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978-0-521-83466-7 - The Racketeer's Progress: Chicago and the Struggle for the Modern American Economy, 1900–1940

Andrew Wender Cohen

Excerpt

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Introduction

Between the Progressive Era and the New Deal, small businessmen and craft workers in Chicago defied the corporate transformation of American capitalism, redirecting the course of American political and economic development. In trades such as trucking, construction, and shopkeeping, unions and associations enacted self-styled laws that favored small, local, and labor-intensive businesses at the expense of large national firms. They enforced their laws not through the legal system, but through fines, strikes, boycotts, pickets, assaults, bombings, and shootings. Unsurprisingly, the men who owned Chicago's department stores, warehouses, railroads, and factories condemned these forms of economic order, favoring a regime friendly to property rights. Their opposition provoked a series of violent confrontations between local craftsmen and corporate magnates that spilled into the city's streets, markets, and courts.

This struggle shaped American law. Case law felt its imprint, as judges defended private property rights by limiting practices such as picketing and the boycott. Indictments, injunctions, and contempt citations littered the dockets, as courts ruled Chicago's craft organizations to be criminal conspiracies, violating the rights of individuals and usurping the sovereignty of the elected government. With the support of reformers, tradespeople gradually undermined the idea of conspiracy and established a limited legitimate space for themselves in Chicago's economy. The conflict led to new areas of criminal law, including statutes barring "racketeering." In time, craft governance influenced powerful public officials like Raymond Moley, who wrote New Deal statutes mandating trade agreements. Thus, the forms of industrial order established in the United States between 1890 and 1940 resulted not from a progressive "search for order," but from the local struggle between reformers, elite businessmen, small proprietors, and craft workers.

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Though largely absent from the literature, these clashes greatly affected American economic development. Most historians see corporatization as a consensual process. For example, Martin Sklar describes this transformation as “a relatively peaceful affair,” requiring “neither civil war nor revolution, but rather political and economic reorganization and reform.”¹ This book suggests the opposite: that modernization was violent, contingent, and contested. Routine protest, beatings, bombings, and shootings kept national corporations from dominating whole sectors of Chicago’s economy. The book shows that the bloodiest strikes and lockouts of the early twentieth century pitted the power of a business elite against the authority of local tradesmen. It argues that these showdowns greatly affected the shape of the nation Americans live in today.

As such, it questions five powerful ideas that dominate early twentieth-century history: modernity, synthesis, voluntarism, corporatism, and legitimacy. The myth of *modernity* contends that the United States had achieved industrial maturity by the Progressive Era, laying the material groundwork for a modern American state and society. During the nineteenth century, historians claim, American businessmen had integrated the nation’s commerce, mechanized its production, and incorporated its companies. With the new economy, distinct social classes had formed, one composed of managers, stockholders, and professionals, and another composed of ethnic industrial workers and their families. This modern economy, scholars argue, triggered an unprecedented set of social problems eventually addressed by a new political order.²

¹ Martin J. Sklar, *The Corporate Reconstruction of American Capitalism: The Market, the Law, and Politics* (New York: Cambridge University Press, 1993), 21; James Weinstein, *The Corporate Ideal in the Liberal State, 1900–1918* (Boston: Beacon Press, 1968), ix–xv, 3–6, 254; Robert Wiebe, *The Search for Order, 1877–1920* (New York: Hill and Wang, 1967); Ellis W. Hawley, *The Great War and the Search for a Modern Order: A History of the American People and Their Institutions, 1917–1933* (New York: St. Martin’s Press, 1979); Olivier Zunz, *Making America Corporate, 1870–1920* (Chicago: University of Chicago, 1990).

