate and his campaign staff spent over twenty-four thousand dollars for meals. “There’s nothing particularly shocking about a candidate and his campaign staff running up big bills in nice restaurants, but it’s not very honest to then falsely portray the candidate as an ordinary working stiff going off to work every day with his sad, little ham and cheese sandwich.”¹⁴ Such critiques fueled his opponents, but did not stem the tide of support for Walker.

One explanation for Walker’s ability to connect with voters was his emphasis on the interests of individuals rather than on the interests of business or unions more generally. His ads and interviews focused on ordinary people. During a TV interview on September 5, Walker was asked whether he anticipated a good relationship with WEAC, the Wisconsin Education Association Council, Walker responds “Definitely with the teachers,” and deftly skates around the impact of his policy proposals on the teacher unions. Such evasions functioned in two ways. First, they helped Walker create the impression that the special interests of organized groups did not matter to him in his decision making process. They also served to suggest that unions were not in touch with the attitudes of their members.

One of Walker’s biggest promises was that he would create 250 thousand jobs in the state during his term as governor. These jobs were supposed to come from the private sector when businesses found lower tax rates in Wisconsin. He often compared Illinois to Wisconsin and argued that businesses would move jobs from states like Illinois to Wisconsin where tax incentives created a more business friendly environment. His plans to privatize some government functions would shift some jobs from the public to private sector. Walker was never specific about how he would create these jobs aside from cutting taxes, but he did campaign on the idea

of eliminating four thousand government jobs. Upon his election, he adopted the slogan “Wisconsin is open for business” to underscore the tax cuts he passed for businesses.

Since both Walker and Barrett campaigned on promises to ease the economic crisis, it makes sense to consider how much money each spent on their campaigns and who contributed the money to the winner. Walker reportedly spent \$11,072,433 and Tom Barrett spent \$6,781,584.¹⁵ According to the Wisconsin Democracy Campaign, an independent watchdog group, business contributed \$13 for every \$1 labor unions gave for all candidates in the 2009-2010 election cycle in the state.¹⁶ The Republican Governors Association spent \$3,414,012.18 on attack ads targeted at Barrett and \$64,995.86 on ads supporting Walker.¹⁷ The Koch brothers were the second largest donor, behind only the housing and realtor groups, donating \$43 thousand to the Walker campaign and a million dollars to the Republican Governors Association that invested heavily in Walker. Once Walker was elected, he passed close to \$70 million worth of corporate tax breaks.

Although Walker did not campaign on a union busting platform, his track record in Milwaukee was an ominous portent for unions. During Walker’s tenure as elected Executive of Milwaukee County, 1600 public employee jobs were lost each year through attrition, layoffs, and privatization of county services.¹⁸ Walker had trouble getting unions to agree to concessions that matched his budget plans. The imposition of unpaid furloughs for county workers and the privatization of some of their jobs set unions and their workers against him.

The issues of pension and healthcare contributions by public employees were also controversial while Walker was County Executive. In fact, Walker was elected when his predecessor was recalled for increasing county employee pensions. He did have success eliminating lump sums paid out to retirees. Despite this, “The share of the county tax levy going

to health care and pension benefits rose from one-third in 2000 to more than two-thirds in 2008.”¹⁹ In the position of County Executive, Walker could not take back money already paid out or make changes to the healthcare contributions by workers. This experience meant that Walker was familiar with the problems facing counties across the state. As governor, Walker would be in a position to actually fix the systems causing counties like Milwaukee to pay out more than they could afford in benefits.

Walker began asserting political control immediately after his election and before taking office on January 3. He called for officials serving in the lame duck session of the state legislature not to sign any of the negotiated contracts with labor unions that those legislators had been working on for quite some time. Walker argued that such action would fiscally tie his hands until June and would be acting against the wishes voiced by the voters with the election results. He won the election with an overwhelming 52.3 percent of the vote.

Walker managed to stay those contracts and hinted that he would be looking at limiting the influence of labor unions. On December 7, at a Milwaukee Press Club luncheon, Walker began publicly suggesting ways he was considering weakening labor unions "Anything from the decertify all the way through modifications of the current laws in place."²⁰ This was the first real declaration of his intentions toward public sector labor unions that went beyond avoiding bargaining by announcing the intent to prevent unions from bargaining with the government. Senate majority leader Scott Fitzgerald and his younger brother, Assembly Speaker Jeff Fitzgerald, suggested that Republicans would consider all options, including making drastic reforms, which portended that Walker would have support for his eventual proposals.²¹ These threats to unions did not extend to private sector unions. Although there were rumors that write-to-work legislation might eventually be introduced, these lawmakers avoided commenting on it

and turned those conversations back to focus on how the government could better control public union employees.

Walker took office the first week of January in a position to negotiate union contracts and to propose a new state budget. It was not until February 11, however, that he introduced the Budget Repair Bill. The bill included provisions that restricted collective bargaining to wages, eliminating worker input on issues of other benefits and working conditions. The bill also made it more difficult for unions to be recognized as bargaining units and weakened unions by not requiring all workers to pay dues. The reaction to this bill by unions and public employees came quickly. Within several days thousands of protesters gathered in the state capitol to protest. The dynamics of those protests and the maneuvering of politicians over the next few weeks created a new vision of democracy.

Democracy Revisited

The situation in Wisconsin cannot be understood in isolation as a “Wisconsin,” or even as a “labor” protest. It must be understood in the context of democratic uprisings. The spring of 2011 was a monumental year for democratic uprisings across the world and came to be known as the Arab Spring. Beginning in December 2010 in Tunisia, citizens of Arab and North African countries began protesting en masse. Uprisings spread from Tunisia to Algeria, to Jordan, and Egypt and throughout the region. These protests culminated in the overthrow of four governments: Tunisia, Egypt, Libya, and Yemen.

Egypt’s uprisings are pertinent to Wisconsin because President Hosni Mubarak resigned on February 11, the day that Walker introduced the Budget Repair Bill.²² Egypt became a source for Wisconsin protesters to caricature their own leaders. Wisconsin protesters drew on the association of Mubarak as a villain and Egyptian protesters as democratic heroes to bring

meaning to the players in Wisconsin. Not only were comparisons made between Madison and Tahrir Square in Cairo, Scott Walker and Hosni Mubarak, but the spirit of solidarity between citizens coming together to protest politicians and policies that tried to limit their voices spanned the globe.

This democratic spirit did not dissipate with the revolution in Egypt or even the passage of Walker's bill in Madison. Rather, the movements shifted focus to corporate tyranny and oppression and became the fall's Occupy Wall Street movement. The Occupy movement emphasized the power of social democracy and solidarity in response to the terrible economic conditions and increasing economic inequality. In this regard, John Nichols' conclusion that "the truest accomplishment of the protests in Madison and cities across Wisconsin was that they renewed an understanding of citizens not merely as voters in elections but as active censors of an elected despotism that can never be allowed to go unchallenged,"²³ eloquently describes a legacy of the Wisconsin protests. Indeed, this role of citizens was enacted by the protesters in Madison. Firsthand accounts of the protests, news coverage of Wisconsin, statements by labor unions and their leaders, and commentaries all contribute to the rhetorical discourse that contested both who had power and the meaning of power, who was included in decisions and what inclusion meant, who could participate and how, as well as with what the response to class inequality should be.