² Alfred Chandler, *The Visible Hand: The Managerial Revolution in American Business* (Cambridge, MA: Harvard University Press, 1977). The business historians who reject notions of corporate dominance nevertheless emphasize manufacturing over other sectors. See Philip Scranton, *Proprietary Capitalism: Textile Manufacture at Philadelphia, 1800–1885* (New York: Cambridge University Press, 1983) and *Figured Tapestry: Production, Markets, and Power in Philadelphia Textiles, 1885–1941* (New York: Cambridge University Press, 1989). Labor historians tend to assume a Marxian model of class struggle, even when they study nonindustrial workers. See David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865–1925* (New York: Cambridge University Press, 1989); Dorothy Sue

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Chicago's economy was far more diverse and "premodern" than such accounts indicate. Giant corporate steel mills, managed by Protestant gentlemen, employing thousands of immigrant laborers, selling to a national market, were less typical of urban commerce than the small shops and yards of the city's construction, trucking, retail, and service trades. These establishments provided Chicago's exploding population with food, shelter, transportation, infrastructure, and public culture. Hundreds of thousands of men and women labored in these sectors, aware of, but largely separate from, the city's dark factories. They often worked in public, even outdoors, and their jobs had changed little since the Industrial Revolution.³

Because craft production relied more upon the skill, strength, and intelligence of workers than upon capital investments, social classes remained relatively permeable. Local proprietors, partnerships, and family firms provided the city with most of its construction, teaming, retail, and service. Some workers started their own businesses, while many failed entrepreneurs returned to wage labor. For example, William H. "Red" Curran was an officer of the plumber's union, president of the Chicago Building Trades Council, and Illinois state factory inspector. He also worked as a bailiff, a deputy sheriff, a brewery agent, an aldermanic candidate, and a plumbing contractor. His immediate family included a Republican state representative, a county employee, a city bridge tender, a municipal court judge, a bailiff, and the superintendent of the Bridewell jail.⁴

Cobble, *Dishing it Out: Waitresses and Their Unions in the Twentieth Century* (Chicago: University of Illinois Press, 1991).

³ Special Reports, *Occupations at the Twelfth Census* (Washington, DC: Government Printing Office, 1904), 516–23; Bureau of the Census, *Thirteenth Census of the United States Taken in the Year 1910*, v.4, *Population, 1910: Occupations* (Washington, DC: Government Printing Office, 1914), 544–47. A few recent scholars argue that the focus on industrialization hides those working outside factories as well as their distinct forms of protest. Dipesh Chakrabarty, *Rethinking Working-Class History: Bengal, 1890–1940* (Princeton: Princeton University Press, 1989), 226; Alice Kessler-Harris, "Treating the Male as 'Other': Redefining the Parameters of Labor History," *Labor History* 34 (1993): 192; Christopher Tomlins, "Why Wait for Industrialism?: Work, Legal Culture, and the Example of Early America—An Historiographical Argument," *Labor History* 40:1 (February 1999): 5–34; Andrew Wender Cohen, "Obstacles to History?: Modernization and the Lower Middle Class in Chicago, 1900–1940," in *The Middling Sorts: Explorations in the History of the American Middle Class*, Burton Bledstein and Robert Johnston, eds. (New York: Routledge, 2001), 189–200.

⁴ "Thomas Curran Dies in Auto Crash," *CDT*, November 13, 1928, 1; "Tips On Aldermen by Voters' League," *CRH*, April 1, 1905, 3; *Lakeside Directory*, 1902, 519; *Lakeside Directory*, 1910, 335; *Lakeside Directory*, 1917, 420; Royal Ewart

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Social divisions existed, of course, but the relationships between workers and employers were antagonistic rather than contradictory. Unions and employers' associations often bridged their differences, forming stable agreements that governed commerce in their crafts. Sometimes labor and capital fought violently, but in other instances workers and employers allied themselves against rival associations, factions, and business communities. The most heated episodes in Chicago labor history occurred when external agents challenged craft orders. The most blatant example is the Teamsters' Strike of 1905, in which the city's great merchants intervened to shatter agreements between local teamsters' unions and their respective employers' associations. The strike was indeed a class struggle, but only if we complicate our notions of class rather than shoehorn the conflict into conventional categories.⁵

Advocates of *synthesis* promote the production of a broad national and even international history. The case-study methodology, which proved so fruitful for a generation, has recently fallen into disfavor, and any book considering a single city may seem distinctly unfashionable. Scholars not only suggest the folly of constructing an objective history of the United States from an accretion of regional studies, they also refute the notion that any single locale can represent the experience of other cities or the nation as a whole. Some authors even blame this method for declining popular interest in history, noting the desire of the mainstream audience for interpretive works that unify the experiences of a range of Americans.⁶

But historians cannot understand the contingency of economic development and the modern nation unless they do local research. Nowhere is this fact more apparent than in political history, where the dominant scheme – the so-called “organizational synthesis” – is explicitly totalizing. Here, breadth leads some authors to portray transformation as inevitable, ignoring the individuals who resisted the rise of the national, corporate, and industrial economy, but never appeared on a larger stage. These Americans struggled, sometimes violently, against the developing social order, but they did not fight in halls of the

Montgomery, *Industrial Relations in the Chicago Building Trades* (Chicago: University of Chicago Press, 1927), 286–87.