Class

Discourses of class have long contributed to activism, as we have seen with the Civil Rights movement. They have also helped identification between workers and their unions in the public sector labor movement in Wisconsin back in the late 1950's and early 1960's. Class based arguments were no less relevant in 2011. Before, AFSCME helped public workers to see the advantages that the union could bring to their social and economic class, helping public workers

to become equal with their private sector counterparts. The situation in 2011 of increased economic inequality between the rich-and-powerful and the working poor presented people on both sides of the proposal with the necessity of constructing arguments that would address that growing concern. Walker and his opponents created arguments that rhetorically defined class to provide justifications for citizens to align with their respective sides. Walker employed a narrative that separated public workers from the category “taxpayers,” built resentment against public workers, and offered to soothe that resentment with passage of the budget repair bill. This narrative characterized public workers as unfairly well-off because of cushy benefits packages. Protesters, by contrast, used a discourse of solidarity to represent a united front against Walker’s bill. They used the ideograph of rights to unify their diverse interests and come together as a coalition opposing Walker. They appealed to the principle of fairness.

Walker’s campaign, in its attempt to help Wisconsinites identify with Walker, portrayed him with the trappings of a middle class life: older economy car, saving to put kids through college, and taking his lunch to work instead of buying it. This image was important so that most voters would imagine Walker as part of their own socio-economic class regardless of income. The economic crisis in the country widened the gap between rich and poor, between management and workers, and between the elite and the masses. Walker’s campaign leading up to the introduction of the budget repair bill and republican arguments in support of the bill focused attention away from these splits and crafted arguments that fixated on the differences between the public and private sector. This strategy sought to weaken the working class by dividing it against itself.

Walker dealt with class division by exploiting perceived differences between groups of workers. He used the term “taxpayers” to refer to everyone other than public workers, which

suggested that public workers did not pay taxes. Once this division was clear, Walker argued that his proposals would bring fairness and eventually restore equality by making public workers contribute as much as the other taxpayers to their incomes. In his 2011 State of the State address he said, “We can use our budget challenge as an opportunity; an opportunity to reduce government and to increase flexibility. To ensure that all sectors of our economy contribute equally, so that the entire state benefits.”²⁴ The key element of this statement is equal contribution to benefit packages, not equal compensation for work. He goes on to say that the taxpayers are paying for the benefits for public workers thus demonstrating that the private and public sectors are not contributing equally. This also contributed to the image that public workers are an economic burden for private sector workers, which invited resentment of public workers, a charged emotional response. His solution in this speech is to strike out at public workers, satisfying the need for an outlet for resentment of public workers. Although he does not directly say that he will cut public worker jobs to reduce government, he explains, “Our upcoming budget is built on the premise that we must right size our government.” Given his depiction of public workers as a burden, the logical consequence of “Right sizing” the government is cutting public worker jobs.

Labor’s publications for union members responded to Walker’s claims that compensation levels for public workers were unfair. They sought to reassure members that their compensation was fair insofar as they were still compensated below the comparable amounts for their equals in the private sector. Mark Brenner compiled a list of claims about the unfairness of compensation levels and claims about causes and solutions for the economic crises facing states and the country as a whole. His article emphasized labor’s position that government workers do not operate on the same market values as the private sector and that public workers are valuable and

comparatively undercompensated for their work.²⁵ Unions used the Economic Policy Institute study in their effort to convince nonmembers that comparisons needed to look at the whole picture, not single factors. The fairness of the process of collective bargaining by which compensation levels were determined is mentioned as a side note. While this response to the supposed class divisions addressed the concept of fairness, it was not enough to counter the emotional element of Walker's charges.

In contrast to the 1930's in which the attitude was to try to bring public workers up to be equal with their private sector counterparts, Walker's focus here was not to improve working conditions for private sector workers, but to make public workers feel the same economic pinch as private sector workers. Part of Walker's plan to create jobs was to reduce workplace regulations so businesses could further cut costs and presumably use those savings to hire more workers.

Walker's rhetoric was calculated to divide workers to reduce class solidarity. He went so far as to say that he wanted to keep private unions out of this.²⁶ So long as private sector workers identified as taxpayers paying for the benefits enjoyed by public workers, the hope was that they would not lend their numerical power to the public sector workers. Walker's bill exempted firefighters and police officers from the union busting measures. Although commentary suggests that this was a calculated move to repay these workers for their campaign support and take away incentive for the most powerful public workers to disrupt daily life in Wisconsin, it was not entirely successful.²⁷ Firefighters and police officers stood in solidarity with their fellow public workers. If they had not been present, public workers would have been divided among themselves and weakened. The presence of police and fire fighters at rallies lent an air of respectability and legitimacy given that the "public heroes" stood with the workers. On February

24, a man wearing a sweater with a police logo and the words “Cops for Labor,” was filmed addressing protesters in the capitol saying “Mr. Walker! . . . We know pretty well now who you work for! [applause] Let me tell you who WE work for! [points to self and police emblem] We work for all of these people! [applause] We are not here, Mr. Walker, to do your bidding! We are here to do their bidding! . . . Mr. Walker, this is not your House! This is all of our House! [camera pans 360°]”²⁸ Clearly, this positioned both in body and in word, places the police in solidarity with public workers who would be affected by the legislation. It also emphasizes the corporation/citizen division that Walker’s opponents blamed for his rise to power. This statement was also taken as a threat that the police would not enforce arbitrary decrees but remain responsive to protecting all citizens regardless of orders from special interest backed politicians.

The discourse of solidarity brought private sector and non-union workers together and also brought urban and rural citizens together. One notable moment of solidarity occurred when family farmers brought a tractor brigade through Madison to the capitol. Following that event, Tony Schultz, a family farmer and board member of Family Farm Defenders ended a speech in front of the capitol saying, “The way I see it is we got two choices: I can have my unions busted and stand alone and be pitted against my neighbor in a desperate and unequal economy, or we can come together to say 'This is what our families need, this is what our communities need, this is what a just wage is, this is what a democracy looks like!' It's a farmers' issue because we understand that an injury to one is an injury to all! Solidarity!”²⁹ This discourse of solidarity directly confronted the principle of individualism promoted by free market advocates and corporations. State Senator Chris Larson explained "Scott Walker is trying to pit the middle class against itself. If anything it's brought the middle class together. I'm getting emails and phone

calls, people stopping by my office, people who never would stop by my office, people who aren't in unions are coming out.”³⁰

Protesters used the ideograph of rights to unify across lines of class and interests. The term “rights” became a sort of verbal shorthand for the collection of protections gained by unions for workers to organize and collectively bargain as well as for concepts like fairness, equality, and respect. Although most of the coverage focused on union rights, healthcare workers, beneficiaries of the state’s Medicaid program that was set to be reduced, and others came together under the banner of “rights.” Generally speaking, these rights were for affordable healthcare and access to public services that impact the lives of poor and middle class individuals. Some of these groups were angry to be overshadowed by the focus on the elements of the bill that impacted unions, but all of the protesting groups could come together to protect rights. As a discourse, rights rhetoric was not specific enough to unify diverse groups after the passage of the bill. It was strong enough to maintain presence at the protests while those rights were immediately threatened.

Power

The masses of protesters and the politicians elected with money from major corporate interests provide two vivid images from Wisconsin of power. The realities of “people power” and financial political power were prominently displayed in Wisconsin as they sought to control the power of unions within the state. In the past, the unions claimed to bring workers greater economic power and focused on the process of bargaining as capable of preventing workers from becoming too powerful. In 2011, unions and workers had to confront both the fear and the narrative that claimed they had become too powerful.

The answer to the question of who had power in Wisconsin centered on issues of economics and access to the decision-making process. Reports of the 2010 Wisconsin gubernatorial campaign focused on the correlation between financial contributions and political success. This theme helps to organize our understanding of union concerns over the budget repair bill and Walker's response to them. Unions argued that the budget repair bill would threaten their economic and political power, essentially taking away their power in decision-making processes and eliminating an important check on corporate power. Supporters of the bill responded that the bill would take away unions' undue power in decisions effecting taxpayer money. Protesters argued that power imbalances could be challenged by the power of citizens to unite en masse regardless of economic status and expose leaders as corrupt. They did this by emphasizing coercive tactics of the Walker administration and by characterizing Walker as a dictator—the ultimate in undemocratic leaders.

Unionized public workers reacted so strongly against Walker because their power was threatened. Unions stood to lose both economic and political power. The provision that prevented them from collecting dues from paychecks and the provision that eliminated the requirement for members of a bargaining unit to pay dues would have financially weakened unions by creating a barrier to physically collecting dues and by lessening the number of people paying. The reduced income would have constrained unions' ability to negotiate on behalf of workers and unions' ability to work towards supporting government politicians friendly to worker concerns. These constraints would essentially eliminate the reasons for workers to join unions in the first place.

Unions would have lost political power because they would have not had the financial resources to support campaigns of candidates willing to advance legislation beneficial to

organized workers. Unions provided strong opposition to Republicans by contributing significantly more to campaigns by democrats. In 2010, Wisconsin's unions gave Tom Barrett nearly \$423 thousand but only \$27,100 to Walker.³¹ Top contributors to Democrats included the American Federation of State, County and Municipal Employees, the Wisconsin Federation of Teachers, and Wisconsin Education Association. Democrats and Republicans alike knew that unions provided a significant portion of the economic power of Democrats in campaigns.³² By undermining the economic base of unions, Republicans could potentially take away the power of Democrats in campaigns enough to turn elections.

Walker's supporters argued that the budget repair bill actually restored a balance of power by ending unfair power of unions. The *Wall Street Journal* argued "Mr. Walker's reforms change the balance of negotiating power in ways that give taxpayers more protection."³³ The article claimed that public unions are essentially on both sides of the bargaining table – contributing to politicians who appoint negotiators and representing workers. This stance draws upon the dissociation between public workers and taxpayers, in particular the idea that they necessarily have conflicting interests.

Economically stripping unions would effectively take away their power in the decision making process. A letter to the editor published in the *Capital Times* put it best: "We make a grave mistake when we blame unions for doing their job -- for being a counterbalance to corporate power. Unions have a legal obligation to be the disloyal opposition. When there is no check on the steady growth of corporate power, we lose the balance and equality necessary to democracy."³⁴ The threatened loss of economic power that would hamper unions from speaking out against that corporate power was mirrored in the fear that a loss of union power would mean a loss of economic power for workers more generally. The phrase "race to the bottom," was

frequently used to describe what Walker was doing to wages of middle class workers and households.

Given that Wisconsin workers felt their incomes to be threatened and no match to those of the people in elected positions, workers found their power in their numbers. President of the International Brotherhood of Electrical Workers local 2304, Dave Poklinkoski said “In a struggle such as this, we have proven that numbers and masses determine what happens.”³⁵ While this was an uplifting sentiment, the ultimate passage of the bill brings its validity into question. Numbers could not bring sufficient power to exact immediate results, but it did have the potential to turn the tide in recall elections down the road.

Hannah Arendt’s definition of power is useful for making sense of both the arguments made in Wisconsin and what happened. She explains “Power corresponds to the human ability not just to act but to act in concert. Power is never the property of an individual; it belongs to a group and remains in existence only so long as the group keeps together. When we say of somebody that he is 'in power' we actually refer to his being empowered by a certain number of people to act in their name.”³⁶ Walker’s claims that most Wisconsinites supported him and the protesters’ counter-argument that most Wisconsinites did not actually vote him in to office to take drastic action against unions, raise questions of Walker’s power. Arendt’s definition suggests that Walker holds power only so long as he has the majority of voters’ support. The protesters have power insofar as they have the necessary numbers to convince Walker that he has lost his power base among the citizens. The eventual passage of the bill is the government’s way of exclaiming that they had the support of citizens to be elected and act in their name. While protesters were willing to challenge the passage of the law through legal channels, they were not willing to declare the law powerless; they consented to abide by its terms at least in the short-

term. Protesters challenged those in power through the recall—attempting to indicate that the politicians eligible for recall did not actually have sufficient numbers supporting their continuation in power.

Opponents of the Budget Repair Bill attempted to show that Walker's power was corrupt. Some pointed to Walker as a puppet of corporate interests. Robert Kraig, Executive Director of Citizen Action claimed that the proposed bill "is a naked power grab by the large corporate interests that back Scott Walker and who seek unfettered control over Wisconsin politics."³⁷ This suggests that the attack on unions is a payback for campaign support from corporate interests. Walker counted the billionaire Koch brothers among his supporters. Their political action committee, Americans for Prosperity, donated 43 thousand dollars to Walker's campaign and even more money to the Republican Governors Association.³⁸ Opponents of Walker's budget repair bill speculated that the provision to privatize state power plants set the Koch brothers up for a deal with the government. The bill initially would have sold off state power plants and not require multiple bids, essentially allowing the state to set the price. They speculated that this was a way to insure the Koch brothers were rewarded for their support. This piece of the bill was eventually dropped, but not until after a secretly recorded conversation was released to the public.

A blogger for *Buffalo Beast*, Ian Murphy, recorded a phone conversation with Walker in which he pretended to be David Koch checking in to see how Walker was doing busting the unions.³⁹ In the recording Walker does most of the talking and makes it clear that he will maintain power by essentially tricking Democrats into allowing the bill to be passed. He explains his plans for exerting pressure on Democrats in the Assembly and Senate. His plan was to require those who had been absent to pick their checks up on the floor of the Senate. This was a

way to trick Democrats to return to the capitol so a quorum would momentarily be present and Republicans could pass the bill. He also explains that he will put more pressure on public workers by sending five to six thousand of them “At Risk” notices followed by at least four thousand layoff notices. He indicates that he would be willing to increase the number of layoffs to further pressure unions. All of these tactics would exert economic pressure on individuals to get them to give into his plans.

In addition to showing that corporate backers had better access to Walker, the recording highlights Walker’s coercive tactics and unwillingness to listen to opposing voices. In all of this Walker explains that he “will not budge,” and that he would “talk” to Democrats but not “negotiate.”⁴⁰ Missing from this conversation is an indication that Walker would listen to anything Democrats or protesters had to say. Democrat Fred Risser, a Wisconsin Senator, concluded that “Without a willingness to even discuss what concessions need to be made with state employees, the governor comes across more like a dictator and less like a leader,”⁴¹ This sentiment was echoed in protest signs that equated Walker with Hosni Mubarak.