⁵ Ernesto Laclau, *New Reflections on the Revolution of Our Time* (New York: Verso, 1990), 7. For another view of the Teamsters' Strike of 1905, see David Witwer, “Corruption and Reform in the Teamsters Union, 1898 to 1991” (Ph.D. diss., Brown University, 1994).

⁶ Thomas Bender, “Wholes and Parts: The Need for Synthesis in American History,” *Journal of American History*, 73:1 (June 1986): 120–36, esp. 125.

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Capitol. Indeed, they often predicated their defiance upon the value of self government.⁷

Because of its size, economic might, and political significance, Chicago is the ideal place to study the relationship between local resistance and the development of the nation state. A not inconsiderable number of Americans lived in the city. In 1920, Cook County, Illinois (3.05 million) had almost as many residents as California (3.43 million), and a larger population than Boston, Baltimore, Pittsburgh, and Los Angeles combined. As an emblem of modernity and a locus of corporate authority, Chicago's only rival was New York, making it the natural place to consider the rise of the new American economy. Initially the center of American Republicanism, later a pivot for Progressive-era reform, and eventually home to the nation's most powerful Democratic political machine, Chicago was a testing ground for social experimentation and a major source for national policy. In a very real sense, New Deal statutes, Supreme Court decisions, and racketeering law emerged from the shores of Lake Michigan.⁸

Third, this book questions the notion of *voluntarism*. Labor historians often describe early twentieth-century American craft unions and

⁷ Eric H. Monkkonen, "The Dangers of Synthesis," *American Historical Review* 91:5 (December 1986): 1146–57; "Bias and Synthesis in History," *Journal of American History* 74:1 (June 1987): 109–12. For other reactions, see pieces by Richard Wightman Fox, Roy Rosenzweig, and Bender again in "A Round Table: Synthesis in American History," *Journal of American History* 74:1 (June 1987): 107–30. For the "organizational synthesis," see Louis Galambos, "The Emerging Organizational Synthesis in Modern American History," *Business History Review* 44 (1970): 279–90. Even those historians who see modernization as a conflicted political process seldom discuss physical conflict, perhaps because they focus on national policy rather than the history of a specific locality. Barry Karl, *The Uneasy State: The United States from 1915 to 1945* (Chicago: University of Chicago Press, 1983); Morton Keller, *Regulating a New Economy: Public Policy and Economic Change in America, 1900–1933* (Cambridge, MA: Harvard University Press, 1990); James Livingston, "The Social Analysis of Economic History and Theory: Conjectures on Late Nineteenth-Century American Development," *American Historical Review* 92:1 (1987): 72.

⁸ Department of Commerce, Bureau of the Census, *Fourteenth Census of the United States Taken in the Year 1920*, v. 3, *Population: Composition and Characteristics of the Population by State* (Washington, DC: U.S. Government Printing Office, 1923); Marco d'Eramo, *The Pig and the Skyscraper: A History of Our Future*, trans. Graeme Thomson (New York: Verso, 2001); Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (New York: Cambridge University Press, 2003), xxvi; Thomas Pegram, *Partisans and Progressives: Private Interest and Public Policy in Illinois, 1870–1922* (Chicago: University of Illinois Press, 1992), 3–6.

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the American Federation of Labor (AFL) as conservative voluntary associations antagonistic to the state, opposed to legislative reforms, and unwilling to form a political party dedicated to broad social change. This voluntarism subsumed two related principles: business unionism and contractualism. Business unionism implied a narrow concern with bread-and-butter issues, such as wages and hours. Contractualism suggested reliance upon private, legally enforceable trade agreements rather than upon universal statutory protections.⁹

Historians base this interpretation upon statements conceived to gain access to and protection from the Progressive-era state. Union officers hoped to convince the voting public that American workers had no interest in radically undermining capitalism or the party system. Officials like AFL president Samuel Gompers also tried to deflect hostile formalist judges by portraying unions as expressing the combined wills of individual members. By presenting their organizations as wholly private bodies, labor leaders hoped to earn public sympathy and evade public regulation.¹⁰

Union behavior contradicted this rhetoric. Craftsmen in Chicago never accepted a strict divide between the public and private spheres essential to the idea of voluntarism. Local labor federations lobbied the Illinois legislature for protective legislation long after they purportedly became quiescent. Union officials took public jobs seeking to enroll thousands of government employees. In 1899, an investigation showed

⁹ John Commons et al., *History of Labor in the United States*, v. 4 (New York: Macmillan, 1935); Ruth L. Horowitz, *Political Ideologies of Organized Labor: The New Deal Era* (New Brunswick, NJ: Transaction Books, 1978); Leon Fink, "Labor, Liberty, and the Law: Trade Unionism and the Problem of the American Constitutional Order," *Journal of American History* 74 (December 1987): 905–25; William Forbath, *Law and the Shaping of the American Labor Movement* (Cambridge, MA: Harvard University Press, 1991); Victoria C. Hattam, *Labor Visions and State Power: The Origins of Business Unionism* (Princeton: Princeton University Press, 1993); David Montgomery, *Workers' Control in America: Studies in the History of Work, Technology, and Labor Struggles* (New York: Cambridge University Press, 1979). A few recent scholars have complicated this picture of political quiescence and voluntarism. Julie Greene, *Pure and Simple Politics: The American Federation of Labor and Political Activism, 1881–1917* (New York: Cambridge University Press, 1998); Michael Kazin, *Barons of Labor: The San Francisco Building Trades and Union Power in the Progressive Era* (Chicago: University of Illinois Press, 1989); Georg Leidenberger, "'The Public is the Labor Union': Working Class Progressivism in Turn-of-the-Century Chicago," *Labor History* 36:2 (Spring 1995): 187–210.

¹⁰ See, for example, *American Federationist*, November 1907 reprinted in Samuel Gompers, *Labor and the Common Welfare* (New York: E. P. Dutton, 1919), 15–6.

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that nearly two-thirds of the officials of the Building Trades Council and of the Chicago Federation of Labor held public offices such as brick inspector, examiner of engineers, and others. By 1929, economist Carroll Lawrence Christenson calculated that the city of Chicago, Cook county, and various public contractors employed 163,310 union teachers, janitors, teamsters, repairmen, inspectors, and building tradesmen – more than 70 percent of the workers in these occupations. These employees accounted for 10 percent of the city's total workforce, but more than half of its union membership.¹¹

Craft organizations themselves acted as governments, enacting constitutions, passing bylaws, electing officers, and levying taxes. Though tradesmen signed contracts, the courts did not enforce them. This reflected not only the absence of any system of state-sponsored collective bargaining, but also the workers' suspicion of judges, whom they saw as irredeemably biased. Instead, craftsmen formed their own legal systems to administer rules stipulating wages, hours, prices, and materials. Beginning in the 1890s, building-trades unions and associations began hiring "walking delegates" to represent them at the work-sites scattered around the city of Chicago. These men policed the city, checking for nonunion workers, banned machinery, and out-of-state materials. When the walking delegate found violations, he notified the offender and attempted to negotiate a resolution. Many unions and trade associations tried defendants in their own judicial proceedings, sentencing them to fines, suspensions, and boycotts.¹²

¹¹ Eugene Staley, *History of the Illinois State Federation of Labor* (Chicago: University of Chicago Press, 1930); Leidenburger, 187–210; Jane Addams, "The Present Crisis in Trades–Union Morals," *North American Review* 179 (August 1904): 188–90; Ernest Bogart, "Chicago Building Trades Dispute. II.," *Political Science Quarterly* 16:2 (June 1901): 227–28; Industrial Commission, *Report of the Industrial Commission on the Chicago Labor Disputes of 1900 with Especial Reference to the Disputes in the Building and Machinery Trades*, v. 8 (Washington, DC: Government Printing Office, 1901), 6, 276, 305, 353–54, 395, 435. Henceforth listed as IC, *Reports*, v. 8; Garth L. Mangum, *The Operating Engineers: The Economic History of a Trade Union* (Cambridge, MA: Harvard University Press, 1964), 6, 89; *Adams v. Brennan*, 177 Ill. 194, 197 (1898); James A. Miller, "Coercive Trade Unionism as Illustrated by the Chicago Building-Trades Conflict," *Journal of Political Economy* 9:3 (June 1901): 336; Carroll L. Christenson, *Collective Bargaining in Chicago: 1929–1930, A Study of the Economic Significance of the Industrial Location of Trade Unionism* (Chicago: University of Chicago Press, 1933), 2, 11, 13, 15, 17.