Indeed, as soon as Walker announced that he would be going after unions, opponents characterized him as a dictator. Columnists for the *Capital Times* attempted to show that Walker’s actions were those of a dictator. They wrote “One of the first things dictators do is go after organized labor” and provided examples of Hitler, Mussolini, and communist China.⁴² In calling Walker a dictator, these columnists exposed the power that would be stripped from unions: “This also means no more pressure from anywhere to keep wages at a livable level for anyone, union or not.”⁴³ Not only do dictators have the ability to enforce their will on unwilling citizens, that power is not slowed by debate or the time consuming trappings of democratic processes. After Walker signed the bill, Senator Tim Cullen quipped "You can go to a

dictatorship. They get things done in 10 or 15 minutes. Now you can come to Wisconsin and get things done in 10 or 15 minutes.”⁴⁴ Though an exaggeration, this captured the sentiment that Walker was rushing so that normal democratic processes would not prevent his bill from being passed.

The clash between Republican lawmakers and the masses of protesters put into sharp contrast the difference between the power of the masses and officially sanctioned power. Scott Walker claimed the authority to pass his Budget Repair Bill by suggesting that voters knew what he stood for before they voted for him. The Republican majority in the Wisconsin legislature further signified support of Walker’s fiscally conservative plans and, according to them, the plans to restrict union activity as well. However, Walker seems to have been aware that his authority would be questioned and might even be threatened by walkouts of public workers at prisons. Walker made it known that he would be prepared to call out the National Guard if it became necessary, suggesting that he had both legitimate power given by the people in the election and the means of maintaining it through control of the instruments of violence.

Protesters took Walker’s comments about the National Guard as a threat of violence against their largely peaceful actions. Robert Kraig explained “Even referencing use of a National Guard in response to a potential labor dispute is shockingly extreme. It is hard to ascribe any motive other than the coercion of public employees to deter them from exercising their Constitutional right to speak out and protest against unjust government actions. It is a classic union busting tactic to use the threat of dire consequences, and even violence, to deter legitimate protest and speech.”⁴⁵ Mentioning the guard reminded people of the last time it was called to a labor protest, the 1968 Sanitation Worker strike in Memphis that was taking place when Martin Luther King Jr. was assassinated. This allusion juxtaposed the image of physical

violence with the exercise of free speech and hinted that Walker's power had the potential to slip from democratic ideals.

Protesters were empowered by the solidarity made visible when they gathered in the capitol and saw the diversity of people supporting their cause. This solidarity extended to rallies proclaiming solidarity with Wisconsin held in cities across the country. Signs in London reading "London, Cairo, Wisconsin, We Will Fight, We Will Win,"⁴⁶ proclaimed solidarity between their student protests and those of Wisconsinites. Although the degree of power the Wisconsin protests had to actually influence the vote on the budget repair bill is questionable, the feelings of solidarity created in the act of protesting did empower protesters to increase their direct participation in public life and government processes.

Participation

Worker participation in public sector labor unions had been highly bureaucratized and required little from most members. Walker's proposal threatened to require more of members while restricting what they could hope to gain through participation. This threat energized direct civic participation in the form of protests that inspired counter-protests. Both protesters and counter-protesters sought to define the meaning of their participation. The protest events also prepared citizens to engage in the normal political process.

Part of what got union workers riled up in the first place was that S.B. 11 would have stripped unions of powers that would have made participation in unions by members worthwhile. The bill limited collective bargaining to wages and strictly limited wage increases to the Consumer Price Index. Increases above the Consumer Price Index would require approval by public referendum. Previously, public sector unions could negotiate benefits and working conditions as well. Without a stake in the day-to-day operations of their jobs, workers would

have even less reason to engage in their unions; quite simply, unions would not be able to do much for their constituents. On top of that, requiring yearly recertification votes meant unions would be focusing their attention on achieving votes rather than on negotiating and members' energy would be channeled into voting. This hyper democratization would increase participation to unsustainable levels.

Ironically, the events in Wisconsin invigorated citizens to participate directly in their organizations and in spectacles to grab the attention of their state representatives to prevent the situation in which participation would be an unbearable burden. Although most unions were highly bureaucratic and had not relied upon their members for input and direction for a long time, members began taking more active roles by organizing and participating in protests. Participation in protests allowed individuals to connect face-to-face with their public and articulate as a community the meaning of their actions. Participation in protests helped build solidarity among opponents through their shared experience. However, Walker urged his supporters to view the protesters as not representative of Wisconsinite views. Walker's supporters sought to discredit protesters with negative characterizations and participation in counter-protests. Critics described participation in protests and counter-protests as mob action, but it is better understood as a means for citizens to participate directly in their rhetorical democracy. This view is strengthened by the analogies drawn by Wisconsin protesters to Egyptian protests.

The first protests were initiated by the Teaching Assistants' Association from the University of Wisconsin Madison. One protester, David Cole, captured what participation in protests did "We are just a bunch of people standing around a Capitol talking together and singing songs, but through this collective voice we have been able to define the national debate

about unions.⁴⁷ Protesters clearly built solidarity with one another through those songs and conversations. The protests invited responses by citizen spectators, the media, and Wisconsin's politicians. Jim Cavanaugh, president of Madison's South Central Federation of Labor explained, "We're getting a lot of people off their butts, seeing what these right-wing fanatics are capable of. We're achieving more union solidarity than we've seen in a long time."⁴⁸ The protests also created an opportunity for unions to build coalitions with other community organizations and interests particularly within the medical field, religious groups dedicated to social justice, and with community members interested in being more involved in their government. The Wave and We Are Wisconsin helped with these efforts.

Walker downplayed the importance of protest as a mode of participation in the political process. He denied that the majority of protesters are from Wisconsin, suggested that the unions pay people to protest, and reminded legislators that the protesters do not necessarily represent their constituents. While there certainly were some people from out of state who joined the protests, such as film producer Michael Moore and guitarist Tom Morello⁴⁹ of the band Rage Against the Machine, the vast majority of protesters were Wisconsinites. In the recorded phone conversation between Ian Murphy as David Koch and Scott Walker, Walker explains how he sees the protesters. He acknowledges that one day there were 70 thousand, but at least a third are for the bill. Any other day, he estimates between fifteen and thirty thousand protesters presumably with a significant percent actually in favor of the bill. He tells the caller that he likes to remind legislators that there are 5.5 million people in Wisconsin so those protesters are a small minority. He goes on to say, "Let 'em protest, it's not gonna effect us."

The protests did not alter the outcome by halting passage of the bill, but they did invite a public response to the spectacle by those who supported the conservative agenda. The Tea Party

and the conservative group Americans for Prosperity, funded by the Koch brothers mounted counter-protests. These counter-protests did not draw nearly the number of participants as the protests opposing the bill. They served to facilitate interaction between the groups of protesters by literally bringing the debate to the public square. The first such organized counter-protest took place on Saturday, February 19. Americans for Prosperity and American Majority helped organize the event that consisted mostly of Tea Partiers. The *Washington Post* described interactions between the protesters and counter protesters as “largely peaceful, if not altogether friendly.”⁵⁰ Chants of “kill the bill” were met with chants of “pass the bill.” Protesters from both groups argued with one another and exchanged obscene gestures. Demonstrators supporting Scott Walker justified their presence a week after people began gathering in Madison with signs that read “sorry we’re late Scott. We work for a living,” implying that the rest of the protesters did not work. They attacked the bill’s public worker opponents with signs that read “your gravy train is over ... welcome to the recession.” On April 16, Sarah Palin spoke outside the Capitol building. She was supposed to draw a large Tea Party crowd in support of Walker to demonstrate that plenty of Wisconsinites supported passage of the bill. However, the turn-out was small and overshadowed by protesters. One of these protesters, Jeremy Ryan concluded “there were probably about 500 of them ... and 5,000 of us. ... Even when they bus people in from other states, they still can’t form a majority.”⁵¹ The clash of protesters was never particularly civil and did not pretend that consensus was a possibility. These encounters highlight the themes of discourse battling for attention and vying for support by the majority.

Although protesters characterized their activities as a display of democratic action, counter-protesters characterized it as mob action -- a corrupt form of participation. Republican radio show host Brian Shimming reportedly described the protesters as a “collective of leftists,

‘60’s retreads, and special interests,” to a crowd of counter-protesters.⁵² Leftists could be dismissed as radicals and ‘60’s retreads could be dismissed for being out of date and out of touch. Special interests seem to be in conflict with the other two characterizations but held weight as a demon term. While protest was the most accessible way for opponents of the bill to participate in action against the bill, protest was a controversial response and easily described negatively. Despite the nonviolence practiced, Cory Mason, the Democrat state representative from Racine, warned demonstrators, “They’re trying to portray you as rioters. ... They’re afraid of what you have to say,”⁵³ which attributed fear as a motive for the vilification of protesters. Supporters of S.B. 11 characterized the protests as mob action and portrayed protesters as anarchists. Paul Ryan announced on Morning Joe, a talk show, “It’s like Cairo has moved to Madison these days,” to depict the protesters as revolutionaries disrupting order.⁵⁴ These negative characterizations suggested that such populist democracy is a corrupt and dangerous form of action.

Protesters turned comparisons to the situation in Egypt to their advantage. They identified with the democratic ideals of the Egyptian protesters and described their own solidarity with respect to the collective Egyptian action. Former representative David Obey said “We’re celebrating what happened in Cairo because it represented the desire of the masses and average working people in Egypt to finally gain say so in the way they are treated.”⁵⁵ The analogy with Egypt is neither complete nor perfect as can be seen by the different outcomes. However, Obey explains a situation in which the participation of protesters might shift from carrying signs, chanting, and occupying the Capitol to action on Election Day. “If the legislature supinely follows him with respect to taking away these bargaining rights, they’ve declared war on their own middle-class constituents and I would hope they would pay for it at the ballot box.”⁵⁶

Direct participation of citizens extended beyond demonstrating at protests. Citizens initiated recall efforts and signed petitions. They manned phone banks, knocked on doors and voted in those recall elections. Most importantly, they continued arguing over what their protests meant, what responsibilities their elected officials had to their constituents, and over what they wanted Wisconsin to be.

The protests, recall efforts, petition signing, get-out-the vote campaigns and other activism that continued for months after February 11, taxed Wisconsinites' ability to sustain participation. Everything happened so fast with urgent deadlines and without strong organizational structures to support citizen participation. Videographer and protester Matt Wisniewski explained in an interview a sentiment shared by many, "I really love what we did, and I hope that we can keep helping this change move forward, but I don't see myself as a lifetime activist or anything like that. Hopefully once we turn the tide and fix our rights I can go back to being a kid for a little longer."⁵⁷ This overextension of participation threatened the dream of many community organizations and unions that that the young people involved in Wisconsin would turn into leaders of the next big progressive movement.

Inclusion

The events in Wisconsin emphasize the lengths people will go to have their views included in the governing process and the lengths that those in power will go to include or exclude certain groups. While protest was one way to be included in the public opposition of the bill, the degree to which protesters' voices and ideas were included was limited. Inclusion of these voices was also the central justification given by senate Democrats when they left the state. Republicans argued that it effectively excluded the representation of constituents who opposed S.B. 11 from being heard. Finally, tensions emerged within the labor movement over whether or

not direct action or legalistic action would do better at getting government officials to include labor concerns in their decisions.

The level of inclusion of protesters in the political process was strictly limited. Although protesters were able to speak in common areas of the Capitol and even at a hearing, the perception was that Republican lawmakers were not listening to their concerns. Following a hearing by the Joint Committee on Finance on February 15, president of the Wisconsin State AFL-CIO, Phil Neuenfeldt said, “I have never seen anything like it before. Republicans were barely pretending to listen to the people who will be affected by this bill. Did they really think that they could take away workers' rights and dismantle the labor/management relationship that has served this state well for decades without getting an earful?”⁵⁸ Inclusion in the deliberative process has to go beyond having an opportunity to speak. It also includes the expectation that opposing voices will be given due consideration. As Neuenfeldt suggested, the expectation of consideration of one’s voice means at the very least the expectation that one will be listened to by the opposition, even if dissensus is the result.

The protests were eventually restricted. Initially, protesters slept in the capitol building and had teams organized to clean the building, eventually the police made protesters leave at night and then set limits on how many could be in the building at any one time. This maneuver excluded more people from getting close to legislators and demonstrated that the police and officials in charge still had control of the protesters. It sent the clear message that the inclusion of protest voice was at the whim of officials.

Perhaps the most dramatic step taken in Wisconsin to create opportunities for those who opposed S.B. 11 to be included in the decision-making process was the exodus of Senate Democrats to Illinois on February 17. Although Democrats were outnumbered in the Senate

nineteen to fourteen, they could prevent a vote on the bill by abandoning the state so Republicans could not have the required quorum of twenty senators to hold a vote on S.B. 11. Wisconsin has a rule that all budget bills must be approved by a three fifths super-majority rather than a simple majority. If even one Senate Democrat had remained in the state they could have been compelled to return to the capitol and the Republicans could have held a vote without discussion. Leaving the state functioned like a filibuster, an option not available to Wisconsin senators. Both the Democrats and Republicans made claims about the meaning and utility of the exodus.

Democrats claimed that leaving the state would provide an opportunity for there to be discussion about the proposals. Democratic state senator Jim Holperin argued "The Senator Democrats made a collective decision that based on the outcry that we felt it was too early to take a vote on a bill that would eliminate collective bargaining rights. We want to have a vote and we will have a vote, but don't feel it should be this afternoon, less than 3 days after the bill was introduced into the Senate."⁵⁹ Holperin's concern over the rush of passing the bill when so many had gathered to be heard, suggests that the absent senators believed that leaving was an act of civic responsibility so that citizen voices could be included in the decision. Not only did the senators hold secret meetings with Walker and his representatives, they were also able to speak with union leaders. Essentially filibustering the bill also forced republican senators to encounter the protesters surrounding and filling the capitol building.

Republicans could not help but notice the voice of opposition embodied in the presence of the protesters in the Capitol building while the Democrats were gone. The voice of protesters was so loud that it could be heard through closed doors during closed meetings and during controversial votes such as when the assembly passed the budget repair bill to the sound of "Shame shame!" from protesters.