¹² IC, *Reports*, v. 8, 62, 118, 286–87, 471–72, 555–63; Bill of Complaint, June 30, 1899, in *Union Pressed Brick v. Chicago Hydraulic Press Brick*, case #196935 in the Circuit Court of Cook County (henceforth listed as Circ.C.C.); Robert A. Christie, *Empire in Wood: A History of the Carpenters Union* (Ithaca, NY:

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Contrary to the literature, these organizations seriously threatened the city's corporations. Craftsmen denied the sovereignty of the state, provoking the continual reaction of legal institutions. In the craft mind, organizations had the primary right to rule their jurisdictions. The government could be a rival or an ally, but never the sole legitimate regulatory authority. Judging tradesmen by the standards of radical unions like the Industrial Workers of the World, which attacked capitalism itself and proposed the wholesale transformation of state and society, historians underestimate the militant implications of craft governance in its time. Alarmed by the immense power of craft unions, corporations spent the early part of the century trying to break their hold on industries like construction, trucking, retail, and service.

This book also considers the myth of *corporatism*. Advocates of corporatism argue that Progressive-era and New Deal reforms were merely aspects of an emerging national, corporate, industrial, bureaucratic society. In this history, reform-minded executives managed peacefully to deflect both socialism and laissez-faire capitalism by advocating a political and economic order composed not of individuals but of large interest groups such as corporations, labor unions, and political parties. Their ideals, which historians call “corporate liberalism,” allowed for public regulatory bodies such as the Interstate Commerce Commission (ICC), statutory protections such as unemployment insurance, and the arbitration of labor disputes.¹³

Yet scholars massively overstate corporate authorship of these initiatives. Though some executives joined influential reform groups like

Cornell University, 1956), 63–6; Royal E. Montgomery, *Industrial Relations in the Chicago Building Trades* (Chicago: University of Chicago Press, 1927), 8–9; *Minutes Book of the Chicago Building Trades Council, 1912–1914*, Chicago Historical Society; Bill of Complaint, June 30, 1899, *Union Pressed Brick Co. v. Hydraulic Pressed Brick Co.*, case #196935, Circ.C.C. (1899); Bill, January 12, 1903, *Gavin v. Bricklayers and Masons International Union*, case #227562 in the Superior Court of Cook County (hereafter listed as Sup.C.C.).

¹³ Ellis Hawley, “The Discovery and Study of a ‘Corporate Liberalism,’” *Business History Review* 52 (1978): 309–20; Robert Wiebe, *The Search for Order, 1877–1920*; Weinstein, *The Corporate Ideal in the Liberal State*; Martin J. Sklar, *The Corporate Reconstruction of American Capitalism*; Daniel Ernst, “The Closed Shop, the Proprietary Capitalist, and the Law, 1897–1915,” in *Masters to Managers*, Sanford Jacoby, ed. (New York: Columbia University Press, 1991), 132–48; Robert Himmelberg, *The Origins of the National Recovery Administration: Business, Government, and the Trade Association Issue, 1921–1933* (New York: Fordham University Press, 1993); Colin Gordon, *New Deals: Business, Labor, and Politics in America, 1920–1935* (New York: Cambridge University Press, 1994).