Participation in the protests was one way for people to feel like their voices were being listened to and included in the public debates. Protesters set up a “peoples’ mike” for protesters to speak their minds to one another. Matt Wisniewski, an activist who filmed several videos of the protests, described the power of this forum: “People were up there and they knew that people were listening, and they cared about what they were saying, and they started to realize that their voice matters and their vote matters. It was really powerful to have people listen to you and care about what you were saying in a culture that doesn't always value that.”⁶⁰ Participation in the protests allowed many voices to be included in the public discussion and made those same people aware of their power as citizens. Although republican senators may not have been acknowledging the concerns of public workers and their allies, this forum allowed individuals who opposed the bill to articulate a community in which they felt included.

The Democrats’ absence forced Republicans to postpone the vote. They responded by describing the senators move as cowardly and a shirking of their responsibility. Walker remarked “You can’t operate a democracy if people don’t show up.”⁶¹ Characterizing the senate Democrats as undemocratic and hampering democracy strengthened Walker’s message that the senators were shirking their work responsibilities. Upon their return, Senate Majority Leader Scott Fitzgerald tried to shape attitudes toward the exodus of senators by saying, “They're going to pretend they're heroes for taking a three week vacation. It is an absolute insult to the hundreds of thousands of Wisconsinites who are struggling to find a job, much less one they can run away from and go down to Illinois -- with pay.”⁶² The image of the senators vacationing in Illinois with pay reinforced the stereotype so carefully cultivated over the preceding months of the decadent benefits of being a public worker.

The Republicans decided to remove provisions of the original bill and vote specifically on collective bargaining rights, which did not require a three fifths quorum because it was no longer a budget bill. They were able to exclude Democrats from voting on this controversial bill by giving only two hours notice before holding the vote, not nearly enough time for the senators to get from Illinois to Madison. Representative Jennifer Shilling of La Crosse explained "Democracy has no time limit, but for Republicans to allow only two hours of debate on a bill to cheat working families out of decades of rights shows a disgraceful disregard for democracy."⁶³ Arguably, there were twenty-two days of demonstrations of the public voicing their views on the bill, so though not through official channels, the public did voice their opinions. However, the amount of time given between announcement of the meeting and the vote became the subject of legal battles charging violation of the open meetings rule that stalled implementation of the law.

Following Walker's signing of the collective bargaining rights bill, activists needed to decide on what they would do to try to get government to once again include worker rights in Wisconsin law. Participation in the protests energized union members and brought to light that union leadership on the national level had not been very attentive to member concerns and had only included members peripherally in decisions. The grassroots action in Wisconsin resulted in the South Central Federation of Labor endorsing a general strike to pressure lawmakers, but unions ultimately did not opt for that risky of direct action. Instead, they focused on the April state Supreme Court election to try to tip the balance of power on the bench by electing a progressive justice who would eventually decide on whether the collective bargaining rights law would be implemented. Although that election goal was not achieved, Walker's opponents continued with their recall efforts and ultimately gained two seats in the senate, which left

Democrats a seat short of the majority and with Republicans in control of Wisconsin's government.

Conclusion

Despite failure to change the balance of power in the senate in 2011, Walker's opponents gathered enough signatures to hold a recall election that pit Walker against Tom Barrett once again. In June of 2012, Walker defeated Barrett 53% to 46% with 2.5 million Wisconsinites voting.⁶⁴ Millions of dollars were spent by both candidates. Walker and his supporters spent about 58.7 million dollars -- significantly more than Barrett and his supporters' 21.9 million dollars.⁶⁵ This election result ended any short-term hope of restoring collective bargaining rights through the legislative process, though opponents of Act 10 are still challenging it in Wisconsin courts. The law is still in limbo as union leaders continue to file lawsuits in cities and counties across the state. Despite continued efforts, all signs point to Walker's changes to union rights staying for a long time -- at least until the next wave of progressivism.

The vision of democracy maintained by Walker's success gives greater power to those who have financial resources. It views financial contribution to the government through taxes and employee contributions to their own healthcare and pensions as a fair way for all citizens to be involved in government. Although this vision seeks identification between leaders and citizens, government leaders act without meaningful discussions with their constituents. Indeed, the actions that severely limited union power suggest that leaders may feel vulnerable to collective action by citizens. While the public still has the ability, at least in principle, to vote leaders out of office, this vision grants more power to corporate donors than to average citizens. Rather than valuing deliberation, this vision of democracy values politicians following through with campaign promises—their election indicated any necessary support from the populace.

Republicans are still in control of Wisconsin's government and unions have been hamstrung by Act 10. The economic power of corporations and special interest groups representing private sector business seems to have successfully quieted public sector workers and their allies from 2011. While it is impossible to count their numbers, it is possible to conclude that by ending direct action and the need for immediate participation by the rank-and-file the public sector labor movement has largely been excluded from the decision-making process in Wisconsin.

Despite this negative state, a more hopeful vision of democratic citizenship was enacted and articulated during the protests as tens of thousands of citizens came together at the Capitol in Madison. The sheer volume of noise produced in arguments over S.B. 11 provides evidence that direct participation in a raucous form of direct rhetorical democracy empowers citizens insofar as they become aware of the numbers of people who share their ideas and of those who disagree. Participation in truly public protests allows citizens to feel that their voice is being heard by the choir as well as by spectators who may or may not agree. This form of democratic participation uses characterizations and ideographs to define sides and build allegiances. It is dynamic and boisterous, but it is also only sustainable for short periods.

Protesters shouted "what does democracy look like?" and responded with chants of "this is what democracy looks like!" It looks like masses of people speaking and arguing outside on a frigid winter day in Wisconsin wearing shirts and carrying signs indicating their position, characterizing the opposition, and rhetorically framing the public debate. Following passage of the bill, Walker supporters claimed that passage of the law was what democracy looks like. It looks like the institutions of government operating according to founding principles and agreed

upon processes. These two visions are both available and as citizens, we have the power to enact these visions.

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Chapter 6

Conclusion

Citizenship is fluid, dynamic, and most of all contested. These four episodes in the public sector labor movement brought challenges to the meaning of power and those in power, shifted definitions of class and exposed different ways of classifying citizens, questioned whose ideas would be included in decision-making processes and how, and created opportunities for different modes of civic participation and contested the validity of those modes. While the movement sought to make institutional changes, it also shaped how we talk about public workers and democratic citizenship more generally.

What do these conflicting visions of democratic citizenship have to offer? The bold actions of the police in Boston and the 2011 protesters in Wisconsin were not rewarded for the risks they took, but union efforts in Wisconsin in 1959 and Pennsylvania in the next decade were successful. The former were important because the government crystallized characterizations of public workers and established lines of reasoning that were institutionalized by government policy. Such examples provide a starting point for opposition to begin formulating counter arguments and campaigns to shift public opinion and to hollow out those characterizations. As we saw in the latter cases, sustained union action through recognized channels paired with pressure from public opinion and demonstrations, contributed to governments reevaluating their previous position and devising practical ways of dealing with a changed reality.

Even union failures are useful for workers. Participating in collective action builds a sense of solidarity and exposes individuals and groups with shared interests to one another.

These moments when individuals feel that their position in society is on a precipice where it could be improved or significantly damaged, energizes citizens to participate in public life. They engage in public dialogue and demonstrations as well as familiar channels of civic engagement such as voting and signing petitions. These moments also expose power relations to the public and provoke conversations about the legitimacy of those relationships.

One important theme that emerges from this research is that including more voices and ideas in the decision-making process can deepen democracy. Part of what was so upsetting in Boston was the exclusion of police concerns when department policies and budgets were set. Then, when the Storrow committee was formed, police were not given a seat – though they were given a hearing when they pointed this out. In Wisconsin in 2011, protesters were maddened by the superficiality of the hearings. They were not satisfied with the Republican legislators or leadership because though they had an opportunity to speak at a public hearing, they did not feel like those making decisions were listening attentively. Citizens are satisfied when they feel that their interests are represented and actually heard by those in power.

Procedures are supposed to ensure that democracy is preserved. Despite the anger directed at the Senate Democrats in Wisconsin in 2011 for leaving the state, their actions were procedurally permitted and rhetorically justified by creating space and time for opponents of the bill to present their side. In Pennsylvania, the legislative procedure allowed legislation representing the interests of competing groups to be evaluated and refined into an act that contained ideas from all of the players. The first Wisconsin case emphasized that procedures were also an important part of making the workplace more democratic. Collective bargaining procedures helped to make sure that both management and workers needs could be heard and considered when establishing work contracts.

The extent to which workers, and citizens more generally, feel included in the decision-making process changes the type and extent of individual participation. When things seem to be going well, well recognized and government-approved means of participating are satisfactory. People choose their representatives at the voting booth and perhaps sign a petition or talk to a representative about issues they care about. However, when people feel excluded, participation becomes more vigorous: protests and rallies draw groups together and make their complaints loud and visible. Also, seldom used modes of participation are activated such as referenda and recall elections. As we recently saw in Wisconsin, these moments are good at energizing citizens but are only sustainable for short periods.

In the midst of inclusion and participation lurks the question of power. If power is legitimated by participation in democratic processes and considerate of constituent voices, then democracy might be considered strong. However, when those in power seem to be intentionally excluding ideas from those directly impacted by decisions and close down usual avenues for participation and inclusion, then it might be considered corrupt. Protests draw attention to power structures and, through the use of a rhetoric of blame, call attention to power relationships so that they might be refigured.

As we have seen, how we think about citizenship is largely tied to economic concerns that define classes. Two economic concerns featured prominently in the Wisconsin cases. The first concern was with each person getting or giving his or her fair share of money, and the second was whether economic compensation was equitable for a given job across the board. Adequate compensation was also one of the concerns that provoked the police to organize in Boston. By contrast, Pennsylvania's protection of the right to strike gave workers leverage to pursue their economic interests. These economic issues were the grounds for separating citizens

from one another: taxpayer from tax-eater, unionized from nonunionized workers, and public from private workers. These characterizations created distinctions that, while setting benchmarks for acceptable levels of economic compensation and contributions, also divided citizens with shared interests and limited the extent to which they could come together to pass mutually beneficial legislation. One issue that became prominent in the most recent Wisconsin case was the added power that some citizens who are tied to corporations have in the political process. The focus on the Koch Brothers and their contributions to Republican campaigns suggests that economic inequality is not adequately checked by democratic processes and might actually corrupt those processes.

Indeed, one vision of democratic citizenship, which I will refer to as the powerful government vision, sees government as the bulwark of civilization, preserving order, creating institutionalized channels for participation, and generally excluding average citizens from government processes. This vision was the one that most strongly emerged from the conclusion of the Boston case and also the most recent Wisconsin case. This vision fears the power of concerted actions by citizens and seeks to prevent organization by outright regulation or through the use of negative characterizations. This vision sees government, by necessity, as more powerful than citizens and seeks to maintain this power imbalance. By preserving power in government, government can control citizens and insure public safety. It exacerbates class differences by connecting class to power. Although deliberation takes place among government officials and the rich-and-powerful, most citizens are excluded from the decision-making process. Citizens are expected to vote to formally legitimate government, but they are then expected to back off.

The powerful government vision of citizenship is susceptible to abuse and corruption. Since citizens are expected not to be constantly engaged in the decision-making process, government officials can act without consideration of their constituents except at election time. Those with more money and economic resources can also advance their interests without much consideration of the consequences for others.

A counter-vision to the powerful government vision is what I call the good citizen vision. It can be seen in the same two case studies. While acknowledging the potential for citizens to turn into mobs, Boston's police and townspeople encouraged citizens to take responsibility for their city. The newspapers told stories of citizens talking down the mob, regulating traffic, and working to preserve order in the absence of the regular police force. This vision sees positive power in the organization of citizens because they are cognizant of responsibilities to one another and remind fellow citizens that they must use their vote and other avenues to hold government officials responsible for the decisions they make. Citizens, according to this vision, balance the power of government officials. These citizens attempt to provide a measure of equal treatment for members of various classes despite acknowledged gaps. Though the Boston police and Wisconsin public employees in 2011 were not able to bring about all of the changes they desired, they did bring attention to the shortcomings of those in power and questioned the legitimacy of that power. Although this vision of citizenship is optimistic insofar as it sees individuals taking responsibility and acting in the community's interest, it does not provide sustainable procedures or mechanisms for long-term presence. It is, however, good at bringing attention to abuses and corruption within the powerful government vision.

The vision of citizenship that emerged in the late 1950's and 1960's that I will refer to as the engaged citizen vision, imagined that work and public life reflected one another. Engagement

with management decisions resembled engagement with government not only because collective bargaining allowed individuals to be included in decisions, but also because participation in unions was equated with civic action. Having a strong social democracy that promoted equality in relationships across the board and that sought to erase class distinctions reflected the ideals for a strong deliberative political democracy. Furthermore, during the Pennsylvania case, protests and strikes became acceptable strategies for leveraging public opinion to balance power between the government and interest groups.

This vision of citizenship was one that expected and encouraged vigorous social and political action by citizens. Beyond action in AFSCME as an extension of political action that was seen in Wisconsin, the Civil Rights movement saw engagement in political and social processes and organizations as ideal for citizens. More groups than ever were included in decision-making processes. The public discussion of allowing the strike and even the legislative process that resulted in Pennsylvania's Act 195 included politicians, intellectuals, labor management specialists, workers, and community members. Deliberation was a key element of this vision of democracy.

During this period of civic unrest, governments seemed self-aware enough to know that they were not able to appear as though they were protecting public safety or controlling groups of citizens. By limiting disruptive behaviors, such as strikes, in such a way that eliminated the power of those strategies, the government came up with practical ways of managing existing civic action. While citizens were still able to shake things up by creating spectacles that would bring their interests public attention, Pennsylvania's government was able to prevent that action from undermining it. This vision of citizenship preserved within it the government's latent fear

of citizens. Government was still needed to keep citizens in line and to prevent groups from meddling with other groups.