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the National Civic Federation (NCF), most did not. Many more joined the Illinois Manufacturers Association (IMA), which opposed nearly every reform proposed in the legislature. Corporations were especially incensed by collective bargaining. At the turn of the century, one would be hard-pressed to name a single large firm in the city of Chicago that had signed a union contract. Thirty years later, the picture was little different, as unions had become concentrated in crafts controlled by small employers. These contractors and shopkeepers were, not coincidentally, strong supporters of Chicago's Kelly–Nash Democratic political machine and the Roosevelt administration during the 1930s.¹⁴

If we are to write a history of the New Deal “from the bottom up,” we must look to the craft economy rather than to the corporate sector. Chicago's craft producers established a thriving associational culture by 1910, over a decade before the Hooverian corporate associationalism that many historians identify as a model for the New Deal. With urban craft governance specifically in mind, New Deal architects enacted policies like the National Industrial Recovery Act (NIRA) ratifying trade agreements. Finally, nearly all of the cases testing the “corporatist” arrangements of the first New Deal involved urban trades such as drycleaning, kosher foods, and milk delivery.

The reluctance of scholars to acknowledge the craft economy as the birthplace of many New Deal regulatory policies ironically flows from that economy's central role in legal controversies preceding the New Deal. Historians often fail to distinguish evidence showing graft, violence, and manipulation in trades like construction from the mere allegations of hostile businessmen. A professional strikebreaker invented the term “racketeering” in 1927 to condemn leaders of craft organizations in Chicago. The word's power grew in the 1930s as the federal government legitimized collective bargaining while maintaining strict legal limits on the use and abuse of organizations. In other words, the craft economy's reputation for “racketeering” reflects its influence on the evolving New Deal regime.¹⁵

¹⁴ David Montgomery, *Fall of the House of Labor*, 272–75; Alfred H. Kelly, “A History of the Illinois Manufacturers' Association” (Ph.D. diss., University of Chicago, 1938), 21, 33–4; IC, *Reports*, v. 8, 4; Harold F. Gosnell, *Machine Politics: Chicago Model* (Chicago: University of Chicago Press, 1937), 47.

¹⁵ Elizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919–1939* (New York: Cambridge University Press, 1990), 251–89; Himmelberg, *The Origins of the National Recovery Administration*, passim; Peter H. Irons, *The New Deal Lawyers* (Princeton: Princeton University Press, 1982), 55; Raymond Moley, “Behind the Menacing Racket,” *NYT Magazine* (June 23, 1930), 1–2, 19.

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Finally, this work questions the progressive narrative of *legitimacy*, tracing the ascent of organized labor from “conspiracy to collective bargaining.” Every year, early twentieth-century commentators heralded an end to the “outlaw” phase of industrial relations that found unionists and allied businessmen often in the criminal courts. In 1905, after the Chicago teamsters defrocked their president for alleged financial impropriety, economist John Commons announced that the industry had ceased to be “a criminal phenomenon.” Within months, grand jury witnesses mocked the professor, charging teamsters and their employers with bribery, collusion, and violence. Even New Deal labor laws failed to stem such allegations, indicating that reforms forced the reconfiguration rather than the abatement of criminal prosecutions.¹⁶

In this light, it seems reasonable for historians to focus upon what behaviors became criminal as the state offered its blessing to new forms of economic governance. The long process of union legitimization, beginning in 1843 with Justice Lemuel Shaw’s decision in *Commonwealth v. Hunt*, was accompanied by a concomitant recriminalization of many practices. Between 1843 and 1940, unions moved not between two unlike terms, conspiracy and collective bargaining, but between two competing conceptions of criminal law, conspiracy and “racketeering.” This shift affected the character and reputation of American labor unions nearly as much as the better-studied positive law of the New Deal. And the contested origins of the word “racketeering” help explain the apparent contradictions in racketeering law today.

This history sees the origins of an integrated national economy and a pluralist polity as conflicted, violent, and perhaps even overdetermined. It suggests that the modern corporate order bears the deep impress of its opposite: the local craft economy. Chicago’s craftsmen both countered the corporate faith in absolute property rights and provided the most vital example of commercial governance available to American policymakers from the Progressive Era to the depths of the Great Depression. After four decades of conflict, the modern legal order ironically legitimized the culture of the least industrial, least national, and least corporate sectors of the American economy. In doing so, the United States government validated the continuing defiance of craft producers and their struggle for order.

¹⁶ John R. Commons, “Types of American Labor Organizations: The Teamsters of Chicago,” *Quarterly Journal of Economics* 19 (1905): 407; U.S. Congress, *Investigation of So-Called “Rackets,”* v. 1, Parts 1–6 (Washington, DC: Government Printing Office, 1934).