A question about the appropriate size of government lurks within the engaged citizen vision of citizenship. One of the rhetorical strategies we saw used in the Pennsylvania case was a consideration of the different actions that are permissible for essential and inessential government workers. We also saw that many so-called essential workers were doing jobs that, in other places, had been contracted out to private companies. If certain jobs being done by government can be done by private entities, can citizens be trusted with the administration of public services? Although these case studies avoided directly answering this question, the distrust of citizens at the core of this and the powerful government vision suggests that we should think twice about such privatization or think about cutting so-called inessential services from the list of government offerings.

The engaged citizen vision of citizenship, despite its flaws, offers hope to the good citizen vision I discussed because it is more sustainable and allows for a balance of power. Also, by permitting some protests and demonstrations as acceptable means of civic engagement, the engaged citizen vision allows for the positive benefits of building solidarity and encouraging community centered values and behaviors. Perhaps, by drawing from this vision, citizens can shape a new vision of citizenship from the next big protest or strike action. They could leverage their action into something that can help us imagine a government that includes more voices to deepen deliberation, allows for a balance of power between citizens and government officials, and refines our understanding of government to better match its actions.

As we have seen, these shifts in visions are gradual and happen through both material and rhetorical shifts. Changing how we talk about civic participation, the decision-making process,

responsibilities, and other people, affect the types of policies that can be passed. As policies change, new opportunities emerge. Although labor organizations may be declining in both membership and power, citizens can still come together in organizations of like-minded individuals with similar interests to question and critique both how government procedures work and those who hold government office. I suspect that cycles of active and engaged citizenship alternate with periods of minimal engagement. Regardless, we as citizens have a responsibility to live our ideal vision of citizenship and extend it through our associations and participation in both official channels and creative activities.

The public sector labor movement has enriched democratic practices within the United States. Unions have deepened democracy within union structures, included more interests in government's decisions, and taught citizens to view their work and political interests as related. It has motivated citizens to come together to support policies that would be beneficial not just to union members, but to citizens more generally. Just as in any organization, the labor movement has not been without flaws and areas of corruption. However, periods of member engagement and even government regulations have balanced these inconsistencies. Unions have helped to deepen democracy in government employment and have shown us the potential for uniting practices of social and political democracy.

Appendix A

Boston Timeline

February 19: 1000 members of the Boston Social Club vote in favor of affiliating with an outside organization, the AFL

June: AFL allows police Charters

July 29: Curtis distributes general order opposing unionization

August 1: Police apply for AFL affiliation

August 9: Leaders of the Boston Social Club receive AFL Charter

August 10: Curtis amends Rule 35 to prohibit affiliation with outside organizations except those designated.

August 14: Curtis receives and distributes 1000 Discharge and Suspension blanks to stations

August 15: Police vote to accept AFL Charter.

August 16: Talk of sympathy strike by other workers in Boston

August 17: Boston Central Labor Union meets and voices support of policemen, opposition to Curtis, and suggest a strike will happen if 1 man is discharged.

August 19: Boston Police Union elects officers. John F. McInnes President.

August 20: Police Superintendent interviews 8 union leaders.

August 21: Curtis charges those 8 men under Rule 35

August 26: Curtis sits as sole judge in trial of those 8 men and postpones ruling

August 27: Mayor Peters appoints Storrow Committee (34 members)

August 29: 11 more men are tried

September 4: Mayor Peters asks Commissioner Curtis for a continuance on his finding of the 19 men and the ruling on the 19 men is postponed

September 7: Storrow compromise released to press

September 8: 19 policemen suspended. Police vote to strike

September 9: 5:45 PM 1117 Police walk off. Overnight mobs riot and loot.

September 10: Mayor Peters orders State guard to mobilize by 5:00 PM, takes over police department, and requests additional troops from Governor Coolidge

September 13: Curtis dismisses all strikers

Appendix B

Wisconsin 2009-2013 Timeline

April 28, 2009: Walker announces candidacy for 2010 Governor's race

November 2, 2010: Walker elected governor; Republicans gain control of legislature

December 3, 2010: Walker administration prepares bill that would eliminate most collective bargaining rights for public workers

December 7, 2010: Walker hints at legislation that would limit unions

February 11, 2011: Walker announces his budget repair bill known as S.B. 11

February 14, 2011: University of Wisconsin Teaching Assistants' Association begins protesting inside capitol

February 15, 2011: Thousands gather in Madison to protest. Joint Finance Committee hearings begin

February 16, 2011: 3:00 AM Republicans end hearing; protesters remain in Capitol for the first time overnight; Finance Committee approves bill and sends it to Senate and Assembly; Madison teachers' sick-out begins

February 17, 2011: Senate Democrats walk out and head to Illinois

February 18, 2011: Public sector unions agree to increased healthcare and pension contributions but remain opposed to restrictions of collective bargaining

February 19, 2011: Walker supporters begin counter-protest

February 22, 2011: Assembly debate on the bill begins; recall effort filed against Democratic Senator Jim Holperin to pressure him to return to WI

February 23, 2011: Ian Murphy releases recording of prank “David Koch” call with Scott Walker

February 25: around 1:00 AM Assembly passes budget repair bill

February 26, 2011: Protesters in Madison number over 100,000; Senate Democrats secretly meet with public sector union leaders

February 28, 2011: Access to Capitol building limited; visitors must go through metal detectors; unions challenge access restriction in court; Senate Majority Leader Scott Fitzgerald meets with Democratic Senators Jouch and Cullen

March 2, 2011: Jauch, Cullen and Senate Minority Leader Miller meet with Walker aides

March 3, 2011: Absent Democrats named in contempt and disorderly conduct of the Senate by Republican senators; protesters are forced out of the capitol at night

March 4, 2011: Walker sends layoff notices to 1,500 public workers

March 5, 2011: Groups register to target 8 republican and 6 democrats for recall

March 6, 2011: Jauch and Cullen meet with Walker aides

March 7, 2011: Miller asks Walker to meet for talks at the border; Republicans oppose and talks end

March 9, 2011: Senate decides to separate union collective bargaining rights provisions of the budget repair bill into their own bill, which they subsequently pass 18 to 12 hours after announcing this move

March 10, 2011: Assembly passes bill 53 to 42

March 11, 2011: Walker signs collective bargaining rights bill into law as Wisconsin 2011 Act 10; Secretary of State Doug La Follette pledges to wait the ten full days before publishing it – the maximum permitted.

March 12, 2011: Senate Democrats return

March 18, 2011: Judge issues temporary restraining order blocking implementation of Act 10

April 5, 2011: Wisconsin Supreme Court Justice David Prosser wins reelection keeping balance of justices in favor of Walker's bill

June 14, 2011: State Supreme Court rules 4 to 3 to reinstate Act 10.

July and August 2011: Recall elections held for Senators

January 17, 2012: Recall petition of Walker filed

March 30, 2012: Federal judge rules parts of Act 10 unconstitutional, upholds major parts; Tom Barrett enters recall election race

June 5, 2012: Walker wins recall election; Democrats gain control of Senate

September 14, 2012: Dane County Circuit Judge strikes down key portions of Act 10 as unconstitutional for municipal, county, and school workers

November 6, 2012: Republicans take back control of Senate

January 18, 2013: Federal Appeals Court panel upholds entirety of Act 10 reversing

March 30, 2012 decision

March 12, 2013: Court of Appeals denies stay in Act 10 case, upholding September 14, 2012 decision; people call for the state Supreme Court to take the case bypassing the Court of Appeals.

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